

UNEMPLOYMENT INSURANCE DURING
COVID-19: THE CARES ACT
AND THE ROLE OF UNEMPLOYMENT
INSURANCE DURING THE PANDEMIC

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

JUNE 9, 2020



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PUBLISHING OFFICE

45-808—PDF

WASHINGTON : 2021

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**UNEMPLOYMENT INSURANCE DURING
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TUESDAY, JUNE 9, 2020

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The WebEx hearing was convened, pursuant to notice, at 2:34 p.m., in Room SD-106, Dirksen Senate Office Building, Hon. Chuck Grassley (chairman of the committee) presiding.

Present: Senators Enzi, Cornyn, Thune, Portman, Toomey, Cassidy, Young, Wyden, Stabenow, Cantwell, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Hassan, and Cortez Masto.

Also present: Republican staff: Kolan Davis, Staff Director and Chief Counsel; Ryan Martin, Senior Human Services Advisor; and Jeffrey Wrase, Deputy Staff Director and Chief Economist. Democratic staff: Rachael Kauss, Tax Policy Analyst; and Joshua Sheinkman, Staff Director.

**OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S.
SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Welcome to everybody to our hearing, both those who are in the room and those who are not in the room.

Before we start, I think it is important again to note what is going on all around us, and that is the acknowledgment of racial injustice that has gone on for far too long in our country. I certainly support those who are speaking out and making their voices heard in a peaceful manner to bring about change.

While change does not always come easily, I want to remind those watching this hearing today that change is possible. In December of 2018, the First Step Act, which I introduced, became law. And I worked in partnership with several Republican and Democrat Senators. Senator Durbin was the lead person for the Democrats. This law is the most significant criminal justice reform in a generation. A lot of people did not think it was possible, but we did it by working together in a bipartisan way.

We are also working together in other ways to address racial disparities such as in health care. The CARES Act and other COVID response efforts aim to help all, but especially minority populations that have been hit hardest by the virus. We have knocked down financial barriers to receiving care through the pandemic and provided support to our frontline providers to ensure access.

We continue to focus attention on the devastating effect that COVID has had on nursing homes and the need to do better for resident staffs. The Trump administration has announced a number of efforts to address the disparate impact of COVID-19 on African Americans and others, and I ask at this point unanimous consent to insert a document along those lines in regard to those efforts.

I hear no objection, so it is so ordered.

[The document appears in the appendix beginning on p. 90.]

The CHAIRMAN. We are also taking action beyond COVID. We are working on a bipartisan effort to tackle this tragic issue of maternal mortality and the need to improve outcomes for mothers and babies.

All Americans want lower prescription drug costs, but our efforts are especially important as minorities suffer from the high rate of common diseases such as diabetes and hypertension. We are exploring improvement for those with kidney disease, patients in need of organ transplants, and more beyond that.

We are also in the middle of a transformation of our child welfare system. We know that too many children end up in foster care and that black children are over-represented in this system. And thanks to our bipartisan efforts, States are now transforming the way that they operate to keep more kids safely at home instead of placing them in foster care.

There is obviously much more to be done, and I look forward to working with my colleagues on both sides of the aisle to continue those efforts.

Now I would like to shift my remarks to focus on the topic of our hearing. As a result of COVID-19 and related stay-at-home orders, millions of Americans across the country have lost work. Congress passed the CARES Act to provide help to those affected in many different ways, including by temporarily expanding unemployment insurance. These increased UI benefits have played an important role in helping those who lost their jobs or who could not work as a result of the pandemic. Given the need to act quickly to reduce the spread of COVID-19, providing extra help through the unemployment system made sense as a way to reduce the economic impact of stay-at-home orders. But now we are facing a much different situation than we were in mid-March.

States are reopening. Employment recently turned positive. We need to shift our focus to helping people safely return to work, making sure businesses are able to come back quickly, and to put the country back on a path of economic growth.

We have also learned a few things since the CARES Act became law. The CARES Act provides an additional \$600 per week for those receiving UI, representing the gap between the U.S. weekly wage and the average weekly UI benefit. One thing we have learned is how poorly targeted the additional \$600 per week was, as it appears most recipients are being paid more on the unemployment insurance than they were when working. This of course discourages people from returning to work or taking a new job, thus delaying the recovery.

Recent research published by the University of Chicago estimates more than two-thirds of the UI recipients may receive benefits that

exceed lost earnings, with more than 20 percent potentially getting double what they used to earn as long as they do not work. Some will say this is just an academic paper and that these extra payments are not really an issue of today. Those folks saying that have not been reading the many letters that I get from Iowans each day. And I am sure every member of the committee is hearing the same thing from businesses having a hard time bringing people back to work or from hardworking constituents earning less than others they know who are getting unemployment.

Let me share a few stories from letters I have received. Letter number one: “My daughter went back to work voluntarily because she wanted to help ensure the company would still be around after COVID-19. Many of her co-workers chose to stay at home and, due to the 600 extra dollars per week, are making more than she is. This isn’t right.”

Now letter number two: “Senator Grassley, I am a small business owner who is in desperate need for additional employees, yet I receive very few applications when I post jobs. The issue is the additional unemployment. With the additional \$600 per week, my potential employees make more on unemployment than they would working.”

Letter number three: “We are trying to hire back laid-off COVID-19-related employees, or anyone else as well, for \$15 an hour. And we find that they are receiving the equivalent of \$20 an hour in unemployment benefits. Suddenly, the government became our competitor.” The question to me, then, from this constituent: “How could that happen?”

These letters represent a small sample of those who write in daily with concerns about the unemployment payment of \$600 extra on top of what the State gives. Based on these letters and others I am sure we have all received, you would think everyone would agree we need to find a better way to help those who have lost income. But you would be wrong. Despite mounting evidence of the problems these extra payments are causing, the House passed a bill recently to extend them not just for a month or two, but for another 6 months through January 2021.

Given this, I asked the Congressional Budget Office what impact these additional payments might have if continued. Here is what they said: “Roughly five of every six recipients would receive benefits that exceeded the weekly amounts they could expect to earn from work during those 6 months.” Continuing to quote, “Employment would probably be lower in the second half of 2020 than it would be if the increase was not extended. In the calendar year 2021, employment would be lower than it would be without extension.”

That does not sound like a recipe for economic growth, especially given last week’s jobs report, which shows people are returning to their jobs and that millions more expect to return soon. I know everyone is focused on these extra \$600 checks, but let me remind everyone of the other CARES Act policies—policies that continue past July.

First, the CARES Act allows those out of work as a direct result of COVID-19 to get UI benefits through December. This includes people who are infected or caring for someone infected, those who

cannot go to work because their workplace is closed due to COVID-19, and those who rely on day care that is not available as a result of the pandemic.

Second, individuals get an additional 12 weeks of unemployment if they are still unemployed after State benefits run out. And in States where unemployment rates remain high, further weeks of benefits will also be available.

And most importantly, the CARES Act provides funding for what are called “work sharing” programs. Under these programs, instead of laying off employees, businesses would reduce hours and pay employees a partial UI check to offset lost income. States can also use it to bring back workers on a part-time basis if they cannot fully reopen for a while.

And do not forget, UI is not the only game in town. The CARES Act includes many policies to help those affected by the pandemic, including the employee retention tax credit, the Paycheck Protection Program, direct payments to individuals, and other policies designed to help businesses reopen and people return to work.

The UI system will continue to play a very important role in addressing the impacts of the pandemic. However, our efforts must be coordinated to help workers and businesses in a way that is most productive. I look forward to hearing from our witnesses today to learn what has worked, what has not, and discuss how we can make sure our efforts in Congress can best support a strong economic recovery at the same time we are trying to help people who are hurting.

Now I call on Ranking Member Wyden. Thank you for being here.

[The prepared statement of Chairman Grassley appears in the appendix.]

**OPENING STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you, Mr. Chairman, and thank you for holding this hearing.

There is a lot to discuss today, and I would like to start with Friday’s jobs report. The President celebrated like it was the greatest victory in America since the end of World War II. And I want to start by trying to give this a little bit of perspective.

Speaking conservatively, more than 20 million Americans are still out of work today. And my guess is, they are not doing a whole lot of celebrating if they are among the many people who do not know how they are going to pay rent or put food on the table this month. Watching the President celebrate in the midst of this jobs crisis is yet another sign that Donald Trump just does not understand what it is like for people born without a real estate portfolio.

First, I want to walk through how the Senate got here, starting in March. The pandemic hit. The economy went into lockdown, and unemployment shot into the stratosphere. So when the CARES Act negotiations began, Democrats made our bottom line an expansion to unemployment benefits that would bring more workers into the system and fully replace people’s lost wages. Throughout the negotiations—and they went on for days—Secretary Scalia said that could not be done because the States run unemployment programs

on Bronze Age technology that cannot crunch the numbers for individual workers. Senate Democrats said that doing nothing is just unacceptable when you have this hurt from sea to shining sea.

When Secretary Scalia failed to offer a plan to get benefits out in a timely way, Democrats proposed a flat-sum solution: \$600 per week across the board on top of traditional benefits, adding up to full-wage replacement for the typical worker.

So let us fast-forward now to this afternoon. The pandemic is still killing thousands of Americans each week. The nearly 2 million new unemployment claims filed last week tripled the highest number of claims made in any week during the Great Recession.

It is a national scandal that African Americans are not only dying of COVID-19 at much higher rates, they are also suffering vastly more economic pain than virtually anybody else. Black unemployment is disproportionately high. And because black people have systematically been excluded from opportunity and wealth in America, it is a lot less likely that they have the financial resources to weather the storm. For the President to say the recovery has arrived and everything is turning into sunshine, is just going to perpetuate the economic injustice.

The bottom line is, the crisis is going to go on a lot longer if the Trump administration and Senate Republicans start yanking out these key pillars of economic support like supercharged unemployment benefits, much of which go to the lowest-paid folks in the workforce. Main Street businesses nationwide, so many of them hang on by a thread. Workers could lose their homes and fall through the cracks if the Senate is not in their corner. So, like the chairman, I want to respond to a few arguments that I heard coming from the other side, arguments against supercharged unemployment benefits. First is the idea that Americans who have lost their jobs from the pandemic are plenty happy to just sit around instead of going back to work. In my view, that is dead wrong, and it's an insult to American workers.

It is also a misunderstanding of how the system functions. I have been talking to out-of-work Oregonians throughout this crisis, and what I hear overwhelmingly is that they want to work. They want to work. They want to get back to their jobs. They believe deeply in the dignity of work.

They want to earn their pay, support their families, and return to their lives, lives they had before this pandemic. And most importantly, they know that the path to getting ahead in America is moving up the economic ladder rather than being on unemployment. Second, members of this committee have said it is somewhat unhealthy for people to get unemployment benefits during the crisis. I sure think this is out of touch with the realities people are facing in this crisis. These benefits are what are saving millions of people from hunger and homelessness in the middle of a pandemic. Forcing people back into a contagious workplace also further spreads the virus that has killed 110,000 Americans and turned nursing homes nationwide into scenes of tragedy. Third, I have heard talk among Republican Senators of cutting the expanded benefits, possibly just saying, let's cut them in half. So I want colleagues to really get this one straight. Between the CARES Act and the Fed lending program, big corporations are getting trillions of

dollars in support to weather this crisis. And now Senate Republicans are saying, we are just going to cut what the little guy gets, maybe in half. The system is already rigged to favor the powerful and the wealthy. Congress surely should not stack the deck any longer. Our unemployment insurance system, created in the 1930s, should have been modernized long ago to cover the gig workers, the self-employed freelancers. Long ago, benefits should have been tied to economic conditions on the ground.

I also believe Congress should examine whether a Federal approach for administering unemployment benefits could do a better job than the quilt of 50 different State systems operating today. Nobody predicted the volume of claims we are seeing. But whether it is due to neglect or political sabotage, too many of these State systems are failing the people who are desperate for help.

I am going to close with one final thought. American workers are not to blame for the jobs crisis that the country faces today. By now, everybody has seen images of cars stacked up for miles at food bank distribution centers around the country. I gave out food just recently at one of them.

Colleagues, they are modern-day bread lines. With so many people out of work, America is on the precipice of an eviction tsunami, particularly in the black community. Supercharging unemployment benefits, fully replacing people's lost wages, bringing gig workers and freelancers into the system were the right things to do. And I know that is not just the opinion of Democrats who got it done, because right now the President absurdly is taking credit for the expansion in misleading campaign ads on the airwaves right now. It is also a fact that every Republican member of this committee voted to strip the expanded benefits and slow down their distribution. And at least a few turned around and then sent out press releases touting the expansion that they voted against.

Colleagues, that is some serious chutzpah. So the Senate now has the choice. It is about fairness for the tens of millions out of work. It is about fairness for African Americans, who are disproportionately suffering. It is about fairness to the blue-collar worker who looks around and sees a whole lot more support going to a bunch of multinational corporations than to hard-hit workers like them who have done nothing wrong.

The only choice is to make an extension to supercharged unemployment benefits, and to do it now.

Mr. Chairman, I look forward to our witnesses. And again, I want to thank you for scheduling the hearing.

[The prepared statement of Senator Wyden appears in the appendix.]

The CHAIRMAN. Thank you, Senator Wyden.

Our first panel is one person, our Secretary of Labor, so I will give a short introduction. Secretary Eugene Scalia was sworn in as Secretary of Labor September 27th last year. He has served in a number of high-level positions in and out of government prior to his appointment.

He has served as Solicitor of Labor, the Department's top legal officer; also, as a Special Assistant to the Attorney General; and as a partner at a law firm. The Labor Department plays a very cen-

tral role in overseeing the new Federal programs intended to help workers and their families respond to the virus pandemic.

Secretary Scalia, please proceed.

**STATEMENT OF HON. EUGENE SCALIA, SECRETARY,
DEPARTMENT OF LABOR, WASHINGTON, DC**

Secretary SCALIA. Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you for the invitation to testify today.

Last Friday, the Labor Department issued a very encouraging jobs report: 2.5 million jobs were created in May, versus expectations that we would lose 7.5 million jobs. The unemployment rate dropped nearly a point and a half, instead of rising 5 points as projected. Moreover, the survey period for that report ended in mid-May. Since then, many, many more Americans have returned to work. Our economy has turned the corner against the coronavirus. All of us welcome that news, and we celebrate it, Ranking Member Wyden, not because we think the job is done but because we know the situation has begun to improve more robustly and earlier than had been expected.

But we are also mindful that millions of Americans remain out of work. In mid-May, unemployment was still at 13.3 percent. Fortunately, in March President Trump and the Congress acted swiftly to address the economic hardship of the virus.

The CARES Act, as we have heard, provided an additional \$600 a week in unemployment benefits on top of those provided by the States. By contrast, in the so-called Great Recession of 2008–2009, the additional Federal payment was \$25. The Act also extended these benefits to independent contractors and the self-employed, who ordinarily do not receive unemployment. And in the Families First Coronavirus Response Act, FFCRA, President Trump and Congress made a billion dollars available to States to help them administer their unemployment insurance programs.

Ranking Member Wyden, thank you for your letter last week acknowledging that after these laws were passed the Labor Department, quote, “took important steps to ensure these benefits were made available to workers as expeditiously as possible,” end quote. We disbursed the billion dollars in administrative funding to the States within a day or two of each State certifying it had met the criteria set by Congress. This enabled the States to hire more staff and improve technology. We swiftly provided State guidelines on implementing the CARES Act. Less than 10 days after CARES was enacted, we had issued the essential guidance States needed to administer the programs. The first States began making payments April 4th.

We have been in constant communication with the States, including 14 different webinars for State personnel. I personally participated in two large briefings for State unemployment insurance directors and have spoken with more than 20 Governors.

Still, we know that too many Americans have waited too long to receive unemployment benefits. State unemployment offices were overwhelmed. Before this year, the highest number of unemployment claims filed in a week was 695,000. This spring, in 2 weeks in a row we had weekly filings nearly 10 times that previous record

high. We had 6.6 million 2 weeks in a row. On top of that, many States have antiquated computer systems, as much as 40 years old. I spoke to one Governor whose system was so arcane he had to bring in computer programmers from Latvia.

Members of this committee will recall, when CARES was being written, that I cautioned about the age of these State systems and urged the Senate to use a different means, and I did identify different means, to pay unemployment during the crisis.

Fortunately, unemployment claims are now declining. States have hired more staff. They have made enhancements to their computer systems. They are reducing the backlogs of claims. And Americans are returning to work.

Going forward, our department has these goals. First, continuing to help States make prompt unemployment payments to workers entitled to them. Second, ensuring program integrity. We are working with our Inspector General, other Federal agencies, and the States to address fraud and the criminals preying on the system. Third, we will work with States to help Americans transition back to the job safely. The \$600 benefit was an extraordinary measure to help Americans who were shut out of the workplace in a closing economy. As the economy reopens, I appreciate that members of this committee do not want the CARES benefit to be a deterrent to resuming work. The best thing for workers is work, not unemployment.

Thank you again for this hearing on this important subject, and I look forward to your questions today.

[The prepared statement of Secretary Scalia appears in the appendix.]

The CHAIRMAN. We will have 5-minute rounds for questions. I will start, and then Senator Wyden, and then I will go down the list and follow the usual course we do for our hearings, according to first come, first served, unless you are at the table when the gavel falls.

Mr. Secretary, based on all of our witnesses today, and a request sent by Democrats to the Department of Labor Inspector General yesterday, it seems that my Democratic colleagues plan to highlight problems Florida has had in distributing UI benefits. But as I remember when the CARES Act was being developed, you warned States would have a difficult time dealing with the unprecedented surge in applications for benefits, let alone implementing any new programs on top of that.

Many of us warned State UI systems would have major problems, and unfortunately we were right. But it is not just Florida. There is one other State where I heard—the State of Oregon—a person running the program resigned because of troubles with the program. That would be another State plagued with issues.

I will ask you if that is correct. But before you answer that, my main question is, what is your department doing to help put States on better footing going forward?

Secretary SCALIA. Well, Mr. Chairman, as I mentioned, there was just an entirely unprecedented surge in claims during the months of March and particularly in April. We have never seen anything like it in our history. It came at a time when unemployment had

been so low that the unemployment offices were shortly staffed, and that added to the challenge, together with the technology.

We began working with the States even before CARES was passed. In February we were starting to talk to States about ways that they could be using unemployment systems to help get the benefits out to people. When CARES was enacted, we moved very quickly in a variety of ways. We issued 19 different guidance documents to make the requirements clear. We had the essential guidance out to the States within 10 days of enactment. We, as I mentioned, had had a number of webinars. We had been essentially in constant contact with the States.

We have also put them in touch with something called the U.S. Digital Service, which is a tech group within the Executive Office of the President. It ordinarily helps Federal agencies with technology problems, but we made that resource available to the States as well as our own Chief Information Officer.

We provided them flexibilities to increase staffing as well, and we also moved as quickly as we could to get the FFCRA funding out, that billion dollars. Within a day or two of getting the information from the States that they had satisfied the criteria, we got the money out.

So it has been a subject of great, great focus, Mr. Chairman, but we know that there still is work to be done.

The CHAIRMAN. I have one last question at this point. We have seen in recent weeks that States are reopening businesses. People are adapting to new guidelines about social distancing and mask wearing. And these changes are allowing economic activity to resume in many different ways.

You run an agency that gathers a variety of data points on jobs and the economy. What are some of the things that you are seeing in the data—and try to tell us good signs and troubling signs.

Secretary SCALIA. Well, Mr. Chairman, the most troubling sign of course has just been how many Americans have had to file for unemployment. It is much more than we saw, for example, in the so-called Great Recession of 2008–2009. We recognize the hardship that has meant for those people and for their families. That has been the most troubling thing.

The good news we saw Friday: 2.5 million jobs created at a time when we thought we had lost 7½ million. That is what the experts were forecasting, a 10-million job swing, but unemployment is going down when people thought it was going to be going up.

And, Mr. Chairman, that was nearly a month ago, because, as you know, that survey was taken in mid-May. We know that since then, more States have reopened. People have been returning to work across the country. And when I look at Friday's jobs report, I see very good news. For example, many in retail went back to work. Many went back to work in leisure and hospitality.

But I see other areas where people have not yet gone back to work, but we can be confident they will. One is health care. We lost about 1.4 million health-care jobs, I believe, in April. We only put about 300,000 back in May. Those jobs will come back.

So there still is important work to be done, but we are making progress, and the programs in the CARES Act are helping.

The CHAIRMAN. Thank you, Mr. Secretary.

Now, Senator Wyden.

Senator WYDEN. Mr. Chairman, thank you. It is going to be a long day, and I will just say, Mr. Chairman and Secretary Scalia, I have been puzzled to hear your simultaneous claims that workers are going back to work and that the \$600-a-week benefit is deterring them from returning. Both these claims cannot be correct, in my view, and we are going to want to examine them.

Now let me start this way, Secretary Scalia. Reopening the economy when it is safe is good for everybody's situation. The experts tell us, though, that if people choose to go back to work before it is safe, the pandemic will last longer, more people will die, and the economy will suffer.

Now I believe that most employers want to do the right thing and keep their workers safe. But they cannot do it if they do not get clear guidance on what makes a "safe" workplace in the COVID era. The Department of Labor has failed completely on this issue. The law is clear that a person cannot be kicked off of unemployment if they turn down a job because of unsuitable conditions or health or safety risks. Enforcing these rules is crucial during a pandemic.

On May 19th, along with more than 20 Senators, I sent you a letter about this issue. I have yet to receive a response.

So, Mr. Secretary, let us see if we can get this off to a decent start. Will you commit here and now that the Department of Labor will provide safety-first guidance, in writing, to ensure that nobody loses their unemployment insurance benefits because of risks to their health or safety? That is a "yes" or "no" question.

Secretary SCALIA. Ranking Member Wyden, you mentioned clear guidance. That has actually been one of the principal focuses of the Labor Department. I know we are here to talk about unemployment insurance, but when it comes to health and safety in the workplace, through OSHA we have been putting out extensive guidance documents—

Senator WYDEN. My time is short, Mr. Secretary. A "yes" or "no" answer to the question with respect to the guidance that more than 20 Senators asked you about.

Secretary SCALIA. As I was saying, we have put out approximately 20 guidance documents on how to make the workplace safe so that workers can return. That has been an area of great focus. That clear guidance is what we are aiming to do.

In terms of the return to work that you asked for, that is to a large extent a function of State law. We do not want workers coming back to unsafe workplaces. That is why we have made such a priority of explaining for them and for employers what is needed to make them safe.

However, if it is safe, the workers should come back; we want them to come back. And if they feel it is unsafe, it needs to be something that is rooted in the facts, not just a generalized fear, but that is a topic generally covered by State law. And the States have—

Senator WYDEN. Well, we asked you about a Federal matter, and nobody ought to be forced to choose between their health and their income. And I believe States, employers, and workers deserve some clear safety-first guidance on the issues more than 20 Senators

asked you about. And if you are okay with taking away a lifeline, sending people back to unsafe jobs in the middle of a pandemic, I think that is wrong, and I think it is inhumane.

Now a couple of other issues, because time is short. Do States have the capacity right now to implement 100-percent wage replacement on an individual basis? As you know, we talked at length about this during the negotiations. You said they did not have it. So now we are talking about what may have changed.

But we need to know: do States have the capacity now to implement 100-percent wage replacement on an individual basis?

Secretary SCALIA. Two points in response, Ranking Member Wyden. First, just to be clear, we have never suggested that workers should sacrifice health for returning to work. We oppose them being put to that choice as well.

But second, as to the State systems, I would welcome the opportunity to talk to you about this further. You and I have had two or three, really from my perspective—

Senator WYDEN. Well, Mr. Secretary, we need an answer on the record today, because that was one of the big issues in the days and days of negotiations we had. I made it clear that what I wanted was 100-percent wage replacement.

Secretary SCALIA. And, Senator, as I was saying, we had some valuable conversations, from my perspective—I hope from yours. And I look forward to the opportunity to discuss this with you further. I think, actually, the States have made some progress and are in a different place than they were before. So we can talk about it further.

Senator WYDEN. But can they do it? Can they actually do wage replacement on an individual basis now? That was why we had to go to this rough justice kind of approach. And I think you are still telling me that they do not have the capacity to implement 100-percent wage replacement on an individual basis today. And so that is still going to be a major issue.

Secretary SCALIA. Respectfully, sir, I did not say that. I said we should talk about it.

Senator WYDEN. I asked you whether they had the capacity to do it, and you would not answer the question. So I will look forward to getting anything else you would like to offer.

So, Mr. Secretary, how many people are out of work today without any benefits?

Secretary SCALIA. That data is very hard to track, for a couple of different reasons. Ranking Member Wyden, as you know, the unemployment data we put out last week, for example, was already from 3 to 4 weeks ago. So we do not have an exact fix on the number of people—

Senator WYDEN. Well, what is a ballpark? You are the Secretary of Labor. You are the guy in charge. How many people are out of work without any benefits?

Secretary SCALIA. And if I could finish, the second piece of data that we do not have is a precise count now of who has received the benefits. We receive weekly reports from the States on that, but again, those are two very fluid pieces of data. I would simply be guessing if I tried to tell you as we sit here today compared to where we were 3 to 4 weeks ago in the jobs report we put out, and

then with State numbers that again are not current either. I would just be guessing if I gave you a number. What we do know is that Americans are returning to work in large numbers. That is very good news. But we know there are backlogs in the numbers that will need to be addressed.

Senator WYDEN. Well, let me tell you what we know for sure, Mr. Secretary. What we know for sure is that more than 20 million people are out of work now. And we know that about 2, 2½ went back. And those 20 million people are disproportionately found in those sectors where the wages are really modest.

And I gather if you and others have your way, a lot of those folks are going to face eviction, and they are going to face evictions in a matter of weeks, and we are going to fight for something else, which is to make unemployment benefits tied to economic conditions. That relates to a marketplace. That is something that I think we could be working on together.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Cornyn?

Senator CORNYN. Secretary Scalia, thank you for being here.

I thought we were unified as a Congress and as all Americans to try to deal with this pandemic, both on a public health and an economic front, but apparently that is not consistently the case. Sometimes our bad habits come back as we descend into partisan accusations and question people's good motives.

But I would like to ask you just to remember with me what we did in the CARES Act, which included this enhancement for unemployment insurance. We were worried that not only were we in the middle of a pandemic, but that people, through no fault of their own as a result of mitigation efforts, would not get any money, any pay, and so we decided to make a direct payment to them through the Treasury Department—direct deposit.

The second front was to make sure that we expanded and extended unemployment insurance benefits that would be what I would consider sort of a second tier of support for individuals who, through no fault of their own, found themselves out of work.

The third thing we did was pass the Paycheck Protection Program, and as of now we have appropriated \$670 billion to incentivize employers to maintain their employees on payroll.

And then the next thing we did is, through the Federal Reserve, we appropriated money that they could then lend according to Treasury Department rules under their Main Street New Loan Facility. This is a historic response to an unprecedented situation. And I know the ranking member disagrees about the \$600 enhancement, but there was an amendment that was voted on in the United States Senate. People were worried about what you pointed out, not wanting to disincentivize people from seeking work because they got paid more not to work. I agree with that concern.

We should never pay people not to work. We should try to help them get back to work. But as I recall, the vote on the CARES Act was unanimous in the United States Senate. So trying to suggest that we did not support assistance through the unemployment insurance system to workers is false.

So I just want to make one comment too about the Texas Workforce Commission. In my State, they are the folks who administer

the unemployment insurance assistance. They experienced the kind of things that you described earlier, a crush of applications, and they have done the best they could. And they have added personnel and resources in order to try to be more responsive.

But I wonder. If our goal is to try to fight this virus, and then also at the same time to fight the economic fallout associated with it, do you think there are better ways than incentivizing people not to work by paying them more not to work than to work? Are there better ways, in your opinion, to help people get back in the workforce?

Secretary SCALIA. Well, Senator Cornyn, first, the CARES Act really was, as you say, an extraordinary piece of bipartisan, virtually unanimous, legislation. The programs that you have described, I think, are part of the reason that workers are able to go back to work now. They were kept in contact with their employers through the Paycheck Protection Program.

They were given financial support through the unemployment insurance benefit, which was a very good benefit for a closing economy. Savings right now are at a nearly all-time high—and that is because people have been kept in their homes, but it is also because of the benefits that were made available through the Treasury Department and through the unemployment insurance program.

Going forward, I think the single best thing for bringing workers back to work will be taking the necessary steps to ensure the economy revives. Before there can be a job, there needs to be a thriving business. The President delivered us an extraordinarily thriving economy with record low unemployment, with wages that were rising, and rising more quickly for lower-wage workers, until the virus struck.

So I think we need to keep those policies in mind as we look to bring people back to work, to keep our economic base strong. And I know that there has also been interest—I see Senator Portman eyeing me intently. There has also been interest in possibly providing a bonus that might further incentivize people to come back to work, and that is something else that has been discussed as another way to get people back to work, which is always our first preference over unemployment, when we can provide it.

The CHAIRMAN. Now by television, Senator Stabenow.

Senator STABENOW. Thank you very much, Mr. Chairman and Secretary Scalia. Thank you for being here for this very important discussion we are having.

I do want to stress at the beginning, Mr. Chairman, that certainly the pandemic is not over. The crisis for families, the challenges for small businesses, certainly are not over. And this I hope is going to mean that we are going to have additional action on the floor of the United States Senate throughout the continuing needs of Americans.

I also want to add to what Ranking Member Wyden said about the discrepancy on the one hand, Mr. Secretary, of your saying that so many people are going back to work. It is great that people are going back to work. We certainly all want people to go back to work and people in businesses to reopen. But, at the same time you are saying people are going back to work, you also say the \$600 extra

help to workers and families to survive the crisis is stopping people from going back to work.

So I think it is pretty tough to argue both sides of that. The reality, as I can tell you from Michigan, is that the provisions in the Pandemic Unemployment Assistance program and the additional \$600 in weekly benefits have really been a lifeline for workers and families and employers in Michigan. And it is helping people put food on the table, and with their basic needs, and those are not just words. That is the reality for folks.

I also want to say that the increase in weekly unemployment benefits has helped employers in our State that have signed up for Work Share. And I want to speak about that and get your reaction to that. Because in Michigan, an employer who signs up for Work Share can reopen at their own pace, reducing the employee hours by as little as 10 percent or up to 60 percent. The employer pays part of that wage, as you know. The unemployment system pays the other part of it, including the \$600. And it has created a real incentive for people to go back to work.

People want to work. People in Michigan work hard. They want to go back to work. But there needs to be a bridge, a way to be able to do this, and Work Share has allowed our employers to retain their talent, save money on salary costs as they are reopening, and ensure that employees have a liveable wage—a liveable wage. And that is over 1,400 businesses so far in Michigan using Work Share, as well as over 70,000 jobs.

So, Mr. Secretary, instead of debating whether or not we should allow the CARES Act to have strong unemployment provisions or whether or not they should expire, I hope we would be talking about Work Share being expanded. You know it is 25 States now that need to be expanded. So could you speak about how you could further lower the barriers so more States can develop their own Work Share programs, and what you are doing to promote that?

Secretary SCALIA. Thank you, Senator. First, I agree that, although Friday's jobs report was exceptionally good news, the economic challenges that Americans are facing as a result of the coronavirus are not over. Our job at the Labor Department to help the States make sure people get unemployment benefits is not over, nor is our job to work with the States to help people return to work. So we very much appreciate that.

But with that said, that report is one to be celebrated for what it tells us about how robustly and how early our economy began reopening in May. The \$600 benefit, as I have said, was a really important thing that this committee, the Congress, and the President did to help workers during a closing economy, and I actually agree that there are a number of reasons that workers should prefer to be back at work—

Senator STABENOW. If I might—just in the length of time that I have, could you speak to Work Share and whether or not you are reaching out to businesses to let them know about this as an important way to be able to bring people back to work while maintaining a liveable wage for workers? Is that something you have been focused on?

Secretary SCALIA. It is something that we have looked at, Senator. Ordinarily the concept behind Work Share is, it is a way of

helping a company that might have to have layoffs to keep people on a part-time basis. But we do agree that it can be a way of bringing people back, albeit on a part-time basis. It might work well in a restaurant, for example, that cannot go to 100-percent capacity.

We have been speaking to the States about doing that, and about working with them to help set up those programs. But just to finish on the \$600 benefit, because I want to be clear, it was an important thing to do to help workers back in March.

What we are talking about now is, Congress set it to expire in July, and my point is simply, that recognizes we will be in a very different place in July, where the opportunity for people to return to work will be far greater.

Senator STABENOW. If I might, there is one other thing I want to ask, and that relates to safety in the workplace. People want to go back to work. They have a right to know that their workplace will be safe. And in fact, if there is a concern from workers that their workplace is not safe, they should not have to return until it is.

And I am very concerned that the guidelines you talked about are voluntary guidelines. They are not enforced. They are not a requirement of the CDC or OSHA to make sure that workplaces are safe. There is not strong enforcement. And so what we have seen over and over again is people in workplaces getting COVID-19, being infected. Health-care workers, over 38,500 health-care workers have been infected; 358 and more dead as a result of that.

We know that in meat-packing plants we have had over 2,000 people test positive and workers who have died because there are no requirements to keep people safe in the workplace.

So people just want two things. They want to know they will be paid for their work a liveable wage. And they want to know it is safe. So I want very much for you to tell us that you will enforce safety standards for workers in this country as they go back to work.

Secretary SCALIA. Absolutely we will. We have put out extensive guidance to help workers and employers understand their rights and obligations, but we also have rules and statutory authorities to enforce. We are conducting investigations, and we are responding to whistleblower complaints to keep workers safe on the job.

Senator STABENOW. Thank you.

The CHAIRMAN. Before Senator Thune starts, I am going to ask Senator Wyden, when Thune is done, would you call on Senator Menendez? I am going to step out just a minute.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. And thank you, Secretary Scalia, for taking time to be here today. This is important oversight. This is what we have talked about, hearing from those who are implementing the many bills that we have passed, what is working and what is not working, how we can improve, what we can do better. And I think that will shape and inform and guide our decisions about future action that Congress might take.

On the forefront of the coronavirus pandemic, we have passed now four pieces of legislation—if you count last week, five—to address the coronavirus medical emergency and the economic fallout associated with the pandemic. These bills are providing assistance

to the American people through economic impact payments, loan deferments, other programs and tax incentives to help businesses keep individuals employed.

I think that has been working. Obviously, we cannot start spiking the ball yet, but the numbers that we saw last week were certainly encouraging, and I think were evidence that some of these programs, particularly the Paycheck Protection Program, have had the desired effect. It is keeping businesses functioning and keeping workers employed.

Mr. Secretary, it has already been noted that businesses began reopening their doors and that many are struggling to rehire furloughed workers due to the disincentive created by the \$600 per week supplemental unemployment payment for individuals who are supposed to be ineligible for unemployment insurance if they turn down an opportunity to return to work.

What are some of the challenges that you envision States facing in identifying instances of individuals collecting unemployment benefits after refusing an offer to return to work?

Secretary SCALIA. Well, Senator, if I could say, first of all, I think there are many reasons that workers will want to go back to work. I think, all things equal, people like being at work, especially perhaps after having been at home for 2 to 3 months. So I think Americans are excited to get back to work.

But as anybody who has studied the unemployment insurance programs knows, at the margins there is always a certain population—particularly if there is an opportunity to have an equal or greater income not working—there are a certain number of people who will choose not working. And that is a challenge that is recognized to exist, and particularly as we look toward a reopening of the economy after the expiration of the current benefit in July. It is something that needs to be kept in mind.

We have been reinforcing with the States, Senator, from very early on, their obligation to ensure that people who are on unemployment certify that work no longer is available, to coordinate with employers that are calling people back to work. This is an unusual circumstance where we have hundreds of employers at a time in a State bringing workers back. And so that's an opportunity for the State unemployment insurance agencies to take note that the jobs are returning and the workers can return too. We would like them to keep an eye on that. And then as I mentioned, we have been spending a lot of time, including working with our Inspector General, to address the possibility of fraud in the unemployment insurance system. Employers, or supposed employers, are engaged in it. Third parties are engaged in it, and sometimes workers are too. That is something we have been asking the States to look into as well.

Senator THUNE. Good; thank you. As you well know, unemployment offices in States across the Nation continue to be overwhelmed with claims, even as Americans begin returning to work, and in addition, States' unemployment systems are dated. These two factors will likely make any additional changes to unemployment programs potentially overly burdensome on State unemployment agencies.

So could you explain a little bit about what worked after passage of the Families First Coronavirus Response Act and the CARES Act in terms of the Department of Labor helping States adapt to some of the system changes that are required by these two laws?

Secretary SCALIA. Sure. FFCRA provides us a billion dollars to give to States to help with unemployment insurance administration, and they were able to use that money for staffing and also for technology enhancements. I made it a priority of the Department to disperse those funds absolutely as quickly as we could, and I think that we succeeded in doing that, and that did help.

The flexibility they had to bring in staff was certainly helpful to them. They were in a period where unemployment had been so low there was not a need for much staff. They needed to bring people in quickly and train them. Over time, they were able to do that.

Then as I mentioned, there were technology problems. We found that there was a problem with a computer program we run called ICON, which the States use. We fixed that over a weekend, within 3 or 4 days of learning of the problem. We were able to remedy that, and that at least helped the States deal with one of the technological hurdles they faced.

As I mentioned, we also put them in touch with our Chief Information Officer, and with something called the U.S. Digital Service to help with technology as well.

Senator THUNE. Mr. Chairman, my time has expired. I would like to submit for the record a question dealing with the gig economy and gig economy workers, how they have been dealing with this. Thank you.

The CHAIRMAN. Okay, your questions will be received.

[The question appears in the appendix.]

The CHAIRMAN. Now, Senator Menendez, by TV or whatever, or virtual, or whatever you call it.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Secretary, I share some of the concerns that the ranking member raised, Senator Wyden. I think it is fair to say that if you have an amendment that strips the \$600 and every Republican votes for it, that was your intention. You did not want the \$600 to be part of the unemployment compensation.

But what I am concerned about is that it seems to me that these rosy expectations that everybody will be able to go back to work are just not going to be realized by August 1st. I live in a State that has the second largest number of COVID-19 deaths and infections. It is going through a staged reopening.

That means that many businesses still will not be open by then, or they will be opened with less capacity by then, which means that they will require less workers by then. And so if that is a reality—and we have seen where there has been a premature opening in States that in fact we ended up with a higher COVID infection rate as a result of the premature opening.

So you know, when we have a national unemployment rate of 13.3 percent, when the unemployment rate among African Americans is even higher, 16.8 percent, when unemployment among Latinos is even higher than that, 17.6 percent, what is the administration's plan for August 1st?

Secretary SCALIA. Senator Menendez, thank you for the question. I think part of what we would like to do is watch how things develop over the weeks ahead. One of the really striking things about the Nation's experience with coronavirus has been how swiftly things change.

And in the early weeks, unfortunately those were a series of swift changes for the worse, as the health problems increased greatly, and of course as we very suddenly——

Senator MENENDEZ. Mr. Secretary, we know there is going to be a cliff on August 1st. Why should we wait to address the cliff until after August 1st rather than before it?

There is no question that unemployment is still going to be very high on August 1st, no matter how well we might desire it to be different. And so for all those workers who either cannot get back to work because their phased reopening has not opened their former place of employment, or the phased reopening has only allowed, for argument's sake 50 percent of the employees to come back, or there is still a risk, a reasonable risk, a serious risk of contraction of the infection, what are we going to do on August 1st?

Secretary SCALIA. Well, as I was saying, things have changed quickly for the worse for a period of time, but now we are seeing that things have the capacity to change quickly for the better.

We know where the economy was in mid-May. We will know more when our next jobs report comes out in early July about the state of the economy. I think, based partly on that, we can make an assessment of what measures, if any, could be necessary after July 31st. I recognize that, as you said, we will not get back to the extraordinary economy that President Trump brought us of 3.5-percent unemployment. We will not get back there in early fall.

Senator MENENDEZ. Let me turn——

Secretary SCALIA. But we will know a lot more as we come into July. And I think at that time, we can take an assessment of the appropriate measures.

Senator MENENDEZ. If I could reclaim my time, Mr. Secretary—I am not going to let you filibuster my time. We are in the phases of reopening. How many coronavirus-related complaints has OSHA received?

Secretary SCALIA. I do not have——

Senator MENENDEZ. My understanding is it is 5,000. Is that correct?

Secretary SCALIA. We have received several thousand. I do not have the exact number——

Senator MENENDEZ. How many coronavirus citations——

Secretary SCALIA. I am sorry, Senator. I am just trying to complete my answers.

Senator MENENDEZ. How many coronavirus citations have been issued by OSHA?

Secretary SCALIA. We have issued one citation to date——

Senator MENENDEZ. One citation?

Secretary SCALIA. I would add that we have a 6-month limitations period. Of course it has been less than 6 months since the virus came here, so we have a number of cases that we are investigating. And if we find violations, we will certainly not hesitate to bring a case. This is something I——

Senator MENENDEZ. It seems to me, Mr. Secretary——

Secretary SCALIA [continuing]. Have talked to our head of OSHA about a number of times.

Senator MENENDEZ. It seems instead of “guidance,” you should be issuing emergency, temporary standards that are very clear under OSHA and that would make a clear example of what is acceptable to return to work safely and what is not acceptable, and those who are forced to return to work in a situation that is unacceptable will have a valid claim. One out of 5,000 is unbelievable.

The CHAIRMAN. Senator Toomey, by TV.

Senator TOOMEY. Thank you, Mr. Chairman.

Mr. Secretary, thanks for joining us today. I just want to be clear about something. According to the University of Chicago, about 68 percent of people who are unemployed today make more money being unemployed than they do being employed.

Is it your view that that is a disincentive to going back to work?

Secretary SCALIA. Thank you for the question, Senator Toomey, and I unfortunately was not able to complete my answer to that point to Senator Menendez. That can function as a disincentive. That is recognized by people who follow unemployment insurance programs.

I would point particularly to the study that the chairman received from the Congressional Budget Office that looked at this question, in which it projected that for the second half of the year, if the \$600 benefit were retained, five out of six people on unemployment would be receiving more than the wage they were likely to get from working. And I do not think many people would design an unemployment system that operated in that way, and that is why this discussion makes sense.

Senator TOOMEY. And we have had unemployment before. There is always some level of unemployment. We have never said, “Let us make sure that people are paid more not to work than they get paid working.”

We hear everyone talking about how they want to get everyone back to work, but at the same time some people are advocating a system that we know discourages people from going back to work.

And is it not also true that if people affected by this disincentive do not go to work, then it is not only they who are not back at work, but the mere fact that they are not at work means other people are unable to go back to work just because the economy is that much slower and there is less business being conducted?

So does that not have a knock-on effect throughout the economy?

Secretary SCALIA. That is correct, Senator. We want people who are not able to get to work to have the safety net of an unemployment program. But you are right. If people have the opportunity to return and do not, it can function as a hindrance not just to them but to the functioning of what is a very, very interconnected economy.

Senator TOOMEY. So let us focus on some great news, because there is a lot of great news actually. One thing is the fact that we have had quite a number of States that have been quite open for business, some for many weeks now. It is not the case that the entire country is closed down. In fact, there is a long list of States that began their reopening in April and early May. And is it not

true that there is no big spike of COVID cases in the States that have gone a long way towards reopening?

In fact, the data shows that the decline in the new cases in COVID-19 has continued overwhelmingly in these States. Is that your understanding?

Secretary SCALIA. The reopening seems to be going well, Senator. It is very encouraging. There are spots we need to keep an eye on, and we need to be safe about how we go about it. But it has been very encouraging.

Senator TOOMEY. The other thing that has been very, very encouraging is the fact that, back in mid-April, we had a week where we produced 2½ million new jobs when we thought we might be shedding 6, 7, 8, 9 million jobs. It was the exact opposite.

And is it not true that that mid-April number—look, I do not have a crystal ball, but I do know that many States moved in the direction of reopening since that time. And so it stands to reason, if our economy was producing 2½ million new jobs in a week back in mid-April, that it has been probably producing new jobs since then. And when I say “new,” obviously we are really talking about people getting back to their old jobs. But is there not good reason at least to be hopeful that we are starting to really climb out of this and starting to create the opportunities for people to go back to earning their livelihoods?

Secretary SCALIA. Absolutely, Senator. One of the numbers that has caught my attention in both the report for the month of April and the report for the month of May is a very high percentage of workers who are unemployed but believe it is temporary.

In our report for the month of May, nearly 85 percent of workers who had been put out of work said, “This is temporary. I am going back to my job.” And I regard it as one of our most important missions right now at the Labor Department to help make that happen, and to make it happen safely.

Senator TOOMEY. Thanks very much. Thank you, Mr. Chairman.

The CHAIRMAN. Now I call on Senator Cardin, by TV I believe.

Senator CARDIN. Thank you, Mr. Chairman. And, Mr. Secretary, thank you very much.

First, let me share the concerns that have been expressed in regards to worker safety. To me, that is one of the most important roles that you have, to make sure that workers are safe.

Secondly, let me underscore what I believe is our need to act, that the job is not done. Whether it is unemployment insurance, or whether it is the PPP program, the small business aid, or whether it is the tax code itself, we know that we are going to need a transition from where we are now to when our economy is fully performing. So I just urge us to show a sense of urgency.

Thirdly, I want to just underscore the point that Senator Stabenow made in regards to the short-time compensation rules. That gives an employer an opportunity to share work so that he or she can keep the workforce intact during these tough times.

So, Mr. Secretary, I would hope that you would give some personal attention to how we can implement this provision, because I do think it helps us transition back to when our economy is in full performance.

I want to get your response to a question I had from the Governor of Maryland in regards to implementing this program. Maryland, like most States, had IT challenges because they are trying to put the State program in with the Federal program. But it was the Interstate Connection Network, ICON, that did present some original challenges. And I believe you have indicated that there were startup challenges in regards to ICON. But in addition, there have been changes in guidance given by the Federal Government which have required our States to change their IT programs.

Can you share with us how you are working with the States, the current status of ICON, and the IT capacity of our States in order to get timely decision-making? We still have in Maryland a lot of people who are waiting for determinations. What is the current status of that?

Secretary SCALIA. First, I agree with you that our job is not done in helping workers during this challenging time, and in fully restoring our economy. And I agree as well on the importance of worker safety.

I think there is a difference as to means perhaps, but it is something that has been of great, great focus at the Department of Labor. And by the way, I have personally engaged in the Work Share subject and looking at ways that we can encourage States to do that, and I have assisted in that.

With respect to the ICON system, which you mentioned, yes, there was a problem that came to our attention. We fixed it within days. I have had a couple of conversations with Governor Hogan who, as you know, is also Chair of the National Governors Association.

He has never expressed any concern to me about changes to the guidance that we have provided. I am not aware of any changes that he might be referring to. We have put out a great deal of guidance. I suppose some of that guidance made certain points clearer than they might have been before, but I think we have largely been unswerving and clear in the guidance as we have given it, although we have provided refinements as they have been requested.

And finally, with respect to the technology, I appreciate that that has been a challenge for the States. As you heard Ranking Member Wyden say, that was something I cautioned the members of this committee about when CARES was written, that the State unemployment insurance computer systems are really old. They are bulky. But we have tried to help by making our Chief Information Officer available, by making the U.S. Digital Service within the Executive Office of the President available to States. And we do believe that States have found fixes, have found work-arounds.

We worked, for example, with Florida on one which related to a problem they were having with ICON. And we also worked with New Jersey on one that related to ways that certain forms were being submitted through their system.

So those systems have been problematic, but I think they have been enhanced in the last few weeks.

Senator CARDIN. Can I follow up on the certification requirements? Have you had concerns expressed by States that the weekly certification to make sure that the recipient is not getting benefits

in more than one State has caused undue challenges to the States in implementing the program?

Secretary SCALIA. Senator, we have had some States that have expressed interest in doing away with the certification requirements. And we understand the desire that they have had to get payments out quickly. But there is a balance to be struck with respect to the integrity of these programs. And we felt it was important to retain that certification requirement as one check against the fraud against the system that we know has occurred.

There has been very substantial fraud, we have learned, against the unemployment insurance systems of the States during implementation of CARES. And so we do need to keep that in mind as well.

The CHAIRMAN. Senator Cassidy?

Senator CASSIDY. Thank you, Mr. Chairman.

Mr. Secretary, again thanks for the hard work you and your department have done. One of the advantages, if you will, of speaking after many other people—you know the concern. Republicans are concerned that \$600 a week in which people are earning more than they are paid would encourage them not to work. And that has negative effects for the person and negative effects for society. That is known. But it has been roughly a kind of Republican/Democrat split, with Democrats apparently pooh-poohing that. Just to see if there could be an objective analysis, aside from the report from CBO, I found a quote from Professor Larry Summers, who was Obama's, I think, director of something or other—everybody knows who Professor Summers is. "Government assistance programs contribute to long-term unemployment by providing an incentive and the means not to work. Each unemployed person"—and note this term—"has a reservation wage, the minimum wage which he or she insists on getting before accepting a job. Unemployment insurance and other social assistance programs increase that reservation wage, causing an unemployed person to remain unemployed later." Again, Larry Summers, who is esteemed, and from Harvard, and with Obama, et cetera.

Now let me ask you, sir, what would be—if the \$600 a week pandemic unemployment benefit is extended through the end of the year—what do you estimate the reservation wage is that a business must offer to someone on unemployment to convince them that they should return to work? And is this a wage most businesses would be able to match, or even bear, if they are a small business?

Secretary SCALIA. Thank you for the question on this topic, which obviously is of great interest to members of the committee.

Senator, if I could, I would like to be clear again that the \$600 benefit that was provided in the CARES Act was one of the really very important good things done in that act. It was the right thing to do at that time in a closing economy. And I am mindful of the concerns, and I heard members of this committee expressing at the time that that might result in some people turning down work.

We have made a priority of the Department working with the States to focus on the existing protections in the law to make sure that does not happen. However, much of the discussion that I think we are having now is looking ahead, as your question does, not to what we put in place but what, if anything, will be done when the

\$600 benefit expires on the deadline of late July that the Congress agreed to set.

I have not read Professor Summers's piece. He is obviously a highly respected economist——

Senator CASSIDY. It is an older piece; I do not think he is saying it right now. [Laughter.]

Secretary SCALIA. Maybe he has recanted. But you are correct. At the margins, again, for some number of employees—and I am not talking about the millions of hardworking Americans who would rather be at work—but for some number of employees, you will have to set that wage higher, substantially higher perhaps, to——

Senator CASSIDY. Do you have a sense of what that would be?

Secretary SCALIA. I do not. I do not have a sense of what it would be, but it would be probably appreciably above 100 percent of what the work would compensate.

Senator CASSIDY. I do not think anybody is criticizing anybody for making a rational individual decision. If I make more money not working, I am not going to work. That is a rational decision. It is just that we know that working actually, statistically, is good for people. So I do not think—you know, I am not asking you to do that.

Now some folks have said, “Wait a second; we cannot continue this forever.” Is there a way to gradually scale it down so that, yes, we provide support but we encourage people to return back to the workforce, which is good for the family, good for the individual, good for society?

But I am struck with what you have said about the inadequacy of State information systems. Are State unemployment systems capable of a system that would gradually scale down the amount of benefits received from month to month?

Secretary SCALIA. I believe that the States have made progress in their systems from where we were in March. And I was explaining to Ranking Member Wyden that this was something that I would be interested in exploring further with the committee.

I think there may be a greater capacity now than there was in March for the systems to scale, or for the Treasury Department, for example, to assist in that. That was an approach that we had raised at the time that CARES was being considered, that there might be a way for the Treasury Department to function as part of the distribution system.

But there also, as you know, Senator, has been discussion of perhaps having a smaller benefit, maybe not \$600 but perhaps \$250. I have heard that——

Senator CASSIDY. But the question is, could you scale it down?

Let me move on to my last question. I am almost out of time. There have been a lot of layoffs. The job numbers actually were great, but in the public sector we continue to have people laid off. And as it turns out, many of those are in the education system.

Now when you go back, it is clear there will be smaller classrooms with more assistance in order to help the children maintain social distancing, et cetera. Senator Menendez and I have put together a SMART Act, which would help these State and local governments rehire these employees. But do you know how many of

these 1 million or so State and local employees in education have lost their jobs or are on temporary furlough? Do they expect to be rehired, or have they been let go entirely? Do you have any sense of that?

Secretary SCALIA. I do not have those figures. I could get them for you. Government jobs were the one category of jobs with very substantial losses in May. I think it was about 600,000 jobs, actually. And many, many of those jobs were in K-12 education and in college.

So I could try to get more detailed data, but I know that many of the jobs lost in May were in that sector. But I am also confident that those are probably all jobs that will come back as schools reopen.

The CHAIRMAN. Senator Brown, by TV.

Senator BROWN. Thank you, Mr. Chairman. We are learning the technology here. Thank you so much, Mr. Secretary. Thank you for being here.

Ranking Member Wyden and I, along with 22 of our colleagues, sent you a letter dated May 14th outlining concerns about UI benefits being delayed in so many of our States, that \$600. And I would point out, in spite of all my Republican colleagues on this committee talking about how they like that benefit now, they all but one voted against it. The only amendment Senator McConnell did allow on the floor on the entire CARES Act was to wipe away the unemployment benefit on that \$600. So they can take credit for doing it, but now they are against it. It is just something to remember about who is on the side of workers.

But anyway, we outlined—we saw too many States, too many people were not getting the benefits. They were delayed. Our letter asked you to undertake a critical survey of State unemployment programs so we can fix the problems that caused the delays and make sure they do not happen again.

Would you, Mr. Secretary, commit to conducting that survey that 23, 24 members of the Senate asked for, providing policy recommendations and responding in a timely fashion?

Secretary SCALIA. Senator Brown, thank you for that letter. I believe it gave us a mid-July return date. You asked for certain information within 60 days. Because I do not have the letter in front of me, I am hesitant to commit that we will provide every piece of detailed information that was sought. But we certainly will respond to that letter.

Senator BROWN. Thank you.

Secretary SCALIA. I understand the concerns that you have.

Senator BROWN. I think that you and I share, and all of us share, an interest in making sure that we can fix this UI system which has had a workout that nobody expected it to have, but also a UI system that has gotten pretty outmoded and outdated over the years. So thank you for that.

My second question: the national unemployment rate is over 13 percent. The unemployment rate for the Latin worker is almost 18, and almost 17 for black workers. If we phase out the unemployment insurance program in the CARES Act, including the \$600 weekly benefit which ends in July, do you expect black and brown

workers to be disproportionately affected by that policy decision? “Yes” or “no”?

Secretary SCALIA. Senator Brown, I do agree with you on the State unemployment insurance systems. As I said, I think there has been significant progress made. But as we look back at lessons learned and things that we might want to fix going forward, I do think that is an area that is worth further consideration, how they can be enhanced.

In terms of the job prospects for African Americans, Hispanic Americans going forward, that will depend in part on different parts of the country’s reopening schedule, different sectors of the economy.

What we do know is the economy that we had before, which President Trump was instrumental in building——

Senator BROWN. Mr. Secretary, I am going to interrupt you. I have heard your commercial——

Secretary SCALIA [continuing]. Was an economy that achieved record low——

Senator BROWN. Mr. Chairman, I want——

Secretary SCALIA [continuing]. Unemployment for African Americans and Hispanic Americans——

Senator BROWN. Mr. Secretary, we have heard——Mr. Chairman, we have heard the Trump commercial——

Secretary SCALIA [continuing]. And that is the objective once again.

Senator BROWN. Mr. Chairman, would you gavel the witness, please? We have heard the Trump commercial over and over, how great the economy was, even though many Americans did not have \$400 in their pockets, even in the great growth of the Trump economy, which was not nearly as good as the Secretary likes to keep saying.

It is clear that brown and black workers will be disproportionately affected. I mean, that was a simple “yes” or “no,” and I got a commercial for the President’s re-election.

Next question, Mr. Chairman. Some have argued that that \$600 is going to keep workers from going back to work. It is a pretty clear takeaway here. The companies they worked for did not pay them enough to begin with.

So, Mr. Secretary, if we raise the Federal minimum wage to \$15 an hour, would you expect the number of workers who receive more in UI than they did in their paychecks to decrease? That is a pretty easy “yes” or “no.” If we raise to \$15, will that make more workers make more on the job than they are getting in UI?

Secretary SCALIA. Not necessarily. The UI payment right now, with the \$600 plus-up, averages between \$50,000 and \$55,000 a year in unemployment insurance. That is substantially more than is made in employment——

Senator BROWN. Well except, Mr. Secretary, they do not——

Secretary SCALIA. And in fact, if I could finish—if I could finish—in fact, the \$600-plus-up alone is substantially more than the minimum wage on an annualized basis. But you have, in addition to that, the State payment. So unfortunately, I do not think that is a help——

Senator BROWN. I can see, Mr. Secretary—I can see what a good lawyer you were as a corporate lawyer, but the fact is, it is not \$55,000. It is 39 weeks; that is the maximum, but let us put that aside.

I wanted to say——

Secretary SCALIA. I was annualizing the benefits.

Senator BROWN. Senator Menendez pointed out how outrageous it was—he pointed out that you have received 5,000 complaints from workers, terrified they are going to get coronavirus on the job and then have to go home and potentially expose their families, and you have only done one citation.

I would like to ask you to submit to this committee, and my office, the list of all on-site, in-person inspections as a result of a complaint received by Federal OSHA. I would like you to submit a running total as you do these inspections.

I mean, we know what the President said when we saw what happened in Sioux Falls with hundreds of people diagnosed with coronavirus at the slaughter house, and the President using the Defense Production Act ordering them back to work. Nothing about worker safety. Nothing about slowing down the line. Nothing about food safety. And that, I think, tells the story.

I will just close with this, Mr. Chairman. We are in the midst of a pandemic. We have a President and an administration that call workers essential but treat them like they are expendable. The President said last week the unemployment numbers are, quote, “stupendous.” In reality, they are the worst since World War II. In Ohio, they are opening up eviction courts, actually in arenas, if you can imagine that.

We have learned from the DOL in this hearing that they have issued one citation—one citation—showing how much they really care about workers. The Attorney General, over the weekend, said there is not any institutional racism in policing.

I do not know how he figures that. We should not be cutting off the safety net workers need to pay their bills. We cannot allow the administration to continue its 4-year-long betrayal of workers.

The CHAIRMAN. Senator Bennet?

Secretary SCALIA. Mr. Chairman, I am sorry, but could I respond to that?

The CHAIRMAN. You may respond to it. Before you respond to it—well, no, go ahead and respond to it.

Secretary SCALIA. We have——

The CHAIRMAN. And then Senator Bennet.

Secretary SCALIA. We are investigating every single complaint that we receive from workers about unsafe conditions pertaining to COVID. We have a 6-month limitations period, and when we find violations, we will indeed bring citations, if we find them. We have the tools needed to do that. We also have, as I said, a 6-month limitations period.

So we will—we will do that work. That said, I think it is a real disservice for people to suggest that OSHA is not taking this seriously. Employers need to know that indeed we are, and they do need to protect their workers. And we want workers to know that if they have complaints, please do bring them to us. If they think

that they have been subject to retaliation from raising health concerns, please do bring them to us.

So I want to correct any impression that people listening might have that OSHA is not indeed taking these matters very seriously.

The CHAIRMAN. Anybody can correct me if I am wrong, but I heard Senator Brown say that the President used the Defense Production Act to order the workers back to work. He ordered the companies to get the company up and running. The only way you are going to get workers to go back to work is if they realize that they are not going to go into a death chamber when they go back to work, and that was the company's response to that—

Senator BROWN. Or, Mr. Chairman, if they think they are going to lose their jobs if they do not return back to work. I mean you cannot—workers are going to go back if they think they will lose their job and will not get their unemployment benefits.

The CHAIRMAN. Well, he did not correct me, but go ahead, Senator Bennet.

Senator BENNET. Thank you, Mr. Chairman. Thank you, Secretary Scalia, for being here. We appreciate it. And I am grateful for the response to Senator Brown's question. I think it is critically important, because if people do not think they are going to be safe, if they do not think health is going to be enforced at work, they are not going to go back to work.

And what I heard you say, Secretary Scalia, is that you want OSHA on the job. You want people to know that they can file complaints if they have been mistreated at work in this context, and that you will report to the committee the work that OSHA is going to do or has not yet done.

I think that is very important to all of us, and we want to know it. We want to know what the facts really are, because it is the only way people are going to go back to work.

I think it is clear that we are facing an unprecedented health-care challenge in this pandemic, and that has created unprecedented economic crisis in our country. One in six workers in this country is unemployed. By the way, I also would say that the Trump economy and all this stuff, the reality is the average monthly job creation under Donald Trump is lower than it was under President Obama for the first 3 years of the Trump administration.

So rewriting that history here I do not think is all that helpful. But in this moment—and to you, Mr. Chairman, to the ranking member, I would say “thanks.” In this committee, we have helped workers in two major ways. First, we expanded unemployment benefits to cover almost 10 million self-employed workers, gig workers and others who are usually left behind and I hope will not be left behind in the future.

Second, we added \$600 per week, as we have been debating here together, to the normal unemployment benefit for all 30 million workers claiming benefits. And had we not done this—without this tens of millions of families across the country from Iowa to Oregon through Colorado would have seen their incomes drop by 60 percent, 70 percent, or more.

And we prevented that from happening. And I know we are hearing criticisms today about the benefit—I just want to be very clear about what it has done until now. The \$600 weekly benefit has pre-

vented a level of severe hardship that it is almost impossible to comprehend—even in this hearing room.

It paid the rent and prevented evictions. It has kept food on the table so families do not go hungry. It has kept the lights on and paid for Internet so kids can have access to learning. And it has been a central lifeline to families in the middle of the worst economic crisis since the Great Depression. Even President Trump seems to recognize this, because he is running campaign ads touting these benefits.

But even as he is running the ads, he is also threatening to take them away. And I think that would be a profound mistake. Right now, 17 percent of American families cannot cover 3 months of basic expenses. Without the extra benefits, that number would rise to 43 percent. Today, nearly 10 percent of Americans cannot make rent. Without the extra benefits, that could rise to 30 percent. Think of what that would do to our economy.

So if we let these benefits expire at the end of July, Mr. Secretary, I would argue that we are going to throw tens of millions of people who rely on them into a financial crisis, family by family, all across the United States of America.

Mr. Secretary, you called expanded unemployment benefits, quote, “an important short-term measure adopted in these extraordinary times to alleviate the economic impact of the virus on working Americans.” I think you will agree, probably, with me, Mr. Secretary, that we are not going to create 20 million more jobs in the next 2 months. Do you think we are?

Secretary SCALIA. Senator, I would not predict 20 million jobs in the next 2 months. What I do predict, and what we have already observed, is a very different economy than existed when CARES was enacted. And remember that this body itself set a July 31st expiration for that benefit.

Senator BENNET. Right.

Secretary SCALIA. I think where we sit now is the recovery in the job market has actually happened more quickly than Congress expected in late March.

Senator BENNET. Well, let us hope that is right. But I think that it is probably safe to say at least 10 million people will be unemployed at the end of July with no jobs to return to. I mean, does that feel to you like an extraordinary circumstance along the lines you described of the importance of the unemployment benefit in the last downturn?

Secretary SCALIA. I think that 10 million unemployed Americans is 10 million more Americans without a job than we want, and it does make sense for us to consider, particularly as we get closer to that July 31st date, what measures may be necessary.

But if I could just underscore again, the size of the benefit, as valuable as it has been, as important as it has been—it is great. In Massachusetts, you are able with this \$600 plus-up to obtain \$75,000 a year. That is the annualized income that you get on unemployment in Massachusetts right now. In the State of Oregon, it annualizes at potentially \$65,000 a year.

Senator Brown asked me about the \$15 minimum wage. As I said, the \$600 weekly benefit by itself is actually just slightly more than that \$15 minimum wage. But on top of that, you get the State

unemployment benefit. So it has been a very important system, but as we look long-term, I think there few people who would suggest that you should have an unemployment system long-term that pays \$75,000.

Senator BENNET. I have gotten my last minute taken away from me, Mr. Chairman, so if I could just take 30 seconds to finish my point—

The CHAIRMAN. I will give you 30 seconds.

Senator BENNET. Thank you. That is all I will take. In answer to Senator Cassidy's question, Mr. Secretary, you said you thought the State departments were now up to the challenge of maybe dealing with a benefit that ratcheted down over time.

I believe that it was a mistake for us to tie it to a date certain. I do not think that makes sense. I think what we should do is tie it to the economic conditions that the country is facing and that our workers are facing, so that when the economy—when the employment is going up, the benefit is going down; when we are doing worse, the opposite would be true.

And I hope you will work with the committee to design something rational like that, because having it just end on a date certain is going to be very cold comfort to millions of people in this country.

Thank you.

Secretary SCALIA. Senator, I would welcome the opportunity to continue that conversation.

Senator BENNET. Thank you. Thank you, Mr. Secretary.

The CHAIRMAN. Before I call on Senator Casey, who is next, I want to remind people that during the debate on the CARES Act, Senator Sasse and others put forward an amendment to the bill not to block the extra \$600 payments, but instead to tell States they would have to make sure that they did not pay people more for not working than working. States said it would have taken them months to implement, so clearly States were hit with an overwhelming shock that was difficult for their systems to deal with, but no one proposed to block these extra payments entirely.

Senator WYDEN. Mr. Chairman, if I could, the States were incapable at that time of doing what Sasse was talking about, which is why—and you were in the negotiations—we had to go with a rough justice approach. And it is why we have tried to extricate from the Secretary this afternoon an answer to the question about whether the States would be capable of doing 100-percent wage replacement now accurately. And he has not indicated that was the case. So I just want to—and I know we are going to be debating this—I just wanted to set the record straight.

The CHAIRMAN. Now we go to Senator Casey, by TV.

Senator CASEY. Mr. Chairman, thanks very much for this hearing. And I want to thank Secretary Scalia for his presence at the hearing.

Mr. Secretary, I will have a question for you regarding workplaces and COVID-19, but let me start with some of the data which we cannot escape and which we have to continue to bear in mind as we approach these challenges.

When I consider just that my home State of Pennsylvania—here is some of the data—the case number now is more than 76,400

COVID-19 cases. The death number has gone above 6,000. As of today, the last number was 6,014 people dead from COVID-19.

In addition to that, the unemployment numbers are extraordinary. More than 15 percent of our—the 15-percent unemployment rate in Pennsylvania, 15.1, what that equates to is 976,000 people unemployed. We never saw those numbers—as bad as the Great Recession was, we never saw those numbers at that time.

Now I know with regard to both COVID-19 and the economic devastation that flows in its wake, that we have passed, I guess it is technically five bills now, two by consent and three that we actually had a vote on. Those five bills are helping in a lot of ways, but more action is needed by the Congress.

Unemployment benefits had a very positive impact on people's lives. The \$600 per week additional payment, by one estimate, replaced 30 percent of total private-sector wages and salaries lost just in the month of April—so a huge impact on people's lives.

Benefits, as you know, are about to end at the end of July, July 31st, so the benefits end but the cost for mortgage, the cost for food, the cost for rent, so many other costs in the life of a family do not end on July 31st. And I think it is about time we started to say that more and bear that in mind as we hear Senators talking about ending this program in an arbitrary fashion with no approach, no strategy to replace it or to mitigate the damage.

And more broadly, many in the Senate majority want to stop legislating altogether on COVID-19 and on jobs. Now some have said they want to help States and local governments. There is some bipartisan action on a few issues. But in terms of the substantial help that our States still need and our communities and our families need, it seems like the Senate majority wants to walk away from that responsibility.

I do not think that is what the American people want. And especially they do not want us to spend another month voting on nominations instead of COVID-19 and the jobs crisis. I think we can do better than that.

Now, back to the unemployment rate, we know that, as much as the unemployment rate is high across the Nation at more than 13 percent, it is especially high for African Americans—almost 17 percent for African Americans, and at last count for Hispanics 17.6, which just happens to be the same unemployment rate that is in my home county, Lackawanna County, PA.

So there is a lot of pain out there. So as we talk in this academic fashion about ending a program, we should acknowledge and be responsive to the devastation out there. We should not cut off unemployment insurance with no effort to mitigate the damage of the economic devastation so many families are facing. So we ought to be talking about providing pandemic premium pay for frontline workers who have risked their lives. All of that should be part of our debate.

Now I want to ask the Secretary a question about a letter we sent him in May. Mr. Secretary, we sent you a letter to clarify whether workers who have been offered their jobs back would lose unemployment insurance if they refused to work in a circumstance where the workplace they would return to is in fact unsafe.

Will the Department of Labor issue guidance to States to clarify that workers cannot—cannot lose unemployment insurance if the workplace is not safe and following CDC or OSHA requirements?

Secretary SCALIA. Senator Casey, it is good to have the chance to speak to you again. There was a lot in that question. Just a couple of quick comments, and I will answer your question.

I agree with you. It is very important that we remain mindful of the impact that the coronavirus has had on workers and on employment. That is a focus of the staff at the Labor Department every minute of every working day, and those have been long days too.

I do think it is important to remember that, as much as we want our unemployment system to function as effectively as possible, even better is a job. And so our long-term goal really does need to be getting our economy back to where it was. It was so vibrant through the first week of March, and there was actually a piece in *The Wall Street Journal* that just came out today speaking of how the economy under the President, which was affected by coronavirus was, quote, “the best African American job market on record.” That is how the *Journal* described it. And then that is what the numbers show.

So we want to get back there. In terms of your question, Senator, the precise circumstances in which a worker can decline to go to work because he or she believes the workplace is unsafe is something that the States determine according to their law. The requirement is that it be suitable work. “Suitable work” has to be safe.

So the States are to judge that. There are certain broad parameters, but I think certainly if the worker has facts telling him or her that the workplace is unsafe because there are unmitigated COVID exposures, we would think that the worker should not have to go back until that workplace is made safe.

Senator CASEY. Mr. Secretary, you are the Secretary of the Department of Labor of the United States of America. One of the programs created under the CARES Act for unemployment insurance, the so-called PUA, the Pandemic Unemployment Assistance, that is a Federal program. And you have responsibilities beyond that when you oversee unemployment insurance more broadly across the Nation. Do you not feel that—or do you not believe that you have a responsibility to give guidance on something as fundamental as the safety of a workplace in the middle of a pandemic?

I just think that has to be an obligation you have. I do not understand why you think you can just pass that off to the States.

The CHAIRMAN. Please give a short answer.

Secretary SCALIA. We have given it—it is a Federal-State partnership.

The CHAIRMAN. Senator Warner?

Senator WARNER. Thank you, Mr. Chairman. And, Mr. Secretary, thank you for appearing here tonight. I know there has been a lot of discussion about the bump-up on the unemployment assistance during the pandemic, but one area where I hope there is bipartisan consensus—and I appreciate the chairman’s and Senator Wyden’s good work on this—is trying to make sure, during the pandemic, that we cover all workers.

I think we all now realize how many workers traditionally were not covered by unemployment. In my State of Virginia, 683,000 workers who were freelancers, 1099ers, independent contractors, gig workers, had not been covered. As a matter of fact, on a nationwide basis about 20 million workers were not covered by traditional UI. And I do hope one area that we can agree on is that we need to make sure, as that part of the economy is not changing—we are not going away from freelancers, gig workers, 1099ers—that we make sure they get some of these benefits. And thank goodness, under the leadership of this committee, we did that.

Because, while about 18½ million Americans qualified for traditional unemployment, over 10 million Americans qualified for the PUA, the expansion, and I think that lifeline has made a difference from, frankly, economic ruin. And again I hope, Mr. Secretary, that you would believe that that type of a program needs to be continued.

One thing, Mr. Secretary, I want to drill down on is something we have been trying to get an answer for. If we all agree that the intent of Congress with this expansion under PUA was to cover all workers during this unprecedented time, I want to make sure that you would confirm something we still have some lack of clarity on. And that is, that freelancers, including those who work from home who have lost work, or domestic workers who obviously work in the home but who have lost work, that both of those categories are covered by the PUA.

Secretary SCALIA. Senator Warner, thank you for your attention to this set of issues, which I know is very important to you, both in the context of the current crisis in unemployment and more broadly. I do agree that one of the really terrific things that was done in the CARES Act—you know, we are hearing a lot of disagreements today, but the CARES Act was the product and reflection of a whole lot of really great agreement. And one of those great agreements was covering gig workers.

There are other programs, something called DUA, Disaster Unemployment Assistance, that can also provide coverage, but we have never done anything on a scale such as that. And I think it was a very good thing to do in the CARES Act.

With respect to your questions, I always need to be careful in addressing specific hypotheticals about particular jobs, but I do believe that the freelancer is something we have addressed. I know there has been concern about that. If somebody was making a living, for example, as a freelance journalist and was for some reason just unable to continue that for one of the qualifying reasons that Congress put forth in the CARES Act, then I would expect that person to be covered by what we are calling this PUA benefit for the self-employed, if they are not covered by the ordinary system, which they probably are not—

Senator WARNER. And that journalist could have been somebody who was working at home, so they were freelance but working at home. Thank you for that clarification.

And if you could address the domestic worker—

Secretary SCALIA. With the caveat, I think that is correct, Senator.

Senator WARNER. If you could address the domestic worker, fairly briefly, because I have one other point I would like to make.

Secretary SCALIA. Same answer, Senator. With the caveat, I think that would probably be the case if one of those qualifying conditions was met. Although, you know, domestic workers may actually be covered employees under State law, but I think they are likely to be covered one way or the other.

Senator WARNER. Well, I know I have been working with the group the Domestic Workers Alliance, and I think they will be happy to hear your comments. And I look forward to trying to work to make sure that in this area at least—where we ought to make sure for these 20 million Americans nationally, these 10 million who have already qualified in this pandemic—that the expansion of this coverage ought to be maintained.

And I will just take my last 28 seconds—and I know I have tried to make the case to you, Mr. Secretary—to make the case to my colleagues on both sides of the aisle. I think we need more experimentation with these portable benefits, benefits to attach to the individual, that move with them from gig to gig. There are five members on this committee who embraced an experimentation on portable benefits, that we would try a variety of models.

And I particularly say to my Democratic colleagues, there are a number of models that come out of Europe—Sweden, Belgium, Denmark—where these portable benefit systems are actually administered by labor unions and have become the methodology for them to move into the 21st century. This is one area where there is bipartisan agreement.

I hope, Mr. Chairman, we can continue to work on it in the next bill, and that we go ahead and expand experimentation around portable benefits, because I think we are looking at the workforce of the future.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Hassan, by TV.

Senator HASSAN. Well, thank you, Mr. Chairman and Ranking Member Wyden. Thank you, Secretary Scalia, for being here today.

As Congress responds to the impacts of COVID-19, one of the main issues that I hear about from New Hampshire constituents is delays in receiving unemployment benefits. New Hampshire is one of several States still working to fully implement the expanded unemployment benefits under the CARES Act. When issues arise, I hope that the Department of Labor will continue to support the State and help ensure that New Hampshire workers quickly receive the support that they need.

My first question, Mr. Secretary, is about the unemployment benefits we have been discussing. As our country has responded to COVID-19, expanded unemployment insurance has helped to ensure that workers have the financial support that they need when measures such as stay-at-home orders are in place. As Senator Casey mentioned, unemployment benefits also support workers who themselves are sick or at an increased risk of the virus, helping them afford to stay out of the workplace to protect themselves and others.

So, Secretary Scalia, “yes” or “no,” do you agree that during this unprecedented time unemployment insurance has been an impor-

tant tool to support public health strategies to contain the spread of COVID-19?

Secretary SCALIA. I do agree with that, Senator Hassan. And in fact, in the first half of March we issued a guidance document, even before paid leave was made available for employees of small employers. In FFCRA, we issued a guidance document demonstrating to the States how the unemployment insurance system could be available to assist workers who had COVID or were caring for somebody who did.

Senator HASSAN. Thank you——

Secretary SCALIA. So I do agree with that. And just one last——

Senator HASSAN. Quickly, please, because I have several questions.

Secretary SCALIA. I understand. We understand the difficulties that the States have had processing benefits. We genuinely are here to help. We have been in touch with all of the States, but if we can do more, please have the folks in your State system let us know, and we will do all we can.

Senator HASSAN. Well, thank you. And I just wanted to follow up on your answer about the unemployment benefit being a public health tool. Because, despite what we think the economy may or may not look like in July, we do know that this pandemic will still be with us. And we do know that that will present critical challenges for our workforce as they try to balance this new world.

Senator Stabenow talked about the capacity for employers to use unemployment benefits to supplement part-time work, which may in fact be very important for families where child care is still not available or school may not be available, especially if we do not provide more State and local aid as they face budget crunches.

So I just want us all to keep that in mind. I wanted to ask you, too, Mr. Secretary, about the issue of expanded paid leave for many workers, and you just referenced it a bit ago. In addition to expanded unemployment insurance, Congress also enacted emergency expanded paid leave for many workers. This leave includes 2 weeks of paid sick leave and up to 10 weeks of additional paid leave for parents whose children's schools have closed.

Access to paid sick leave is an important public health tool to encourage workers to stay home if they are sick, without losing their paychecks or possibly their jobs. The Department of Labor is tasked with ensuring that workers are aware of their rights to paid leave, but data has indicated that many workers who are eligible for this leave are unaware of this new program.

Secretary Scalia, what additional actions will the Department of Labor take to improve its outreach in education to workers regarding their access to emergency paid leave benefits?

Secretary SCALIA. Senator, I will take a look at what guidance we have on that currently. I will tell you that when FFCRA was enacted, we engaged in a very intense campaign to provide guidance, answer questions for workers and employers so that they were familiar with the program. We put out a series of five, or maybe even six Frequently Asked Questions to provide guidance.

We featured it prominently on the website of our Wage and Hour Division, and we also very swiftly put in place rules to implement that benefit. I will note that——

Senator HASSAN. Mr. Secretary, my time is almost up. I appreciate——

Secretary SCALIA [continuing]. We have recovered nearly \$650,000 for workers, and brought benefits to approximately 500 workers in our implementation of that program.

Senator HASSAN. Mr. Secretary—and, Mr. Chairman, I am going to ask for your indulgence for just a moment——

The CHAIRMAN. Yes. You state your question, and he can answer it, and then we will go on to the next one. We still have 10 people here, so that's at least 50 minutes.

Senator HASSAN. My question is this, and it is one I will follow up on with the Secretary after the hearing, but I just want to put the question on the record.

Why is it that we still need to have the Department of Labor do more? It is because people are not aware of their paid sick leave rights under the legislation. And I would like to follow up with the Secretary about the issue of workforce training, because since 2001, State Formula Grant funding levels under the Workforce Innovation and Opportunity Act have fallen by 40 percent as adjusted for inflation. So we are going to need to think about how our workforce systems can help get workers who have been dislocated by COVID-19 back to work, and what kind of additional Federal resources will be necessary to support these workforce training and reemployment activities.

Thank you, Mr. Chairman, and thank you, Mr. Secretary.

The CHAIRMAN. Senator Enzi?

Secretary SCALIA. I am sorry, Mr. Chairman—just to respond quickly. Again, we have a very extensive set of documents to explain to the American people how that program will work. I would certainly be happy to look at it again. And with respect to help to dislocated workers, in addition to all the things I mentioned earlier, we actually have made dislocated worker grants to 40 States in an amount of approximately \$225 million.

The CHAIRMAN. Senator Enzi?

Senator ENZI. Thank you, Mr. Chairman. Thank you for doing this hearing. And I want to thank Secretary Scalia for being willing to answer questions.

I appreciate all the comments that there have been about the \$600 per week being temporary and all the discussion on that. Senator Grassley, you started off with three letters that you had received, and one was from an employee, and two were from employers. They were all about the employees.

There are also some employers out there in small businesses who are making less than their former employees who are on unemployment. I am appreciative of the effort that Senator Portman is making to make some changes in that, and I appreciate all the answers that you have given on that. I will maybe submit a couple of questions, but I will change the subject to something we have not talked about yet.

It is concerning to me that my State of Wyoming was the target for foreign fraud. How are you advising States to prevent fraud and abuse by foreign entities? Is there a department plan to recover any of the fraudulent payments? Does Congress need to help with these efforts?

Secretary SCALIA. Thank you, Senator Enzi. Fraud on the unemployment system has always been a problem. I am pleased to say that in 2019, for the first time since it has been monitored, we got our improper payments rate, it is called, below the 10-percent target. So we were on a good trajectory. But the coronavirus obviously has upended so many different things, and that included the risk of fraud in the system.

There has been fraud. As you say, Senator, there have been highly sophisticated criminal enterprises that have engaged in fraud on the system. We are working with our Inspector General. We have been working with other Federal agencies. We have been working with the States.

There is something called the UI Integrity Center that the States are working with. That center sponsors something called a “data hub” for State information-sharing. So there are many different mechanisms in place, and Congress did make \$26 million available to our Inspector General in the CARES Act to address this problem.

We will continue to work on it hard. We know it is real. And in some cases it is interfering with the delivery of benefits to people who are entitled to them. So we will stay on it.

Senator ENZI. Thank you. From the wide range of things that you have to cover, as was pointed out in this hearing, thanks for the great job you do.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Carper?

Senator CARPER. I would like to say, Mr. Secretary, welcome. I want to stay on the point Senator Enzi just raised.

I spoke last week with our own Secretary of Labor at the Department of Labor in Delaware, and the issue of fraud came up. He mentioned foreign involvement, and he talked about a criminal element in Nigeria, I think is what he said. And the amount of money that may have been stolen, literally, by these folks—who apparently are pretty smart—is in the billions of dollars.

And I would just ask as sort of a follow-up question with respect to what Mike Enzi was just raising, I think you have said this, but would you commit to provide GAO, and again the agency Inspector General and others, with the information they need to conduct effective oversight with respect to the UI benefit?

Secretary SCALIA. We will certainly cooperate with any investigations that are being conducted as to that. We are, as I said, working closely with our Inspector General. I actually sent a joint memo to all Labor Department employees, joint with the Inspector General, about a month or so, maybe 6 weeks ago, emphasizing the importance of the integrity of the Department generally, but the Inspector General and I also spoke particularly about the importance of integrity in guarding against fraud in connection with the CARES Act and unemployment insurance benefits.

You are right. There is a Nigerian ring, evidently, among others. We received a letter from the Unemployment Insurance Commissioner in Washington State just the other day. They believe they have recovered hundreds of millions that had been misappropriated through this criminal enterprise. But there are still very significant challenges. I will work with GAO and the IG.

Senator CARPER. Yes, please do. I urge you to work with GAO as well. Thank you, very much.

A quick question. The unemployment rate in our country is high, as you know; very high. The unemployment rate for folks who happen to be black or Hispanic is even higher. Any ideas on specific steps the administration is taking to address this particular issue, this particular challenge?

Secretary SCALIA. Well, as I mentioned earlier, until the coronavirus hit, we had hit all-time lows for unemployment for African Americans, for Hispanic Americans. There were also steps that the President took that were very important to him, including establishing Opportunity Zones in impoverished neighborhoods, the First Step Act, which was an important piece of criminal justice reform, but among other things made it easier for people who had been in the criminal justice system to come back into the workplace. Those will remain priorities.

I know how proud the President was of the job opportunities that his economy was providing to minorities, and that will continue to be a—

Senator CARPER. Mr. Secretary, I am going to ask you—

Secretary SCALIA [continuing]. Very important goal—

Senator CARPER. Mr. Secretary, I am going to ask you to stop talking, all right? I have another question. Thank you.

Secretary SCALIA. Just answering your question.

Senator CARPER. You more than answered my question, thank you.

The workforce retraining—this is a big issue. When I was former Governor, I did customer calls. I used to do them every week, customers large and small, and I asked them: “How are you doing? How are we doing? What can we do to help?”

And this was a time when we had maybe 150, 160 million people going to work on a given day. And we had 6 or 7 million jobs where nobody was showing up because the jobs that were needed, the kind of skills that were needed, were not inherent in the people who were looking for work.

That situation has been exacerbated now, and I was going to ask you about this, but I have given a lot of thought to workforce training, retraining. It could be—oh, gosh, we have something in Delaware where we actually train kids right out of high school for jobs and careers that are going to be out there. We have labor unions work with apprenticeship programs. We work with technical communities in colleges. But there has got to be—and, you know, all these businesses that are gone, they are gone. They are not coming back. Folks who worked there do not have a job to come back to.

They may have skills, but they do not have the skills that are needed for the jobs that are out there. And I think we need a thoughtful, comprehensive approach that involves not just the Federal Government, not just State Governments, but community colleges and other nonprofits, to actually focus on how we help these folks retool and retrain for the jobs that are going to be there in the months and years to come. Any thoughts there, please?

Secretary SCALIA. I agree with much, and maybe everything you said. I think that workforce training is important. We learned a great deal in the economy that we had. One of the things that I

really appreciated in that economy was that businesses were reaching out more to train workers. Apprenticeships were thriving. Community colleges were playing a really important role.

So we learned a lot that I think we can now apply going forward, because I do think that, although we will bring back to work millions upon millions of workers who were put out of work by the virus, there will be others who do not go back to those jobs. And I think we will want to apply some of the lessons learned, and you described some of them. We will want to apply some of those lessons learned going forward, and I would be happy to talk to you about it further.

Senator CARPER. That would be great. Thanks so much.

The CHAIRMAN. Okay; Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman.

And let me say, first of all, to my colleague and friend, Senator Carper, I could not agree with you more. We already have a need for worker retraining, because we did not have the kinds of skills we needed to fill the jobs in our economy. And now we are going to need them even more.

So the JOBS Act is a good way to do that, to allow programs to be used for short-term training programs, and I think this is going to be very important, and you are going to play a leading role in that, I know, Secretary Scalia, because I know you have been involved in training.

Let me just, if I could, talk for a second about how we got to where we are—at 10 weeks into this unemployment insurance program that was started in the CARES Act—and where we go from here. We chose 600 bucks for a simple reason, and Senator Wyden I think said it well when he said it was “rough justice.”

It was rough justice for trying to make sure that people, on average, had wage replacement. But I think, I think speaking for everybody, what we all were looking for was wage replacement. And \$600 is well above wage replacement for a lot of people.

The University of Chicago study that was cited earlier today shows that 60 to 70 percent of the people on unemployment insurance—making the \$600 Federal addition to the State benefit—60 to 70 percent of them are making more on UI than they would make in their previous jobs.

So there is this issue. And look, the last session I had with anybody in Ohio was on Monday before I flew here. It was a small business. And the first thing the guy said to me was what you hear from small businesses when you do your NFIB conference calls, which I do periodically, which is, “I am now finally able to reopen, and we are starting to get business back. Things are going better, but I can’t find people, and people are telling me they would rather stay on UI because they can make more money there.”

And with 60 to 70 percent of the people making more money on UI than they make in their jobs, that is going to happen. I agree that people actually want to go back to work. I think it is wrong to say that people want to stay on UI. I think people like being at work. But when they can make a lot more money not being at work, it does create a disincentive.

I had a town hall recently, a tele-town hall—I am doing these pretty much every week now—and a woman called in and said,

"I've got two daughters, one of whom is working and one who is on UI. And the one on UI is making more than the one who is working. And the one who is working is upset about that, because they had had jobs that were comparable prior to this."

So I mean, this is a reality. We have to face it. But it was with all good intentions, because we were trying to find the average wage—which was about \$600 per month additional Federal benefit—to get the average wage so it would be comparable.

And so I think it was rough justice, but I think now we are in a different situation. One, we have an economy that is starting to grow. And the numbers for last month were really surprising. We thought we would lose 7½ million jobs, and we added 2½ million jobs. I mean, no one can say that is not great news. However, there are still 21 million people who are on the unemployment rolls. It is over 13-percent unemployment. For African Americans, it is even higher, and Hispanics even higher. So we do have a huge problem here. The \$600 was necessary, in my view, to get us started in this. But now we have a situation where the economy is starting to reopen and people are looking for workers.

Second, remember that back then we really did not want people to stay at work because we were encouraging people to go home. In other words, we were shutting down the economy. Except for essential businesses, we were actually encouraging people not to go to work. And now we want to encourage people to work.

This is why I have come to this proposal I have been working on for the past couple of months with you and other people, which is to say, for people who are on unemployment making whatever the State benefit is—usually about \$360 on average from the State, plus they are making the \$600 Federal addition to that—for those people who are on unemployment making more than they could make at work, which is 60 to 70 percent of those people, why not give them a bonus to go back to work?

That bonus could come out of the \$600. That bonus—I suggest it could be \$450. Why? Because that is the amount which would make people in this country—even if they were on minimum wage—so anybody on minimum wage would be able to go back and make just as much, if not more, in the private sector than they could make on UI if they had this bonus.

For us, it would be a 6-week program. So it is a transition back to work. I really like it because I think it gets people back to work at a time when we need them in the economy, but also it is good for workers. Work is where most people get their health care, right, Mr. Secretary? Most people in America get their health care from work, and they lose it when they lose their good job, unless you have a great company that is furloughing them and keeping their same health care. But that is rare.

Second, that is where they get their retirement, if they have a retirement account. Typically it is a 401(k) at work. But also I think the meaning of work is important to people. I think the self-respect you get from going to work is important to people.

So we want to encourage people to go back to work. It is clearly good for small businesses who are looking hard for workers right now as they are starting to reopen, and that is good. And of course it is good for the taxpayer because, think about it, instead of 600

bucks it is \$450, and the Federal Government saves money, but so does the State government, because then the people are off unemployment insurance and back on the payrolls—and they are actually paying taxes, by the way. We have been talking about the fact that they are now paying taxes and contributing to the economy. That alone, taking them off the Federal \$600 down to \$450, whatever the number is—Congress may choose another number—and not having the 360 bucks on average State benefit, it is tens of billions of dollars in savings to the State Governments and the Federal Government, which is savings to the taxpayer. That is a win/win/win: good for workers, good for businesses, good for the taxpayer.

Now having said all that, what do you think about it, Mr. Secretary? Don't you think that makes sense in order to get people to work?

Secretary SCALIA. I do think it makes sense to get people back to work. We have to have an unemployment insurance safety net, but for the reasons you gave, work is even better. And so I look forward to, Senator Portman, speaking with you and others about what we might do going forward. I am certainly not here to criticize the CARES Act. I think the CARES Act is a really admirable achievement by the U.S. Government during an extremely difficult time. But if it was rough justice, let us find justice. Let us use these weeks to make things even better. And I think we are in a different situation.

Senator PORTMAN. Let us go over that a little bit. I would love to find justice—in other words, to be able to say, what is wage replacement?

The CHAIRMAN. Senator Whitehouse?

Senator PORTMAN. But I do not believe that the UI systems around the country—we will find out from the second panel when they come up to talk—are capable of doing that. They are going to want one flat number. They have had enough difficulty doing that. Unfortunately, I think that is where we are.

So let us do something that makes sense to deal with the immediate problem we have to get people back to work and provide an incentive to do so. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Whitehouse?

Senator WHITEHOUSE. Mr. Secretary, does the Department of Labor have a specific counterproposal—Senator Portman's or any other—to ending, to extending the \$600 benefit past July?

Secretary SCALIA. Senator Whitehouse, I do not have a particular proposal that I would want to air at this hearing.

Senator WHITEHOUSE. Okay, I—

Secretary SCALIA. I certainly am interested in discussing what steps might be taken. I have already—

Senator WHITEHOUSE. You answered my question.

Secretary SCALIA. I think it would help you to know that—

Senator WHITEHOUSE. Please, Mr. Secretary; you have tried to talk over us through this whole hearing. That was a simple question. Just let me go through my questions, would you, please?

The second question is with respect to the fraud investigations on unemployment insurance. We are seeing in Rhode Island, and other States, a fraud that looks like it is massive, coordinated, and

perhaps driven from overseas. How much of a priority is investigating and remedying that fraud for your Department? High? Low? Super-high? Give me a measure.

Secretary SCALIA. To complete my answer, because I am sorry I had not completed my answer to your question, I had had a conversation with Ranking Member Wyden about this, what we might do going forward, and I look forward to further——

Senator WHITEHOUSE. Mr. Chairman?

Secretary SCALIA [continuing]. Discussions along those lines.

Senator Whitehouse, with respect to fraud on the unemployment insurance system, it is a very high priority for us. We recognize that unemployment insurance fraud has always been a long-standing problem in the system. We recognize that because of the size, the prominence of the CARES program, it has become an acute problem. So it is one that I am certainly personally spending my time working with my staff to address, and I know you have more questions, so I will not repeat the things I said earlier, but we are working with our State and Federal partners——

Senator WHITEHOUSE. I am starting to see that you are having fun here, and it has become a bit of a sport for you to filibuster us and to kind of yuck it up. I do not think that is fair to us.

With respect to the OSHA guidelines related to COVID, what is the difference between an OSHA guideline and an OSHA Emergency Temporary Standard with respect to enforceability?

Secretary SCALIA. A “standard” is a legally enforceable rule, which we already have a number of that we believe we can use for enforcement with respect to COVID. We also have——

Senator WHITEHOUSE. But to be clear, the COVID-related guidelines that you spoke about earlier are not standards that OSHA is capable of enforcing against. It is only if they overlap with another pre-existing actual standard that you can enforce against. Is that not a correct statement of the law?

Secretary SCALIA. That is, respectfully, not entirely true, actually. Guidelines that we issue, which are consistent with those issued by the CDC and those adopted by industries, recommended by unions and the like, establish a legal background in which I believe we can bring a general duty clause action if we need to.

The other difference in the guidelines and the standards——

Senator WHITEHOUSE. May I read you something from your website? “OSHA guidelines are advisory, do not create new employer obligations, and are not the basis for citations.” And then further down, it actually says, “The recommendations contained as guidelines are not enforceable under the general duty standards either.”

So it looks to me like it is hard to enforce unless you make them emergency temporary standards, so I am here to ask you to make them emergency temporary standards.

Secretary SCALIA. Respectfully, I was the chief legal officer in the Department previously, and as I said, guidelines can provide part of the background for an action. The difference between a guideline——

Senator WHITEHOUSE. “Background” and “enforceability” are two different things, are they not?

Secretary SCALIA [continuing]. And a standard is the flexibility a guideline gives us—

Senator WHITEHOUSE. Final point. There has been a lot of, I think scorn heaped on the \$600 a week benefit—which propped up probably close to 40 million families now through this crisis—and the people are “overpaid” and “idle” and all of that.

But just for context in evaluating that narrative, I would also remind everybody who is watching this hearing that 43,000 Americans who enjoy incomes over \$1 million got a benefit from the CARES legislation amounting on average to over \$1.6 million each—not for their businesses, but flowing back to their personal tax returns. The amount that flowed back to individuals earning over a million dollars each to their personal tax returns as a result of this, \$1.6 million on average for those 43,000 people, was over \$100 billion.

So let us just bear that in mind as we evaluate what it means to a family struggling to get by, to have an extra \$600.

I think we probably do need to rethink this program, but it would help if we had a proposal from the Department of Labor.

Thank you. My time is up.

The CHAIRMAN. Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman.

Mr. Secretary, I represent a very big aerospace cluster. About 150,000 people are involved in aerospace, both working for Boeing as a manufacturer, but also the supply chain. So we worked very hard on getting the CARES Act to support activity that would get the capital into those areas, and also to try to focus on what we could do to protect essential workers.

I am sending you a letter today asking for Trade Adjustment Assistance for workers who are impacted at Boeing, and so I hope that you will look favorably on that petition. I do not know if you want to make any comments about that, but one of the issues that I think we really have to think hard about is that we want to maintain our competitiveness in aerospace.

These are highly paid jobs, and when people get laid off—because obviously we have been impacted by this crisis, and the whole transportation sector has been impacted—then those people who get laid off may have a package that keeps them connected to the company for a while. I was a big advocate of saying that critical defense workers should have extra health-care benefit activity so that when this crisis is over they would be more likely to come back into the fold and that we would not lose these critical defense workers.

As it is, we ran into a big roadblock. So much of the discussion this afternoon has been around the \$600 and extending that. My question is really more on health care. What are we going to do to keep critical workers in the sector that we would like to keep them in after their 1 month of paid-for COBRA benefits runs out? And we are now talking about aerospace engineers, that they are then on the hook for paying for their health care themselves. They can continue that COBRA benefit, but they pay for it themselves, which again is a big out-of-pocket expense. So my worry is what is going to happen to those aerospace workers is, they are going to

find another job that has health care, because they are not going to wait a year from now for the aerospace market to pick back up.

So what do we need to do? If you want to, comment on the TAA, or the benefits of trying to provide assistance to aerospace manufacturing from trade adjustment, but also, what is your plan? What do you think the plan should be for keeping critical workers connected by having some sort of health-care benefit that is out there and available in an affordable way?

Secretary SCALIA. I will certainly look carefully at the TAA letter. I recognize that the Trade Adjustment Assistance Act is an important form of relief to industries and companies that have been affected, and we will certainly take a look at that.

Senator CANTWELL. And I am saying they were affected before this, basically. And the whole sector was affected because of trade issues.

Secretary SCALIA. Yes. And by the way, I certainly share your view that it is a very important sector for this country, for a number of different reasons.

With respect to health care, providing it is always important and often a challenge. We extended the time that people would have to elect COBRA benefits during the pandemic. So people had more time to evaluate that option and, in the rush for everything else going on, did not lose out on those benefits as a result of the sort of ordinary deadlines that apply.

I will have to give further thought to mechanisms that might be used to induce people back to aerospace jobs, perhaps a health-care benefit, rather than having them go elsewhere that might be of less importance to national security and the like. It is not an issue that I have looked at, but I would certainly be interested in talking to you about that aspect of this problem.

Senator CANTWELL. Well, it is one of the highest-paid manufacturing jobs that we still have in the United States, and I think the second hundred years of aerospace could be a very big opportunity as the rest of the world continues to grow economically in the future and gets into aerospace.

So I would hope that we would figure out how to upskill these workers, and also figure out this health-care benefit. Because if they do not have health care, they are not going to stick around waiting for us, even if they are on TAA. We have to figure out how to get the health-care benefit to these workers and get them back into aerospace and maintain U.S. competitiveness.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Young?

Senator YOUNG. Thank you, Mr. Chairman. Welcome, Mr. Secretary; good to be with you. I appreciate you visiting today.

Most States, including Indiana, waived job search requirements as it relates to unemployment insurance in order to encourage people to shelter in place, to stay at home, to prevent further spread of the coronavirus. But now, as all of our States begin, in varying degrees, to reopen, employers are recalling their workers or hiring new workers to get their businesses up and running and to try to resume some semblance of normalcy.

But they are having difficulty doing so because of the additional UI plus-up, which I know has been discussed at some length today.

So what I am wondering, Mr. Secretary, is at what point States will feel it is reasonable for workers to be expected to search for work as a condition of receiving further unemployment insurance.

Is this something your Department has given some consideration to?

Secretary SCALIA. Senator, thank you. And the work search requirements are ones that are part of the unemployment law infrastructure that the CARES Act was enacted on top of. And although there were States that, for example, sought to waive the weekly certification requirement, we have asked that that requirement continue to be honored. I certainly agree that, especially as the economy is now reopening, as jobs are becoming available, it is important that States begin applying the usual mechanisms to encourage workers to look for work.

We appreciate that it is a difficult balance for them. We still want them also to be able to get payments out to people who need them and are entitled to them. But we know now that millions of jobs are reopening, and we want to get people back there.

Senator YOUNG. Can you give me some sense of how States are approaching this? What timeline might they be looking at as it relates to resuming the normal work search requirements, and what expectations are being made of workers as they engage in this work search in a somewhat different environment?

Secretary SCALIA. We expect them now to be applying the weekly certification requirement they have. We appreciate that a few weeks ago some wanted out of that for a period of time, but we have asked them to comply with that requirement. And I think, again, now it is taking on more value, more importance. Something that I suggested to the Governors—I sent a letter to the Governors within the last week talking to them really about these kinds of questions, that there is still work to be done providing benefits for the economy's reopening. So there is now this new job of, for example, having employers let employment commissioners know when they are open for business or having the State workforce agencies informed when employers are open for business, and working with the people on unemployment to get them back to work.

We have these workforce agencies in the States to help people make that transition. And I think now increasingly their services are being called on, and we want them to do that job too.

Senator YOUNG. Excellent. Thank you.

So many Hoosiers have lost their jobs over the course of the coronavirus, and many will not have a job to go back to. For others, they will not have a job to go back to for some period of time. And still others may find that they have created a new job for themselves, or they can find a new job that did not exist prior to the pandemic. You may have spoken to this earlier. I know it has been a long day for you, and I am appreciative of your presence here for such a period of time. But do we know what jobs will not be coming back post-pandemic and what jobs have been created as a result of the pandemic?

Secretary SCALIA. That is a good question. This has been such a challenging stretch for American workers that I hesitate to point out the positives that have been there, but there have been some. I mean, we have seen some companies hire in some cases hundreds

of thousands of workers. Particularly some of the larger retailers have done that. And I think we can imagine some areas that will see a further growth as a result of some of the changes in lifestyle that people are now making as a result of the virus.

There are other industries that are going to take longer, and we know that. I have met with workers in the hotel sector, and business owners in the hotel sector, and that is going to take longer.

Likewise, we know the sports industry will take longer. But I think we can bring them back.

The CHAIRMAN. We have two questioners left. Before I call on Senator Cortez Masto and Mr. Daines—we are not going to have a second round, but I am going to, as a matter of privilege, give Senator Wyden 2 minutes, and if he wants a response from you, I hope you can respond in 2 minutes, because we are holding up the second panel.

So, Senator Cortez Masto, by TV, I think.

Senator CORTEZ MASTO. I am here. Thank you.

Secretary Scalia, thank you. It has been a long afternoon, and I appreciate you coming and answering all the questions.

Let me say, you were just touching on an industry that was hit hard. I am from Nevada, the hospitality and tourism and gaming destination. Unfortunately, we have the highest unemployment rate in the country. And unfortunately, what we have seen in our unemployment insurance, our Department of Employment, Training, and Rehabilitation is about to receive more than 500,000 claims for standard unemployment insurance and nearly 100,000 for pandemic unemployment insurance. And that is with a population of just about 3 million people.

So can you talk a little bit about how you anticipate addressing unemployment for the hospitality and tourist-based industry? I am on Banking, and the chairman and I had this conversation. I asked which industry was going to take the longest to bounce back, and he referred to the hospitality industry.

So what are you thinking, for purposes of unemployment and how it should be addressing the long-term unemployment that we may see in the hospitality and tourist-based industries?

Secretary SCALIA. Thanks for the question. I spoke with Governor Sisolak, I think just last week, about Nevada's reopening. I know that Las Vegas is now beginning to reopen, which is wonderful news, but I know that it will be a process that takes place over a period of time. And as I mentioned a moment ago, I do appreciate that it is a sector of the economy that is going to be slower coming back, unfortunately, than others.

I think that we are seeing the rest of the country reopen safely. I just read that Disney, I think, is going to begin opening its facilities, I believe later in the month. So I am hopeful that some of these business places that depend more for business on large gatherings are not far behind, and the reopening in Las Vegas, NV can also proceed more quickly.

But with that said, I appreciate that we do need to continue to watch how these things develop over the next month or so, the next few weeks, and evaluate whether there are additional steps that have to be taken post-July 30th. And the circumstance that you have in Nevada, I do believe is one that is going to warrant watch-

ing and perhaps further discussion about how things are progressing and what steps might be needed for the benefit of the workers and businesses there.

Senator CORTEZ MASTO. Such as extending unemployment insurance for those workers?

Secretary SCALIA. I think that it makes sense to talk about the situation that workers are in come the end of July, and what particular mechanisms—an unemployment piece could be one part of that that I agree is worth discussing, particularly if you are able to target it in certain ways.

Senator CORTEZ MASTO. Yes, and please know that part of our industry too is that gig economy industry that includes our entertainers, that includes those who are in seasonal stage group promotions, and so for purposes of that industry, which is really the new economy, I am curious what you are thinking for purposes of the future—and even now, on how we address our unemployment needs.

I understand Senator Warner said this is an area we should be focused on. What are you doing to address this issue, because so much of that is a new economy, and we should be looking at how to provide unemployment. Many are misclassified, as you well know, and so what are you looking at to address this new economy and these workers?

Secretary SCALIA. Senator, the audio cut out just a little bit, but I think you were asking about workers who are often treated as independent contractors, or called gig workers, self-employed. And as I mentioned earlier, providing unemployment benefits to them, a form of unemployment benefit, in the CARES Act was an important thing to be done, given how they were affected in much the same way as many other workers.

I think there are other things that can be done to help people in that segment of the economy. Something that we proposed—we adopted a rule for what we called “association health plans” to make it easier for the self-employed, as well as for people who work for small businesses, to band together to buy health insurance.

Senator Warner earlier mentioned some ideas that he has for gig workers. I think that is a segment of the economy that is really important. I think there are many workers out there who like the independence that comes with having a job of that nature, but it does make sense to talk about ways to adapt some of what we do for workers in light of the particular line of work that those people are in.

Senator CORTEZ MASTO. Thank you. I know my time is up. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. And now, the Senator from Oregon for 2 minutes.

Senator WYDEN. Yes; thank you, Mr. Chairman. I just want to correct the record on some of the key issues.

First, when I talked to the Secretary last week on one of the key questions of why we had to have the \$600 a week supercharged benefit, the Secretary said that the States still did not have the ability to do full wage replacement, which I would have been happy to do in the first instance. Today he said it seems like they made a lot of progress. And I do not know what might have happened

over the weekend, Mr. Secretary, but I think that is misleading the committee, misleading the public, and on a key kind of question which is, what to do going forward.

Because I had indicated—and I mentioned some of my colleagues being open to this—that I am open to a variety of approaches. But it does not help when we have misleading comments. And that was the case in several other areas. Both myself and Senator Casey asked about this question of whether an unemployed person could turn down an unsafe job and continue to claim unemployment insurance. He said repeatedly it was a matter of State law.

We have been looking at it. It is not. When it is pandemic coverage, then you have the capacity, as the Secretary of Labor, to give the States guidance, which is what we have been asking you about for the last 3 hours.

And finally, I was just stunned by this. You said that, well, isn't it great that we have all been able to agree on the pandemic coverage, which we called the gig workers and the self-employed, and the like. And I just went back and looked at the record, and the fact is that the McConnell bill was eight lines long and it had nothing to do with those workers. And it happened because people on this side of the aisle said the program began in the 1930s and it was time to modernize it and bring it into the next century.

We would like to work with you, but it does not help when on key issue after issue—and I understand being lawyerly. I am a lawyer in name only. I ran the legal aid office for the elderly. But that is different than being misleading. And I think on too many key issues today you were simply misleading, and I think it is going to make our job harder, because we want to do a bipartisan bill, which is actually what we came out of the committee room with the first time before we got to the floor.

Thank you, Mr. Chairman.

The CHAIRMAN. If you want to answer, please do it in 2 minutes.

Secretary SCALIA. Thank you. Ranking Member Wyden, I hope we can continue talking about different mechanisms that might be available there.

The approach that I think I suggested to you when we spoke last week was one which resembled in some ways what we discussed in March, which was potentially involving the Treasury Department in helping disburse benefits for unemployed workers. That actually is an approach that would have included the States, since they have critical information.

With that said, I actually have learned more since you and I spoke. We have had discussions with States. We have learned more, and I confess I am, as I sit here now, more optimistic about the capabilities that the States may have based on the conversations that we have continued to have. And so I look forward to exploring that further with you. But the more recent information that I have gotten has been encouraging.

And then with respect to safe workplaces, I am sorry that you do not feel that it is as clear as you would like, but as I said, we want safe workplaces. We do not expect people to be forced back to workplaces that are unsafe.

The unemployment standards are, as you know, State-administered. We have provided guidance, I think including guidance re-

garding at least some circumstances where we would expect workers can safely return. But if we hear from States that that is an area where they need further guidance, we will certainly have those discussions with them. Thank you.

The CHAIRMAN. Mr. Secretary, you have had a long afternoon here, and you have been at a well-attended committee meeting. All but three members came to have dialogue with you. I thank you for your patience, and I also appreciate the cooperation of our members through all of this.

So I will excuse you now, and then, while our staff is putting up the nameplates, I will start to introduce first Scott Sanders. Mr. Sanders is the executive director of the National Association of State Workforce Agencies. That is an organization of State workforce system administrators. It goes by the acronym NASWA. Prior to joining that organization, he served as Commissioner of the Indiana Department of Workforce Development.

Next we will hear from an Iowan, Beth Townsend. Ms. Townsend is Director of Iowa Workforce Development, appointed by Governor Branstad, confirmed unanimously by the Iowa Senate, March 24, 2015. Previous to her present position, she was Director of the Iowa Civil Rights Commission. Prior to that, she worked as an attorney in West Des Moines, IA in civil rights and employment law. Ms. Townsend also served as a member of the Judge Advocate General's Corps of the U.S. Air Force. She retired from the Air Force Reserves after 21 years of both active and Reserve duty.

Third is José Javier Rodríguez. Mr. Rodríguez is a member of the Florida Senate, representing the 37th District, including Coral Gables, Pine Crest, Key Biscayne, and downtown Miami. And he has been in the Senate since 2016. He previously served 2 terms in the Florida House of Representatives.

Next, Les Neilly is president of the Neilly Canvas Goods Company in Pittsburgh, PA. Mr. Neilly runs a family-owned business operating since 1940, which provides residential awnings and tarps for commercial trucking and other uses. He has been able to bring all of his employees back to work, which he will tell us about.

Then we will hear from Michele Evermore. Ms. Evermore is a senior policy analyst for the National Employment Law Project. Ms. Evermore joined that organization in 2018. Prior to that, she worked in Congress for a decade in the Senate, and also was a staff person for the House Committee on Education and the Workforce. In those roles, Ms. Evermore worked to advance worker protections and organizing rights, and to improve retirement security and a variety of private pension plan designs, as well as Social Security.

I am sure the staff has informed everybody that if you have longer than 5-minute statements that you want put in the record, they will be put in the record.

And I will start with Mr. Sanders, then Ms. Townsend—well, the way I introduced you. So let us go with Mr. Sanders.

**STATEMENT OF SCOTT B. SANDERS, EXECUTIVE DIRECTOR,
NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES,
WASHINGTON, DC**

Mr. SANDERS. Chairman Grassley, Ranking Member Wyden, and members of the committee, on behalf of the National Association of

State Workforce Agencies, thank you for the opportunity to testify and discuss States' efforts to provide essential unemployment insurance benefits to workers who have lost their job due to the pandemic. Members of our association are State leaders of the publicly funded workforce system, including the unemployment insurance program. NASWA serves as an advocate for State workforce programs and policies, liaison to Federal workforce system partners, and a forum for the exchange of information and practices. We are nonpartisan, and our membership includes all 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

The impact of the pandemic on the workforce is unprecedented in my lifetime. During the Great Recession, the peak of the number of claimants paid in January 2010 was 12.1 million. For comparison, a year ago for the week ending May 11, 2019, States only paid 1.6 million claimants. In sharp contrast, for the week ending May 16, 2020, States paid a total of 30 million claimants, which includes 10.7 million claimants in the new Pandemic Unemployment Assistance program. These phenomenal increases in claims explain some of the extraordinary implementation challenges States have faced in processing and paying UI claims. No entity, public or private, would reasonably have contingency plans in place for these scenarios. Yet our member agencies continue to work through these overwhelming workloads tirelessly and with great dedication.

It has not only been the scope of the challenge, but simultaneously implementing with our members several new Federal programs we are charged to address, including the Federal Pandemic Unemployment Compensation, which provides an additional \$600 to each UI claimant. This program was implemented in all States by the end of April. The Pandemic Unemployment Assistance program is much more challenging because it requires UI payments to self-employed individuals on a State-wide basis, something that has never been done before. All States implemented this program by the end of May.

Against this backdrop, I will highlight three of the key challenges that States are experiencing during this crisis: promoting integrity, trust fund solvency, and administrative UI funding. Our members work hard to promote integrity in the unemployment insurance program. Through NASWA's UI Integrity Center, States share best practices. They receive assistance in reducing improper payments, and recently States are accessing the Integrity Data Hub. The Integrity Data Hub plays an integral role by creating a suspicious act repository with questionable email domains and IP addresses, multi-State cross-matching, and fraud-alerting. States are acting quickly to utilize this tool. These cross-collaborative State efforts will continue to enhance NASWA's and its members' ability to promote nationwide efforts around the integrity of UI claims.

Trust fund solvency is the second major challenge for States. During the Great Recession, 36 States depleted their trust funds, resulting in cumulative borrowing of \$51 billion from Federal general revenues. Trust fund balances are rapidly depleting. States' trust fund balances totaled \$76 billion at the end of 2019 and have dropped to \$52 billion as of the end of May. Since March, 29 States have seen their trust fund balances decline by more than 25 per-

cent. Adding to this concern, States have already collected approximately 65 percent of their tax revenue for 2020. For the remainder of the year, benefits paid will far exceed deposits, exacerbating the declining trust fund balances. With these lower trust fund balances, the States can expect significant increases in the UI tax rates in many States.

There are two potential options for Congress to consider in averting this impending trust fund crisis. Congress could enact legislation to forgive trust fund loans made to States this year or next, or Congress could direct a Federal payment to State trust funds that could be sent by a Reed Act distribution, which was done after 9/11.

Finally, States need additional UI administrative funding for operations and IT systems. States have mobilized new call centers; hired, borrowed, and outsourced staff; and purchased or modified existing IT systems to address the pandemic. However, the cumulative years of underfunding have affected States' abilities to maintain staff and make capital investments, specifically in IT resources.

We urge Congress to address the immediate needs to provide funding for State administration and IT operations and update the basic methodology of the administrative funding process.

In closing, NASWA and our members look forward to continuing to work with you on these important issues. Thank you for providing this opportunity to testify.

[The prepared statement of Mr. Sanders appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Sanders. Now, Beth Townsend of Iowa.

**STATEMENT OF BETH TOWNSEND, DIRECTOR,
IOWA WORKFORCE DEVELOPMENT, DES MOINES, IA**

Ms. TOWNSEND. Thank you, Chairman Grassley, Ranking Member Wyden, and members of the committee, for the opportunity to share with you a boots-on-the-ground view of the impact of the COVID-19 pandemic on a State workforce agency. I have included written information regarding the facts and figures behind IWD's response to the pandemic, and I refer you there for specific information.

A few key points I would like to highlight include that Iowa has a generous unemployment benefit program. We provide 26 weeks of benefits per year, with a range of payments from \$87 to \$591 per week, depending on the claimant's wages and number of dependents. And we do not have a waiting week. The average weekly benefit during the pandemic is approximately \$300 per week. Iowa began reopening at the beginning of May. In order to keep employees safe in the workplace, employers are taking necessary steps to protect their employees and customers. Iowa State law provides that employees who believe their workplace to be unsafe can quit their job and still be eligible for unemployment benefits.

Additionally, PUA provides benefits for those who are in or caring for individuals in high-risk categories, or who have lost child care or transportation. We have strongly encouraged open communication as a first step in helping employers and employees to de-

termine who, how, and when employees can be returned to work safely.

In addition to providing for the safety of employees in the workplace, employers are dealing with the collateral consequences of the FPUC payment. A review of our claims shows that when our State benefits are combined with the FPUC benefit of \$600 per week, 79 percent of Iowans who have received unemployment benefits since March 15th have earned more on unemployment than our average weekly wage. This is not an issue of low wages in Iowa; it is the impact of the additional money. Iowans who received the maximum State benefit and FPUC are earning the equivalent of \$30 an hour on unemployment. Even the average weekly benefit of \$300 plus FPUC results in the equivalent of \$22.50 an hour.

This has resulted in very awkward conversations between employers and employees. We have heard that they are being asked not to recall their employees until the end of July. Employees are asking to be laid off in order to collect the benefits. Employers who have been able to remain partially open have received complaints from employees who continue to work because they see it as unfair that they are working and their peers are not, and they are staying home and earning more in UI benefits. Employers who took advantage of the Paycheck Protection Program often received complaints from employees who do not want to be recalled because they were making more on unemployment.

While employers understood and agreed with the reason for a flat rate for the entire country at the time the CARES Act was passed, I urge you to take the time now to consider the impact of such payments and find a path that provides a safety net in States where the recovery is slower but is not a drag on States that are recovering faster. Employers are telling us in Iowa that the FPUC benefits should be allowed to expire to make sure they are able to quickly recall and restart operations. If FPUC benefits are extended, I urge you to craft legislation that is not one-size-fits-all. Six hundred dollars a week invested in Iowa goes much further than it does in States where the cost of living is significantly higher.

Please consider tying the availability of benefits to the State's unemployment rate so that once the State falls below the rate, the benefits end. Or consider a significantly reduced flat rate for a short period of time. Please limit the calculations a State workforce agency must perform to pay our Federal benefits. A flat rate for all those eligible for a single program is absolutely essential to being able to implement the program quickly and efficiently. Regardless of the age of the UI system a State uses, these are all new programs that have to be developed and tested before claims can be paid. Thus, trying to implement a percentage of wages, or maximum wages as a percentage of benefits received, would require individual review of each claim.

I would ask you to consider a benefit like a payroll tax holiday, which would be easier to implement; would benefit everyone in the workforce, including those who remained in the workforce throughout; and would not run through the workforce system. It would also provide an incentive to those returning to the workforce by lessening the impact of going off FPUC payments by allowing employ-

ees to keep more of their wages. If a new unemployment benefits program is created, please consider a prospective date of implementation. This would give USDOL time to provide the necessary guidance to State workforce agencies, and time to develop a program before it is deployed, as well as manage the expectations of people receiving the payments.

In closing, I recognize Iowa is a smaller State and does not have as many challenges as other States in assisting those who have lost their jobs due to the pandemic. However, I also think Iowa is unique in that we are a State that knows the value and necessity of collaboration. And we are stronger together. From the beginning, we have benefited from Governor Reynolds's strong, steady leadership. I also want to thank the team members at IWD who have worked so hard and have been so dedicated and professional, and who have remained committed to helping the citizens of Iowa.

Thank you, Senator Grassley and members of the committee, for the opportunity to share this information with you. I look forward to answering any questions you may have.

[The prepared statement of Ms. Townsend appears in the appendix.]

The CHAIRMAN. Thank you, Beth. Now, Senator Rodríguez.

**STATEMENT OF JOSÉ JAVIER RODRÍGUEZ, STATE SENATOR,
FLORIDA SENATE, MIAMI, FL**

Mr. RODRÍGUEZ. Chairman Grassley, Ranking Member Wyden, honorable committee members, I address you as a State legislator serving the Florida Senate. My name is José Javier Rodríguez. In these unprecedented times, with the CARES Act, you have done a great deal of good. And for that, I thank you on behalf of the constituents I serve back home.

Florida entered this crisis with one of, if not the least prepared unemployment systems. No State provides a fewer number of weeks. We are near the bottom in weekly benefits, capped at \$275, and have major gaps in eligibility. Add to that an application and payment system infamous for its failures—and how persistent those failures are, having endured unchanged through several gubernatorial terms, successive audits, and prior Federal intervention.

The CARES Act lifted my constituents when Florida's system alone would not have. The PUC program adds \$600 a week through July. By design it goes right to out-of-work Americans who spend it in their communities on necessities. It is easy to administer. And that is a significant benefit in States like Florida with so many problems getting benefits paid.

Ricardo, 56, a hotel bellman for 8½ years before his layoff, is a diabetic who loses health insurance this month. He wants to get back to work in an industry that has not returned, and wanted me to tell you, quote, "The \$600 is necessary for me to survive, including to pay for medications. I have paid my taxes since I was 14, been working for decades, and never collected unemployment. This is not a luxury; it is a necessity."

Karen, 30, worked in marketing at a casino for 9 years and hopes to return, but looks for work in the meantime. She wanted me to tell you, quote, "My fear is that me and my 9-year-old daughter

will end up homeless without this. I waited for over a month to receive Florida's unemployment, and honestly, \$275 a week is just not enough. The Federal aid is important to help us for all we do as taxpayers."

Randi, 47, is the mother of an 8-year-old boy and a 5-year-old girl. A recruiter who owned her own business and needs the economy to recover for work, she was able to file in late March but only just received her first payment last week. She wanted me to tell you, quote, "The \$600 has become vital to my family for basic needs like food and utilities, and finally being able to buy my daughter a toy. It seems simple, but we have been in quarantine since March, and I have not been able to buy my children anything."

With the CARES Act, you also shored up a highly successful lay-off aversion program. Businesses want to do the right thing and often need help, like Bernie, a small business owner that we assisted. He employed 17 people before the crisis and should avoid layoffs under that program.

On top of design flaws coming into the crisis, Florida's system continues to be slow, unreliable, and inept in general—and in its deployment of the CARES Act in particular. The Department of Economic Opportunity administers unemployment. For hundreds of thousands of Floridians, DEO's system was inaccessible for at least the first half of the crisis, punctuated by unmet, ever-changing goals and seemingly never-ending mishaps so bad that Florida was the only State paying out less than it received during this period.

Leah, 63, worked part-time for an airline. A recent survivor of lung cancer who could not perform her job remotely, she could not apply because the system crashed daily for weeks. Were it not for assistance from our office to adjust the date of her claim, she would have lost over a month of benefits.

The ordeal is like the ancient military punishment of running the gauntlet. Many, many thousands still have not made it through. No response. No reasons. No assistance from DEO. The failures work a special hardship on people, adding needless anxiety to economic pain. A bipartisan group of us field a bulk of the calls. Each has a list of critical cases to informally bump up when we hear things like, quote, "I'm struggling to maintain a positive attitude, and my wife is afraid that this could be the death of me. Please help. I'm desperate."

Florida remains an outlier in deploying the CARES Act. Of those deemed ineligible for traditional unemployment, only about one-fourth end up qualifying for the catch-all PUA program, a rate far below other States. It also appears that the State of Florida has only paid out about half of the \$600 weekly benefits available to Floridians. This experience should serve as a lesson to other States. States that shrink, starve, and ignore their unemployment systems one day may have their State legislators delivering such remarks.

Federal oversight is needed over States' unemployment systems, along with resources to modernize their infrastructure. CARES Act programs ought to remain in place until recovery has reached all sectors. Otherwise, for communities like mine, I fear it will set us back in our path to recovery.

Thank you.

[The prepared statement of Mr. Rodríguez appears in the appendix.]

The CHAIRMAN. Thank you, Senator. Mr. Neilly?

**STATEMENT OF LES NEILLY, PRESIDENT,
NEILLY CANVAS GOODS COMPANY, PITTSBURGH, PA**

Mr. NEILLY. Good evening, Chairman Grassley, Ranking Member Wyden, and the other distinguished members of the Senate Finance Committee. Thank you for the invite, and for allowing me to be here this afternoon, or this evening. It is an honor and a privilege for me to represent small business owners across our great country, and to express my experiences regarding the extra \$600 a week Pandemic Unemployment Compensation enacted as part of the CARES Act bill.

I know I am not alone, as countless other small business owners have had similar experiences. My name is Les Neilly, president and majority owner of Neilly Canvas Goods Company, a fourth-generation family business founded in 1940. We are located in Pittsburgh, PA, where we manufacture tarpaulins for trucking and industrial use, and we also make, install, and service commercial and residential fabric awnings. We have a total of 11 part-time and full-time employees between our two locations in Pittsburgh and Maryland.

Our employees make between \$14 and \$21.25 per hour, in addition to the benefits that I describe in my full written testimony. With the passage of the CARES Act, the extra \$600 a week of unemployment compensation amounts to \$15 an hour based on a 40-hour week. That alone pays our lowest paid employee more than they make working a 40-hour week, and all they have to do is sit at home.

Pennsylvania Governor Wolf announced the shutdown of all non-essential businesses on March 19th, effective immediately. Since the trucking industry is essential, we were able to continue to operate that side of the business. However, due to the lack of orders from our customers, we laid everyone off effective March 23rd. We had enough orders to call two employees back to work for Monday, April 6th, and were able to call two additional employees back later that week. On April 24th, two employees individually asked to see their pay stub, as all of our employees are paid by direct deposit. Once they reviewed their pay stub, they stated that their co-workers who were still at home laid off were making more money than those employees who were working, and that was not fair.

One of those individuals told me that they and their spouse were going back on unemployment, and the couple did not show up for work on April 27th and 28th. The other individual asked if it was possible to have a rotating schedule with the employees who were still laid off so everyone could participate in getting the extra \$600 a week, instead of their co-workers who were laid off the entire time. They stated they knew I was trying to run a business, understood that I had to make tough decisions, but they were missing out on the extra \$600 per week the Federal Government mandated for the laid-off workers, and they wanted to share in the pot of gold.

We applied for a Paycheck Protection Program loan, and the money was deposited in our payroll account on Tuesday, April 28th. Once the PPP money hit, I called all the laid-off employees and told them to report to work on April 29th. The couple who declared they were going back on unemployment discovered they were not eligible for 2 days' worth of unemployment and a partial of the \$600 a week, costing them 2 days of wages, which is another ramification of this bad policy.

We instituted a \$20 per-day bonus for each day the employees worked through the end of June, retroactive to when we called back the first two employees. We did this as an attempt to ease the resentment of the people who worked versus the laid-off employees. Since everyone was called back to work, employee morale has seemed to be improving.

May I suggest, as a business owner and someone who, like many other small business owners who have experienced similar situations, do not pay someone more money than they make in a 40-hour work week? Pay the laid-off workers the full amount they earn in a week to make them whole and nothing extra.

Paying someone laid off more than they make in a week for unemployment compensation is rewarding them for being laid off, and penalizing an employee who is helping the company survive and move forward because they are working. Running a small business or any sized business is hard enough on a daily basis without having to deal with situations created by Congress that put business owners in the position to mitigate resentment between employees.

Employees who are working to help keep the business afloat feel frustrated and angry that their laid-off co-workers are reaping rewards bestowed upon them by elected representatives, and less than 10 percent of these elected officials own and operate a business and understand the ramifications this policy could and has created. Further, I am concerned that small business owners who survive this historic downturn will be saddled with high unemployment taxes as a result of this policy.

Thank you for allowing me to express my experiences regarding the extra \$600 a week unemployment compensation. I appreciate the opportunity to appear in front of the Senate Finance Committee representing small business owners, and I hope you consider my testimony when contemplating future legislation to extend the CARES Act unemployment compensation and the amount paid to laid-off workers on a weekly basis.

I will be happy to answer questions at a later time.

[The prepared statement of Mr. Neilly appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Neilly. Now we go to Ms. Evermore.

**STATEMENT OF MICHELE EVERMORE, SENIOR RESEARCHER
AND POLICY ANALYST, NATIONAL EMPLOYMENT LAW PROJECT,
WASHINGTON, DC**

Ms. EVERMORE. Good evening, Chairman Grassley, Ranking Member Wyden, and members of the committee. I am grateful for the opportunity to testify today. And as a fellow Iowan, I am particularly thankful for Chairman Grassley's great work on this issue.

I am Michele Evermore. I am senior researcher and policy analyst with the National Employment Law Project. In this moment in history, it is easy to focus solely on the ways in which our lives, the world, and the national economy feel out of control. As gaps in benefits for unemployed workers have taken center stage, we must remember that the CARES Act you enacted is having a dramatic and positive effect on tens of millions of people who are out of work, particularly for workers who are paid low wages. These benefits are saving lives. Compounding centuries of structural racism, the unemployment crisis is affecting communities of color most dramatically. A recent *Washington Post* poll showed that 16 percent of black workers reported being laid off, as well as 20 percent of Latinx workers. At the same time, 11 percent of white workers and 12 percent of workers from other racial groups reported being laid off.

Pandemic Unemployment Assistance is helping both middle-class, self-employed workers and lower-paid workers—often misclassified as independent contractors—to weather an economic storm that has left them stranded in a largely shut down economy. Pandemic unemployment compensation is an essential benefit in this moment, particularly because so many States have lowered their unemployment insurance benefit levels. They no longer provide counter-cyclical stabilization during a recession.

Please refer to my written testimony for many examples of how this benefit is making a huge difference to workers. It does create a disincentive to work, as we have seen with the recent decline in unemployment numbers. We should not overlook how critical it is for workers to maintain a connection to work right now. For so many people, there is more to a job than a paycheck. In these uncertain times, workers want stability, and their jobs may be the source of health-care benefits and retirement security.

Finally, re-employment bonuses are not the answer. They are based on the premise that workers are not looking hard enough for work, when work may not even be there to find. Workers and employers benefit from an unemployment system that gets workers back to the right job, not just any job. Employers who want to bring workers back part-time as they start back up should consider work sharing to bring workers back but still allow them to get a UI benefit.

Policymakers need to learn the lesson of the Great Recession. Many families and communities never recovered. The response to the last recession did not inject enough money and was not sustained enough. A robust, continued program will keep workers in place and ready to resume employment once it is safe. We simply cannot pretend that health and economic conditions will just disappear in a few months.

For all its potential to help workers and stabilize the economy, the UI system does face challenges. It does not reach enough workers, and it does not provide enough wages, with only 27 percent of unemployed workers getting a benefit that only replaced about 45 percent of income last year. Worse, during the Great Recession black workers were on average 13 percent less likely than white workers to receive benefits, and Latinx workers were 4 percent less

likely. And all States struggled to get these programs up and running.

How did a program that could do so much good struggle so much? First, UI administration is underfunded. In 2020, Federal administrative funding for UI was \$2.14 billion. Back in 2001, that funding was \$2.21 billion. Given increases in the cost of living and the growth in the working population, that represents a big reduction. At the same time, the highest number of new claims for any single week in history before this crisis was 695,000 in October of 1982, as the Secretary mentioned. That is in contrast to new claims of 3.3 million for the week ending March 21st; 6.6 million the following week; 5.2 million the week after that; and initial claims in the millions every week since. The fact that UI systems did not collapse entirely under the weight of the demand is a testament to the dedication of UI administrators and staff across the United States, but substantial additional emergency funding will be necessary.

Since the last recession, States also cut benefits by reducing duration and adding confusing barriers to access. Systems have been calibrated to prevent benefit overpayments at the expense of paying earned benefits, causing erroneous denials and false fraud accusations. That slows benefit payments in a crisis.

Finally, any steps taken to reopen the economy must ensure that worker health and safety are paramount. Workers receiving UI cannot refuse suitable work and continue to get benefits. However, workers are allowed to refuse unsuitable work. As requested by more than 20 members of the Senate, ETA should make it clear how Federal requirements ensure suitable work does not include unsafe work.

To move forward, we need to establish a way to increase benefit duration as the economy calls for it, rather than rely on ad hoc extensions that could come erratically, force States to continually reprogram their systems, and end abruptly.

Ranking Member Wyden has proposed a good way to scale benefits, as have Senators Reed and Bennet. I look forward to working with you to build on the success of the programs this committee developed to meaningfully help the people most hurt by the economic crisis this pandemic created.

[The prepared statement of Ms. Evermore appears in the appendix.]

The CHAIRMAN. This is how we will finish the day out. First of all, I believe that it will just be Senator Wyden and me asking questions. Senator Wyden wanted two rounds, so I will give him the last 10 minutes of the meeting. But since other people are not here—just in case you are not accustomed to how the Congress works—a lot of members who cannot be here submit questions for answering in writing. So if you get those, I would ask you to respond in writing, and as quickly as you can after you receive those questions.

So I think I will probably just use 5 minutes.

Ms. Townsend, in your testimony you noted that Iowa has worked with employers to prevent layoffs by promoting the Iowa Voluntary Shared Work program. This program allows employers to reduce hours instead of laying people off, and those with reduced hours can receive a partial UI check. What are some of the things

your agency has done in Iowa to make businesses aware of this opportunity? And I will follow that up with another question.

Ms. TOWNSEND. Thank you, Senator Grassley. Yes, we have been working hard from the beginning of the pandemic to educate employers about the availability of the Voluntary Shared Work program, as we call it here in Iowa. When we started the pandemic, we only had a few employers with about 800 employees taking advantage of the program. We are currently at over 183 employers with over 8,400 employees.

We started with having webinars with employers that we recorded starting March 17th, with question and answer information about the program. It was not the only thing we talked about in the program, but it was a share of that program. We posted those videos online. We had a few other webinars that also discussed the Voluntary Shared Work program. We also provided training to our staff, who were answering calls and working with employers about the programs, so they could also answer questions about the program as well.

We have a very robust COVID-19 web page, and we have provided a fact sheet about the program on the COVID-19 web page to spread the information. My deputy, Ryan West, has been giving interviews and talking to economic developers and alliances across the State, and providing information and education about the programs. So we have done an extensive amount of outreach across the State to be able to educate employers about the benefits of that.

The CHAIRMAN. I think you have answered my second question, but let me ask it anyway, and you can say you do not have anything to add, if you do not.

So it goes beyond Iowa, this question. How can we make sure more employers across the country take advantage of the opportunity to keep more workers in their jobs?

Ms. TOWNSEND. I think it is a matter of providing more outreach and education through the different State agencies.

The CHAIRMAN. Okay; thank you.

Now, Mr. Neilly, thanks for sharing what it is like to be a small business owner right now. Your family business has weathered a lot, I am sure, since it began in 1940. And you mentioned some of those challenges in your testimony. It is also great to hear about the pay and benefits that you offer your employees, including the daily bonus you paid to support them as they returned to work.

A question: you make a powerful point in your testimony, saying the \$600 payments are, quote, "penalizing an employee who is helping the company survive," end of quote. Some might say you should just call the State UI agency and report them so that they lose unemployment.

What kind of a spot does that put you in? Others say—wait, before you answer that question—others say you should simply double your wages. That is really easy for them to say—kind of a question to you, right? If this \$600 were continued to next year, how do you think that would affect your business and other businesses like yours?

Mr. NEILLY. Well, first of all, as far as the unemployment situation goes, fortunately I did not have to make that decision because

all of our employees did come back to work once I called them to let them know that we got the PPP money. As far as doubling wages, you know, our business is down about 35 percent right now, so I do not know how anyone can just make that type of a statement without knowing the goings on and how the business climate is for the country.

Some businesses are doing very well that do the PPP-type products, and other businesses are struggling, as we are. So I feel that we offer competitive wages, plus the benefits, and to try to increase those wages substantially in this current economic time is not feasible at this time.

The CHAIRMAN. Ms. Evermore, I do not have a question for you, but where did you go to high school in Iowa?

Ms. EVERMORE. Fort Dodge Senior High.

The CHAIRMAN. No kidding. Well, welcome. I am sure you go home a lot.

Mr. NEILLY. Excuse me, Mr. Chairman—

The CHAIRMAN. I thought you were done. I am sorry.

Mr. NEILLY. There was one other question that you had that I did not address yet. As far as the \$600 being continued till the end of the year, I cannot say whether that would effect us or not. There is the possibility, due to the current downturn in our business with the pandemic situation, that if the business does not increase, we may end up having to lay off employees once the PPP money expires.

So it would be good for the employee who is laid off, but again it is not good for the rest of the people who are continuing to work who are not benefiting from that. So we may have to try to look at a shared work program where we rotate, as someone said, which I did not consider in the past but could possibly consider in the future.

The CHAIRMAN. Okay. Now, Senator Wyden for two turns.

Senator WYDEN. And I will not go a full two rounds, Mr. Chairman. Thank you for your courtesy.

Thank you all for your patience. About 3½ hours ago, or something along those lines, I made a point that I think is really critical, and that is that everybody wins when the workers can go back to safe workplaces. And so what we are trying to do is think through how to do that. And let me, if I might, start with Scott Sanders. Mr. Sanders, you are out in cyberspace somewhere. Is that right?

Mr. SANDERS. That is correct, Senator.

Senator WYDEN. Wonderful. So you represent the association of State officials who handle these unemployment issues. The central question in the \$600 a week debate that we have been thrashing through here for hours on end is that I and others on our side wanted 100-percent wage replacement. That was what we called for, and that has always been our first choice.

Secretary Scalia said the States could not do that. So, after days of being at an impasse, we came up with this idea of rough justice. Now all through the afternoon when Secretary Scalia was here, he was zigging and zagging on the question of what the States were capable of actually doing. And since you are the point person for the States, I thought it would really be helpful if you could just

give me a direct answer to the question, is it not still the case that it would be difficult for most States to implement 100-percent wage replacement for each worker?

Mr. SANDERS. So this may sound like a bureaucratic answer, but that is a reality under the current state of the UI systems across the U.S. So any change would take time. It would also affect the retroactivity of claims processing. The other challenge is that earnings data lags as it comes into State agencies, so you actually do not know what you are replacing for each worker.

I also do not know how you would do that on self-employed individuals. Also, I think even a simple change without proper lead time for States to design, test, and implement will be challenging. And then you also have the challenge of communicating this change to the public.

So implementation of something like this would vary greatly from State to State. But I believe that if any change has to be made, our members would prefer a flat dollar amount as the easiest thing to do.

Senator WYDEN. Okay, so it still would be very difficult for States—with all of those factors that you described, it would be very difficult still for most States to implement 100-percent wage replacement. And I am not going to ask you to take us through the nuances of the law again.

Ms. Evermore, thank you for all the terrific advocacy work that you have done. And I have a couple of questions for you.

If you look at what Congress did in the CARES Act to supercharge unemployment benefits, in your view would there have been a quicker, more efficient way to get the desperately needed relief to people who need it?

Ms. EVERMORE. No. The unemployment insurance system was really the best system in place to quickly ramp up benefits and get benefits out the door. This is a system that is designed to respond to recession. There really was not any other existing system in place that could have gotten benefits out in the way that UI did.

Senator WYDEN. Then I would just like for the record, because you have these years of expertise on various kinds of reform proposals, to get your thoughts on the trigger idea, this idea of tying future benefits to actual economic conditions in real-world markets. And one of the reasons I was interested in it is, I have seen various Republican leaders—and one of my colleagues, a senior Republican member of the leadership, who wrote an op-ed in *The Hill* publication—saying that the basic proposition of sort of tapering off benefits as the economy got better was the kind of thing that might be appealing as a way to break the gridlock.

I have been interested in this. Senator Bennet has been interested in this. We have colleagues who have pursued various approaches to this notion of tying the benefits to conditions on the ground. What is your thinking on that?

Ms. EVERMORE. I think that your proposal, as well as Reed's and Bennet's proposals, are very logical. I think they make a lot of sense, in part because these benefits really should be tied to an economic trigger rather than a series of ad hoc proposals. But even in the current crisis, they are extra important. It is really important to have automatic triggers right now because what we really

cannot have with this level of unemployment is for systems to be turning on and turning off, and turning on and turning off, as Congress makes sort of ad hoc decisions. The computer systems are already as stressed as they could possibly be.

Senator WYDEN. I think that makes the equity case and the efficiency case, along the lines of exactly what I want to do, because this is obviously a complicated area. I told the Secretary I would be interested in some of the ideas of trying to have a more flexible Federal role with respect to administering benefits. But a trigger, based on what you just responded to my question with, is something that would make sense that we could go to fairly quickly, and I really appreciate that answer.

Mr. RODRÍGUEZ, thank you for your leadership. Congresswoman Shalala told me about your expertise, and I can see why. It looks to me like you all have had a lot of these problems down there for years, and I am just curious. In the 14 months between when Governor DeSantis was warned of the system's flaws and the arrival of the pandemic, what was done to prevent the system's failure, if anything?

Mr. RODRÍGUEZ. Senator, thank you for your question. Obviously, thank you for acknowledging Representative Shalala's leadership in our area as well. The short answer is, nothing. The system that we have in Florida has suffered by willful neglect for a long time. And when I say "willful," none of the flaws in the system—and there are a range of flaws in the system—was hidden.

It was the subject of a number of Department of Labor audits back in 2013–2014. There was a Department of Labor intervention. There was audit after audit, and the most recent one in 2019 was on the Governor's desk. And we recently also learned that on his way into office Governor DeSantis was advised of the strategic threat that the weakness of our unemployment system in Florida with the DEO posed to the State of Florida. I mentioned specifically, I spoke of individual constituents in the Miami-Dade area and how they have been impacted by the failures of the system.

But there are other aspects of this as well. Employers who have had to lay off workers are also, frankly, horrified watching their former employees have to go through eviction, et cetera, or face eviction once our eviction moratorium is lifted.

And the last thing I will mention is, the State of Florida is leaving millions of dollars on the table. We are implementing the PUA program—

Senator WYDEN. How many millions of dollars, in your view, is the State of Florida leaving on the table?

Mr. RODRÍGUEZ. It is hard to estimate. Others probably will do a better job. But if I could very quickly paint the picture with respect to the PUA program, obviously the program that covers independent contractors, gig workers, and the self-employed. Our rates of bringing people onto the program when they are ineligible for traditional unemployment are very low, slightly more than a quarter. I checked the number this morning. It was about 28 percent.

That rate is far below most States. And another thing, when you look at the benefit amounts the State of Florida is awarding, the State has been awarding the minimum benefit level as a default, and it created an extremely cumbersome system for employees—ex-

cuse me, not employees, for people who are 1099 workers—to be able to establish how much they are owed above the minimum. So cumbersome that—and this is very recent—they are literally encouraging people to fax in documents, right? I mean, this is 2020. And they just came out with their process, literally in the last couple of days, as to how gig workers would prove up the benefits that they are owed beyond the absolute minimum of \$125.

And so, in addition to the fact that we are not bringing people onto the program quickly enough, or about half the rate of other States, the State of Florida is also defaulting to about half the benefit level. And so we are probably, you know, leaving \$3 in Washington for every \$1 we draw down.

Senator WYDEN. Thank you, Mr. Rodríguez. And to all of you, you have been an excellent panel. We have been at it, as I say, for it looks like close to 4 hours at this point.

I would only say, as we wrap up, Mr. Chairman, that I hope that the big takeaway from this discussion is that most Americans want to work. They understand that that is the path to climb up the economic ladder. And I have been visiting with a lot of unemployed people, and all of them come back and say, “Look, I can have a much better life if I am in the workforce.” And there is a dignity and an appreciation of what it means to be able to work for a paycheck.

And let us get this help—and we are going to need it after July 31st—to people who genuinely cannot otherwise pay rent or pay for groceries. And I would like to try to find a path to do that in a bipartisan way.

I disagreed with the Secretary. The first thing the Secretary did after we passed our original bill was, he went on Fox Business, and I was going to see what he had to say about our new legislation, and he said our big concern was that unemployed people were going to be dependent on government help.

I just do not agree with that. I hope that every member of this committee will see that the overwhelming number of Americans appreciate work, have a strong work ethic, see that as the path to get ahead. I know that you and I have talked about that in the past, and I hope that is going to be the foundation of our work going forward.

The CHAIRMAN. Yes. I told you we were done when Senator Wyden was done, but Senator Portman will be on TV for 5 minutes of questions.

Senator Portman?

Senator PORTMAN. Thank you, Senator Grassley. Can you see me on TV?

The CHAIRMAN. Yes; there you are.

Senator PORTMAN. Well, first of all, I appreciate you letting me join you virtually. I was there with you, as you know, for a couple of hours and enjoyed the back-and-forth. And I think everything that Senator Wyden just said is consistent with us figuring out a way to move forward here, where we are not providing a disincentive to work by allowing people who are on unemployment insurance to be paid more than they would get paid if they went to work. And as we know from the studies, it looks like 60 to 70 per-

cent of the people who are on unemployment insurance are making more than they would if they went back to work.

The Congressional Budget Office says that, moving forward, that is going to be even a larger percentage, up to 80 percent of the people getting more. So we have to figure this out. And, Mr. Neilly, you talked a little about this. One thing I found that was interesting in your testimony that I would like you to expand on, if you could briefly, is a reason this is a problem. Because some people say, well, you know, under the unemployment insurance systems being enforced in some States, you cannot stay on unemployment insurance if your employer offers you a job. You have to have this search for work requirement.

And I know Secretary Scalia has talked about that in the past. But the reality is, if you have employees who are making a lot more on unemployment insurance than they are going back to work, as an employer you are very hesitant to ask them to come back to work. And I think you talked about that; you surely did in your testimony. Can you talk about how this disincentive makes it hard for an employer to ask them to come back to work and perhaps hurt the relationship with that employee?

By the way, not too long ago, only a few months ago, many employers were just desperate to get workers and did what they could do to keep them, with the low unemployment rates and wage growth, and now we are in a different situation.

But can you talk a little about that? Why is this a problem to have this big disparity?

Mr. NEILLY. Senator Portman, the \$600 extra—obviously all the employees who were on unemployment were happy to be on unemployment at the time because they were getting the extra money that was helping with whatever expenses they had.

I did not really feel any bad feelings about calling people back because they were now coming off of unemployment and getting the extra \$600. I called them back because of the PPP requirements of using 75 percent of the money within an 8-week period. And if you keep people on unemployment, then obviously your employee rolls and payroll are not going to be as high as they could be. And then you would end up having to pay back the money as a loan, versus the possible forgiveness of the money.

So because of that, I didn't have any real issue in calling people back. I was very happy that no one refused to come back, and everybody, when I talked to them, was in agreement and said, "Fine, we will see you tomorrow." So it was a little bit a relief that I did not have any pushback from any of them.

Senator PORTMAN. You also said in your testimony that people came back, and then they went back to UI because they could make more money under UI.

Mr. NEILLY. That is correct. We did have one of the married couples, one of them talked to me at the time, and they just arbitrarily thought they could go back on unemployment. Unfortunately, in the conversation that we were having, I totally missed that comment. And when they did not come to work on the Monday and the Tuesday following payday that Friday, and they did not call off, I was a little bit concerned.

I had no idea what was going on. And here I found out later that they thought they could go back on unemployment and declare themselves to be unemployed and be able to participate and try to get some of that extra \$600 per week.

Senator PORTMAN. Well, let me just say, in talking to employers, particularly employers who have had a tough time getting and keeping employees during an economy that was very different than the one now, to force people to come back is bad for them, personally. And I am certainly hearing that, and it sounds like you have had that situation with somebody coming and then wanting to go back because they can make more.

In Pennsylvania, by the way, it is basically \$26 an hour for unemployment, equating to about \$200 per week, compared to what the wage is. So, you know, there is the disparity there.

I also wanted to talk to Ms. Townsend about the question of whether a flat benefit amount is the only thing that you can do. I think that is what we are hearing from, certainly Ohio and from other UI offices around the country.

We asked that question this morning. Senator Wyden asked it; I asked it. Basically it got the response that we aren't sure from the Secretary, but what is your response to that, Ms. Townsend? In your testimony you mentioned the flat benefit amount would be absolutely essential to being able to complete the program efficiently. How long do you think it would take you to have an individualized calculation where you would do a customized calculation, as Senator Wyden and I were talking about today, where we want to have wage replacement? Would that be possible for you to do in an efficient and quick manner?

Ms. TOWNSEND. I am sorry, Senator Portman, I have had a really hard time hearing your question. I think you were asking about how long it would take us to be able to implement a payment program that was based on a percentage or maximum—

Senator PORTMAN. That is correct. In other words, looking at your testimony, it sounds like you are saying a flat benefit like \$600, or whatever the number is, is all that you can do efficiently and quickly. Is that correct?

Ms. TOWNSEND. That is correct.

Senator PORTMAN. As opposed to a customized benefit that would relate to allowing people to get their full wage replacement?

Ms. TOWNSEND. That is correct. If FPUC is extended, but let's say the amount is changed in reflection of the difference between \$600 and \$300 in Iowa, it would be a fairly simple change to go from \$600 to \$300, and there would probably be no delay in payment of benefits. If it is changed to a wage replacement for individuals, those claims would have to be individually reviewed. That would take several months for us to be able to implement, so probably what would happen is, come the first of August, the FPUC payments would end. We would continue to pay the regular State benefits, and then we would take a few months to be able to develop and implement the program that would reimburse people for the 100-percent wage replacement. They would probably get a retroactive payment—

Senator PORTMAN. You have answered my question. That is great.

Ms. TOWNSEND. Okay.

Senator PORTMAN. For the next 7 or 8 weeks you are going to have countless employers across the country like Mr. Neilly who are trying to reopen and get back to normal, but if you have the \$600, it is going to be tough. And then what happens after July 31st?

I think this is an argument, again, for a back-to-work bonus. It is a flat rate. I would like it to be customized, but that cannot be done as a practical matter. And Scott Sanders is nodding his head, representing all the States.

But what do you think about that, Mr. Sanders, if you had a flat rate as a return-to-work bonus? Could that be administered?

Mr. SANDERS. [Garbled speech.]

Senator PORTMAN. Mr. Sanders, I can hear you. Can you hear me?

[No response.]

Senator PORTMAN. Ms. Townsend, why don't you answer that question for him, for Iowa.

Ms. TOWNSEND. Sure. What I would say is, if that's a program that is run through the unemployment system, that would be a new program, and if it paid a bonus for people who remained in the workforce, if that is what the question is, that would be a new program.

If you are talking about paying a bonus to people who go back to work, that essentially is going to be the same thing.

Senator PORTMAN. It is 600 bucks now Federal.

Ms. TOWNSEND. Okay.

Senator PORTMAN. If you go back to work, you take some of that with you, and the amount I have talked about is \$450. But whatever the amount is, it is a flat rate. Is that something that is administrable?

The CHAIRMAN. After you answer that, can you sum up, Senator Portman?

Senator PORTMAN. Yes, Mr. Chairman.

Ms. TOWNSEND. It is, but I think it would take—it would take several weeks, if not a couple of months, to be able to implement.

Senator PORTMAN. Thank you, Mr. Chairman. I appreciate it.

The CHAIRMAN. Okay. The CARES Act has provided unprecedented help to the American people in these challenging times. Many of the policies are still ramping up, and we have yet to see the full impact of what was passed a few months ago.

I am thankful to our witnesses, including the Secretary of Labor, for the information they have provided about the CARES Act UI provisions, and, as a result, I think we all have a better picture of what has worked and what has not worked.

The clear message I have heard is that any future legislation that is considered must be focused on getting people reconnected with work. And I would surely think that that would be some sort of a compromise between what Senator Wyden is talking about and what Senator Portman is talking about. We had the best economy that we have had in 50 years before COVID-19, and everything we do should be focused on returning to that situation as quickly as possible.

It is also important that we coordinate our efforts, as there are many policies other than the UI that Congress has passed to help those affected by the virus pandemic. We also need to keep a close eye on the economy. We are beginning to see signs of improvement. We hope it continues. And we hope we can avoid the risk of more business closures and more long-term unemployment.

We tend to be learning about the pandemic and the economy affected by it. Every day we are learning more about how to prevent it, how to treat it, how to cure it. And as we do, I know all Americans will work together to get our economy growing again.

Thank you all very much. The meeting is adjourned.

[Whereupon, at 6:13 p.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF MICHELE EVERMORE, SENIOR RESEARCHER
AND POLICY ANALYST, NATIONAL EMPLOYMENT LAW PROJECT

Good morning, Chairman Grassley, Ranking Member Wyden, and members of the committee. I am grateful for the opportunity to testify today. I am Michele Evermore, a senior researcher and policy analyst with 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 people 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.

30 MILLION WORKERS HAVE HAD ACCESS TO A TRANSFORMATIVE BENEFIT

A record number of workers have lost their jobs as a result of the pandemic. Friday's jobs report showed a surprising 13.3-percent unemployment rate, lower than feared, but still an alarmingly high rate which would be much higher if it included workers misclassified as temporarily out of work or not actively seeking work due to relaxed work search requirements. Moving forward, we must continue to work together to fill the gaps in coverage, increase equity, and maintain benefits for those who are already eligible, until the economy sufficiently improves. NELP applauds the bold action this committee and Congress has taken, but more can and must be done.

In this moment in history, it is easy to focus solely on the ways in which our lives, the world, and the economy feel out of control. As gaps in benefits for unemployed workers have taken center stage, it is important to remember that the CARES Act you enacted is having a dramatic and positive impact on tens of millions of people who are out of work and must stay home to care for their families. Particularly for workers who are paid low wages, these benefits are the difference between not making ends meet and being able to afford to stock up and remain home safely. These benefits are saving lives.

Compounding centuries of structural racism, the unemployment crisis is affecting communities of color most dramatically. A recent *Washington Post*-Ipsos poll from May showed that 16 percent of Black workers reported being laid off, as well as 20 percent of Latinx workers. At the same time, 11 percent of white workers and 12 percent of workers from other racial groups reported being laid off.¹ Because of the massive racial wealth gap in the United States, workers of color have less savings to tide them over until they find their next job. The Brookings Institution reports that Black families have one-tenth the wealth of white families.² For all who are

¹ Tracy Jan and Scott Clement, "Hispanics are almost twice as likely as whites to have lost their jobs amid pandemic, poll finds," *Washington Post*, May 5, 2020, <https://www.washingtonpost.com/business/2020/05/06/layoffs-race-poll-coronavirus/>.

² Kriston McIntosh, Emily Moss, Ryan Nunn, and Jay Shambaugh, "Examining the Black-white Wealth Gap," The Brookings Institution. February 27, 2020.

out of work, but particularly for Black, Latinx, and Indigenous workers and other workers of color, unemployment benefits are a vital lifeline in this time of crisis.

Take, for example, Alicia, a worker from the District of Columbia who was laid off in March. Alicia needed to be home to handle distance learning for her two teenage children. When her older daughter was deemed an essential worker, Alicia provided care for her granddaughter. She applied for unemployment insurance and received UI and the \$600 Pandemic Unemployment Compensation (PUC) benefit. “I don’t know how I would be able to do anything without the \$600,” she said. “I reached out to my mortgage lender and they allowed just one month of deferment. If it was just UI, it would have been much harder to pay my bills.” And when her employer made it possible to work from home, she returned to work, ending her UI and PUC benefits.

In addition to the benefits provided by State unemployment insurance (UI) programs, Pandemic Unemployment Assistance (PUA) is helping both middle-class self-employed workers and lower-paid workers in the gig economy (many of whom are misclassified as independent contractors) to weather an economic storm that has left them stranded in a largely shutdown economy, with social insurance systems otherwise ill-equipped to provide them help in an emergency.

It is crucial to this discussion that we understand that we are not dealing with a cyclical or even structural recession like ones we’ve seen in the past few decades. We are dealing with an international pandemic that has forced us to shut down our economy for the sake of saving lives. Our State, local, and Federal Government have taken extraordinary but necessary measures to protect public health. Although we are slowly starting to reopen our economy, we cannot pretend that every thing will go back to normal in the next few weeks, months, or even years.

A robust program of continued unemployment insurance will help ease this economic turmoil by keeping workers in place and ready to resume employment once it is safe to do so. But it will also provide a morally necessary lifeline to workers who will *not* be able to return to work for whatever reason, including because their employers have gone out of business, because they must reopen slowly for safety’s sake, or because the demand is not there yet for the good or services they offer. We cannot pretend that the coronavirus and the economic disaster it has wrought will simply disappear in a few months. The Federal Government has a responsibility to make sure that people do not suffer exacerbated economic pain or face undue risks to their health and safety.

UNEMPLOYMENT INSURANCE HAS ALWAYS BEEN A KEY ECONOMIC STABILIZER

Unemployment insurance is the only ongoing program we have that was built to distribute funds during an economic crisis. It was created in 1935 with the hope of stabilizing the economy by giving workers buying power when they find themselves involuntarily unemployed. UI succeeds in achieving several key goals:

- **Help workers make ends meet.** UI is intended to simply provide workers a benefit to help them make ends meet and support their families when they are out of work.
- **Support people in their job search.** UI helps to make sure that workers have the time and support they need to find a job that meets their skills and interests—one for which they are well suited and are likely to succeed in.
- **Keep people connected to work.** UI helps employers by making it possible for workers to maintain an connection to work, by providing access to employment services and encouraging work search, or through work-sharing.
- **Uphold living standards.** UI reduces the likelihood that periods of high unemployment will drive down wages for everyone. It helps people uphold their standard of living so that, as a society overall, we have wage stability.
- **Preserve economic stability.** In times of economic downturn, UI provides macroeconomic stability by maintaining overall worker buying power, which in turn supports businesses and the economy. In the last recession, economists Alan Blinder and Mark Zandi looked at the effect UI had on the economy and found that every dollar paid out in UI generated \$1.61 in economic activity.

NEGLECT OF UI PROGRAMS AND SYSTEMS HAS HINDERED THEIR EFFECTIVENESS IN THIS CRISIS AND IMPLEMENTATION OF CARES ACT PROGRAMS

For all its potential to help workers and to stabilize the economy, the UI system also faces serious challenges. Shamefully, the UI program historically excluded do-

mestic and agricultural workers, which had a disproportionate impact on Black workers, and some of those exclusions remain in effect today—an area that obviously demands reform.

Moreover, State UI does not reach nearly enough unemployed workers, necessitating the enactment of the PUA program. UI also fails to provide adequate wage replacement, especially in a period of government-mandated mass unemployment, so Congress enacted the Pandemic Unemployment Compensation (PUC) program. Finally, all States struggled mightily to get these new programs up and running. Now, we must ask ourselves, how did a program that could do so much good in precisely a crisis like this one struggle so much?

First, we must acknowledge the massive decline in UI administrative funding, and lack of designated funding for the States to invest in and maintain a 21st-century information technology (IT) infrastructure. In 2020, national administrative funding for UI was \$2.14 billion. Back in 2001, that funding was \$2.21 billion. Given increases in the cost of living and the growth in the working population, that marks a dramatic reduction over time.

Using a simple inflation calculator on the Bureau of Labor Statistics website, the 2001 funding level is roughly \$3.2 billion in today's dollars. At the same time, the highest number of new claims for any single week in history before this crisis was 695,000 in October of 1982. That is in contrast to new claims of 3.3 million for the week ending March 21st of this year, which were followed by 6.6 million in the 2 following weeks, 5.2 million the week ending April 11th, and continuing initial claims in the millions every week since.

This dramatic and instant decline in employment is unlike anything we have ever seen. Historically, recessions have a much slower onset and much lower new claims every week. The fact that UI systems did not collapse entirely under the weight of the demand, particularly given the low funding levels they had to work with, is a testament to the enormous dedication of UI administrators and staff across the United States.

It is also important to understand that our unemployment system is a patchwork of various State systems, some of which have been modified in recent years to intentionally make it more difficult to access benefits. Indeed, just last summer, NELP published “Are Unemployment Systems Still Able to Counter Recessions?” detailing how many State systems were not recession-ready precisely because of the steps they had taken to make their UI systems impenetrable to so many unemployed workers.³

As States have moved to largely online processing, many have created systems that are inaccessible to workers on the other side of the digital divide, workers with limited English proficiency, and people with disabilities. For instance, as NELP outlines in its prescient 2015 report on the Florida unemployment system, titled “Ain’t No Sunshine,” the U.S. Department of Labor’s Civil Rights Division ruled that Florida’s system was discriminatory and inaccessible.⁴ An example of this unequal access is Florida’s procedure for directing calls needing translation services: the procedure was to ask claimants *in English* what language they needed services in, but to speak slowly. The system also had no TTY or other assistive services for callers with disabilities.

State legislatures, pressured by business interests and looking to reduce the number of people eligible for unemployment insurance, have turned to a variety of benefit restrictions, including: (a) dramatically reducing duration of benefits; (b) narrowing the definitions of qualifying separation events; (c) increasing the amount of wages workers need to earn to qualify for UI; and (d) imposing stricter, yet no more effective, work search requirements. In addition, many States have narrowed workers’ access to UI benefits by implementing technologies that may limit accessibility of the application processes.⁵

³Michele Evermore, “Are State Unemployment Systems Still Able to Counter Recessions?”, National Employment Law Project, June 6, 2019.

⁴George Wentworth and Claire McKenna, “Ain’t no Sunshine: Fewer Than One in Eight Unemployed Workers in Florida Is Receiving Unemployment Insurance,” National Employment Law Project, September 15, 2015.

⁵George 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 2017. Michele Evermore, “Are State Unemployment Systems Still Able to Counter Recessions?”, National Employment Law Project, June 6, 2019.

As a result, the nationwide percentage of jobless workers receiving UI last year was only 27 percent, and as low as 9 percent in North Carolina, as compared to 36 percent across the country before the onset of the Great Recession. In States like Florida, Georgia, and North Carolina, where State legislatures slashed the duration of available benefits far below the standard 26 weeks, the rates of unemployed workers receiving UI were below 15 percent, or half the national average.

The decline in UI reciprocity also reflects a dramatic increase in workers facing erroneous denials of their benefits by State UI agencies. According to U.S. Department of Labor, Employment and Training Administration (ETA) data on erroneous denials, the denial error rate for separation reasons in 2017 was 17.44 percent, while that error rate in 2007 was only 8 percent.⁶ Similarly, in 2017, 17.54 percent of benefits were erroneously denied for nonseparation reasons, while in 2007, the improper nonseparation denial rate was only 9.9 percent.⁷

Part of this increase in erroneous denial has to do with the fact that systems have been over-calibrated to prevent over payments at the expense of paying appropriate benefits. States have programmed their computer systems to pause applications at every decision point, which can generate multiple eligibility determinations and denials. As we have seen, that is going to slow down benefits getting to the public when there is a crisis.

Overconcentration on suspicion of fraud, especially when not coupled with a corresponding focus on employer fraud, worker misclassification, and UI system errors and failures, can wreak havoc on UI programs. For example, as part of the 2011 unemployment insurance reforms passed in Michigan, the State dramatically increased fraud detection efforts and penalties. When the State upgraded its information technology system, it added algorithms that over-flagged claims for fraud. That system, MiDAS, flagged at least 37,000 workers for fraud, with a staggering 93-percent inaccuracy rate. Workers impacted had to pay back four times the benefits they received plus 12-percent interest, and many were driven into personal bankruptcy.⁸

The Department of Labor must examine why there is such a stark increase in erroneous denials of benefits over the past decade and should impose checks on States that are routinely mischaracterizing processing errors as claimant fraud.

DOL MUST ISSUE COMPLETE AND ACCURATE GUIDANCE ABOUT WORKERS' RIGHT TO REFUSE TO RETURN TO UNSAFE WORK; IF IT FAILS TO DO SO, CONGRESS MUST ACT

Any steps that States take to reopen their economies must be done with the utmost care for worker health and safety. No worker should be expected to return to a workplace where the employer does not implement sufficient measures to safeguard employees against exposure to COVID-19.

This is both a workers' rights and a public health issue. If workers are forced to go back to unsafe conditions, employers' negligence could result both in workers getting sick and in COVID-19 spreading further throughout the community, prolonging the duration of the pandemic and the number of people being infected, while also exacerbating economic problems in the future. Rushing to reopen and forcing workers back to unsafe environments will only lengthen the duration of the crisis and worsen long-term economic conditions—particularly for underpaid workers of color and women of color who are suffering higher rates of infection and mortality in this pandemic due to systemic racism related to healthcare and employment.

Workers receiving unemployment insurance are not permitted to refuse “suitable work” and continue to get benefits. However, workers are allowed to refuse *unsuitable* work. As requested by more than 20 members of the Senate,⁹ the Employment and Training Administration (ETA) must make it clear that suitable work does *not* include unsafe work, referring to situations where the employer has not taken the minimum precautions set forth by the Centers for Disease Control and Prevention's COVID-19 workplace guidelines, particularly if the individual is an older worker,

⁶U.S. DOL Employment and Training Administration website, <https://oui.doleta.gov/unemploy/>.

⁷Calendar Year 2007 Benefit Accuracy Measurement Data Summary, <https://oui.doleta.gov/unemploy/bam/2007/bam-cy2007.pdf>.

⁸Michele Gilman, “Did a Flawed Algorithm Drive Welfare Recipients to Suicide?” The National Interest, February 18, 2020.

⁹U.S. Senate Committee on Finance, May 19, 2020, <https://www.finance.senate.gov/ranking-members-news/uyden-democratic-colleagues-press-trump-administration-to-protect-workers-from-choosing-between-health-financial-security>.

immunocompromised, or more vulnerable to infection in some other way (*e.g.*, because of a disability, or if the worker is caring for a vulnerable household member). ETA has thus far failed to issue clear guidance on the issue, which contrasts with helpful COVID-19 suitable work policies recently issued by California, Connecticut, Colorado, North Carolina, Texas, and other States.

Virtually every State UI law is clear that an offer of work that exposes a worker to an unreasonable degree of risk to their health or safety is, by law, unsuitable. For workers collecting regular UI, the Federal “prevailing conditions of work” provision applies (26 U.S.C. Section 3305(a)(5)(B)), which all States must incorporate into their UI laws. This provision, which dates back to the Social Security Act of 1935, prohibits a State from denying UI to a worker who refuses work if “the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.” Here, the issue is whether the health and safety “conditions of work” are sufficiently serious to pose an unreasonable threat to the worker which, in turn, suppresses the working conditions of other workers in the labor market.

For workers collecting Pandemic Unemployment Assistance (PUA) under the CARES Act, the Federal “suitable work” regulations governing the Disaster Unemployment Assistance (DUA) program apply to protect workers against returning to work that is unsafe to themselves, their families, or to the public. The regulation (20 CFR 625.13(b)(2)), which corresponds to the State “suitable work” laws, provides that “a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual, if it is impracticable for the individual to accept the position. . . .” The Federal “prevailing conditions of work” requirement also applies to the PUA program as does “any comparable” provisions of State law.

Workers asked to return to work, particularly in the early phases of reopening, are especially at risk. Jobs such as meat packing, hairdressing, retail, home care, and food service are poorly paid and are filled disproportionately by workers of color. Underpaid workers are far less likely to have access to counsel to advise them of their right to refuse unsuitable work. What will likely happen is that employers will flag these workers as refusing suitable work, and those workers will then bear the burden of proving that the work they refused was unsafe, which is a huge burden and will keep them from getting benefits while the dispute is litigated. Either Congress or the DOL must make clear that unsafe work is not suitable work.

CONGRESS MUST REAUTHORIZE THE PANDEMIC UNEMPLOYMENT COMPENSATION PROGRAM IN RESPONSE TO THE EXPONENTIAL GROWTH IN UNEMPLOYMENT

The Pandemic Unemployment Compensation (PUC) program, which temporarily provides an additional \$600 weekly to qualified unemployed workers, is an essential benefit in this moment, as it attempts to make up for the fact that UI benefits only replace approximately 40 percent of wages.

Efforts to undo PUC fail to acknowledge the reality that working people and communities are facing and what is really going on in our economy. PUC is also critically important to many self-employed workers who were struggling to make ends meet but can now comfortably work on plans to re-open their businesses when the health crisis passes.

At the same time, we should be asking why underpaid workers—who will hopefully be making closer to or perhaps even above their regular wages, allowing for greater economic stability in these uncertain times—are being expected to work for so little compensation in the first place. Wages and unemployment benefits have stagnated for decades. Many workers cannot live on the wages they are making, much less on an unemployment benefit that is a small fraction of their regular wages. This is particularly true for women of color. While the overall gender wage gap means that for every dollar a white man makes, a woman makes 82 cents,¹⁰ when disaggregated by race, Black women earn 63 cents, Latinx women earn 54 cents, Native Hawaiian and Pacific Islander women earn 65 cents, and American

¹⁰National Women’s Law Project, “Quantifying America’s Gender Wage Gap by Race/Ethnicity,” March 2020.

Indian and Alaskan Native women earn 59 cents.¹¹ Black men earn 73 cents and Latinx men earn 69 cents to the dollar of white men.¹²

Right now, the Federal Government should be focused on ensuring that workers can survive this crisis and that the economy gets the maximum boost possible with the consumer buying power generated from the PUC benefits. Congress must ensure that workers are able to maintain an adequate income while they have no jobs because of public-health-necessitated shutdowns, and the unavoidably slow return to a normal economy. We must also recognize that there are certain industries, such as those involving large crowds like sporting events and live performing arts, that are not going to be able to safely “reopen” anytime soon.

Indeed, in May, the official unemployment rate surpassed 13 percent, which is higher than the peak unemployment rate reached during the Great Recession. This number represents job loss up to the middle of last month, and we have seen millions of new initial claims flow in since that time. By pulling the plug on the PUC program, which will impact an estimated 10 million workers and self-employed business owners, the economy will suffer a massive economic hit of over \$17.9 billion dollars per week if insured claims hold at mid-May levels.

The PUC benefit boost is also necessary, in large part, because so many States have lowered their unemployment insurance benefit levels to the point where they cannot effectively aid workers and provide counter cyclical stabilization during a recession or other crisis. For example, the average weekly unemployment benefits in the U.S. is just \$340 a week, which replaces only 44 percent of the average worker’s weekly wage. In many States, the “replacement rate” is 25 percent or lower. As NELP has reported repeatedly, the real problem is that too many workers who qualify for benefits cannot access them.¹³ As we have seen across the country, filing for unemployment insurance can be arduous.

As workers in low-wage jobs are facing mounting bills as a result of the COVID crisis, including back rent and other major expenses, the increased income provided by PUC is often all that separates workers and their families from homelessness.¹⁴ When workers are standing in line for paper applications for unemployment insurance,¹⁵ spending hours on hold while trying to apply over the phone,¹⁶ or when computer systems continue to crash,¹⁷ it’s crucial that Congress and State governments focus on making sure everyone who lost work can get their benefits, rather than anti-worker fallacies about people “refusing to work.”

PUC is a lifeline and does not create a disincentive to work. As discussed above, under every State unemployment insurance law in the country, a person who refuses suitable work will be found ineligible for benefits. There are some situations that can be regarded as good cause to leave a job for personal reasons, such as escaping domestic violence, or for work-related reasons, such as preserving worker health and safety—but the prospect of a higher unemployment benefit is not one of those good causes.

Additionally, several guidance letters issued by ETA have made it clear that refusing work to receive unemployment benefits can be fraud. Workers are informed before applying that they cannot claim benefits for which they do not qualify and if they do, they will need to pay them back, and may even face steep financial penalties.

¹¹ Dominique Derbigny, “On the Margins: Economic Security for Women of Color Through the Coronavirus Crisis and Beyond,” Closing the Women’s Wealth Gap, April 2020, https://womenswealthgap.org/wp-content/uploads/2020/04/OnTheMargins_April2020_CWWG.pdf.

¹² Pew Research Center, “Racial, gender wage gaps persist in U.S. despite some progress,” July 1, 2016, <https://www.pewresearch.org/fact-tank/2016/07/01/racial-gender-wage-gaps-persist-in-u-s-despite-some-progress/>.

¹³ Claire McKenna and Irene Tung, “Occupational Wage Declines Since the Great Recession: Low-wage Occupations See Largest Real Wage Declines,” National Employment Law Project, September 2, 2015.

¹⁴ Dima Williams, “The End of the Extra \$600 Weekly Unemployment Benefits Threatens Rent Payments,” *Forbes*, June 1, 2020.

¹⁵ Tami Luhby, “Floridians line up to get paper unemployment benefits forms,” *CNN*, April 8, 2020, <https://www.cnn.com/2020/04/07/politics/florida-unemployment-benefits-covid/index.html>.

¹⁶ Tamara Chuang, “Only 6 percent of calls to Colorado’s unemployment line are getting answered. But changes are on the horizon,” *Colorado Sun*, May 28, 2020, <https://coloradosun.com/2020/05/28/colorado-unemployment-calls-holds-wait-callbacks/>.

¹⁷ Jim Zarroli, “Unemployment Websites Are Crashing Across the Country,” National Public Radio, March 18, 2020, <https://www.npr.org/2020/03/18/817950024/unemployment-websites-are-crashing-across-the-country>.

Moreover, we should not overlook how critical it is for workers to maintain their connection to a job right now. For so many people, there is more to a job than the paycheck. In these uncertain times, workers are seeking stability, and the reassurance of continued work is something that more and more workers can no longer count on. Their jobs may be the source of health-care benefits, retirement security, and possibly equity in the company. Workers are also well aware of how resume gaps can harm long-term job prospects, even in this era.

Finally, we need to note that re-employment bonuses are not the answer. They are based on the premise that workers are not looking hard enough for work. The reality is that there is a positive correlation between duration of unemployment and finding a suitable replacement job that workers remain at longer.¹⁸ Workers and employers benefit from having an unemployment system that is designed to get workers back to the right job, and not just any job.

While some policymakers expect that most workers will be asked to return to the same job that they had before, the longer this pandemic and the recession continue, the less likely it is that workers' previous jobs will exist. Moreover, vast swaths of industries may never return to normal, like travel, gyms, restaurants, sporting events, and music.¹⁹ That will also impact all the industries that feed them. We may be looking at a massive economic restructuring, the answer for which should be access to better job training to ensure good job matching, rather than bonuses to encourage workers to take a less suitable replacement job.

Policymakers need to learn the lesson of the last Great Recession, from which many individuals, families, and communities never recovered. The response to the last recession did not inject enough money and was not sustained enough to ensure that individuals and communities could fully recover from the economic devastation.

This reality also underscores the ways systemic racism impacts which communities Federal and State governments invest in—during times of crisis and always. Cities like Detroit and Flint were unable to recover from the last recession and still have astronomical unemployment rates, and the Black unemployment rates in those cities is 17.4 percent and 25 percent, respectively.²⁰ When unemployment reached 14.7 percent for the broader population in April, it was rightly viewed as a national emergency, but there are communities for whom that number is a persistent reality.

The families and communities that were most harmed in the last recession, unsurprisingly, were disproportionately people of color and women—who already were dealing with generational racial wealth gaps and gender wage gaps. Today, we are in an economic crisis, with workers in a worse place economically than before. No community, least of all Black communities and other communities of color, can afford for policymakers to aim low in terms of emergency aid.

Any argument being made that is not focused on ensuring all workers have the income needed to survive in this moment is ignoring a very important truth: Ensuring people have economic security is the answer to economic stability in good times, and to recovery after times of crisis. After all, the economy is not an entity unto itself, but rather, is the direct result of the economic strength and security of the people who comprise it.

EXPANDING STATE WORK-SHARING PROGRAMS CAN HELP BUSINESSES REOPEN RESPONSIBLY, WHILE ENSURING WORKERS' SAFETY AND ECONOMIC SECURITY

Amidst the tensions playing out between calls to reopen the economy and the need to ensure workers are safe and healthy, we believe a program known as work-sharing holds tremendous promise as a solution that will benefit both workers and employers. With over 40 million workers already laid off and the underlying cause of our economic disruption likely not remedied for the foreseeable future, we need to reject all-or-nothing approaches to the question of economic recovery or individual worker health.

¹⁸ Marco Caliendo, Konstantinos Tatsiramos, and Arne Uhlenhorff, "Benefit Duration, Unemployment Duration and Job Match Quality: A Regression-Discontinuity Approach," Forschungsinstitut zur Zukunft der Arbeit Institute for the Study of Labor, December 2009.

¹⁹ Jack Kelly, "The Coronavirus Effect: Here Are the Jobs That Will Be Added and Lost," *Forbes*, March 19, 2020, <https://www.forbes.com/sites/jackkelly/2020/03/19/the-coronavirus-effect-here-are-the-jobs-that-will-be-added-and-lost/#267016782a1c>.

²⁰ Andre M. Perry, "Black Workers Are Being Left Behind by Full Employment," The Brookings Institution, June 16, 2019.

Work-sharing programs (also known as short-time compensation) saved half a million jobs in the Great Recession, and in 2012, Congress enacted Federal legislation (the Layoff Prevention Act, sponsored by Senator Jack Reed) that provided incentives to States to enact work-sharing as an alternative to layoffs. While work-sharing was originally envisioned—and is still primarily used—as a voluntary layoff alternative when employers first face a temporary financial downturn, the program can also be a vital tool for businesses that have already laid off their workers but need to ramp back up slowly.

Through work-sharing, employers who need to rebuild their operations gradually can spread the impact across the workforce by substituting the number of layoffs they would otherwise be imposing with an equivalent number of reduced work hours spread over a larger number of employees. So, for example, an employer that has already laid off all 20 employees but has only enough work to call back 10 could, instead of keeping 10 workers on layoff, bring back all 20 employees half-time. Under a work-sharing plan, all employees would receive half pay and a work-sharing benefit that is equivalent to half a weekly UI payment (as well as any employer-provided fringe benefits). As business continues to pick up, hours could be increased across the workforce with corresponding increases in wages and decreases in work-sharing payments.²¹

This kind of rebuilding approach brings tremendous advantages for workers and the economy. First, the sooner that workers and their employers reconnect, the greater the likelihood that workers will not suffer the economic harm that comes with long-term unemployment or having to start over with new employment. Second, businesses benefit by retaining trained employees, and if they can provide those employees enough financial security between wages and work-sharing benefits to keep them on board through tough times, they will come out stronger on the other side, when customers and demand for products and services fully return.²²

Third, we are looking at an economy that will not be able to sustain the levels of employment that it did pre-COVID for a long time. Sharing the available work over the workforce in the short-term is a common-sense solution that will benefit all of us in the long run. Companies that have used work-sharing through down times routinely talk of its positive impact on employee morale.

Through the CARES Act, Congress has already acted to renew incentives and provide funding to States to improve and promote work-sharing, but more needs to be done. Only 27 States have activework-sharing laws today, and it is time to ensure that that this voluntary program is offered as an option to employers in every State.

In the wake of an economic tsunami that has left one in four workers in the U.S. unemployed virtually overnight, we need to update work-sharing law to streamline its usage by employers struggling to find their footing as they come back online. Businesses should be able to access the program quickly, and program rules should provide employers with maximum flexibility in deploying hours reductions in lieu of layoffs. Continuing Federal reimbursement of work-sharing benefits beyond the end of this calendar year will be vital to bringing new businesses to the program.

Finally, more needs to be done to promote work-sharing usage by State and local governments and nonprofits. As the next wave of financial battering comes in the form of State and local budget cuts, government and nonprofit jobs can be preserved through strategic hours reductions using work-sharing.

UNEMPLOYMENT BENEFITS ARE MAKING A PROFOUNDLY POSITIVE IMPACT ON WORKERS AND FAMILIES THROUGHOUT THE COUNTRY

Though we have heard so much in the news about the administrative struggles to get PUA and PUC up and running, it's important to highlight that these programs have already provided an essential life line for millions of workers and their families across the country. These benefits have prevented families from making untenable choices such as going without healthy and adequate food and necessary medications, or not paying utility bills, mortgages, rent, and health insurance premiums. In a time of such anxiety and uncertainty, these benefits have given people a measure of economic security, allaying at least some of their fears.

²¹ Catherine G. Abraham and Susan N. Houseman, "Since Work Is Rare, It's Time to Share," *Wall Street Journal*, May 11, 2020.

²² George Wentworth, Claire McKenna, and Lynn Minick, "Lessons Learned: Maximizing the Potential of Work Sharing in the United States," National Employment Law Project, October 2014.

Additionally, these benefits have allowed people to keep spending money in their local grocery stores, to perhaps support local restaurants with take-out orders, and to keep contributing to the economies of their communities. As demonstrated in the table below, should Congress fail to reauthorize PUC, an estimated \$17 billion per week will disappear from families, which means it disappears from our economy as well. Even as we slowly reopen businesses, the withdrawal of this important source of income support will dramatically hinder recovery for individuals, communities, and the economy overall, making the scaling up of businesses lower under the best of circumstances, and likely impossible for far too many.

Below is a sampling of stories from people throughout the country who are surviving because of the combination of UI or PUA and the PUC benefit. NELP thanks MomsRising, UNITE HERE Local 355, the United Steelworkers, Actor's Equity, SAG-AFTRA, the American Guild of Musical Artists, Business for a Fair Minimum Wage, International Alliance of Theatrical Stage Employees, the Department of Professional Employees, UNITE HERE Local 355, Make the Road New York, Make the Road Nevada, Ohio Organizing Collaborative, Step Up Louisiana, and One Pennsylvania for sharing these first-hand accounts with us, and we thank these workers for allowing their stories to become part of the official record in today's hearing. Though the implementation of PUA and PUC was troubled, to say the least, now that all the States have the programs up and running, this is truly the best way to make sure we get money into the hands of people and families who desperately need it.

- Carlos worked as a bartender at Miami International Airport for 6 years and was laid off during the current COVID-19 pandemic. As a single father to a 4-year old daughter, caring for his parents and two chronically ill dogs, Carlos's monthly bills exceed \$1,300. For Carlos, "\$600 a week is necessary." He shares, "I worked 6 years without stopping, without taking a day off. I think I at least deserve to be able to maintain my family during this time of crisis. He adds, "We fought hard to receive Florida's unemployment benefits and we're still fighting. So many of my coworkers haven't received any unemployment checks from Governor DeSantis. This Federal aid is the only income many families have."
- Ricardo worked as a bellman at Florida's famed Fontainebleau Hotel for 8.5 years before being laid off in March. This June, he will lose his health insurance. For Ricardo, who is diabetic, "\$600 is necessary for me to survive, including being able to pay for my medications." He shares, "I have been paying my taxes since I was 14 years old. I have been working for decades. I've never collected unemployment. And this is a time we need the government to step up and do their job. I can't think of any other State that's put citizens through what Governor DeSantis has done to us here in Florida. This money is not a luxury, it's a necessity."
- Karen worked as a Player's Club representative at Gulf stream Park Racing and Casino in Florida for 9 years before being laid off during the current COVID-19 pandemic. Karen is a single mother to a 9-year old daughter. Karen needs to continue to receive \$600 in Federal unemployment to keep paying her bills. She said, "My fear is that me and my daughter will end up homeless without this Federal aid. I waited over a month to receive Florida's unemployment and honestly \$275 a week is just not enough. This Federal aid is important to help us for all we do as taxpayers."
- Angie from Missouri writes that "I am living on unemployment so for now I'm okay. I work for the school system as a classified employee. We are paid hourly. I don't know when or if I'm going to go back to work. My passion is working with kids but my future is uncertain. After the \$600 a week pandemic relief expires in July, I will be getting \$141.00 per week. I can't live on that. I have a special needs son and it isn't easy on a good day."
- Zinnia from Florida tells us that "My family and I were greatly impacted during the pandemic. We were left without jobs, no income and unfortunately, I had to wait 2 months before I could receive any unemployment benefits due to all the issues Florida had with their system and processing claims. I'm finally receiving the benefits, but I'm not out of the woods yet. Due to the long wait, I had to borrow money for rent and am so behind on bills. I can only pray that the benefits be extended until we can all get back on our feet. I have a compromised immune system and honestly too afraid of exposing myself too soon to the public."

- Beverly from California reports that “When I was laid off from my job due to COVID-19, as a single mother I was petrified. The added \$600 in unemployment benefits has been a lifeline, the difference between keeping a roof over our heads and homelessness. With no end in sight of this pandemic, we need the expansion of unemployment benefits to make sure no one gets left behind in this situation we had no control over.”
- Dawn writes that “[a]s a North Carolina worker I currently receive the lowest rate of weekly unemployment benefits in the country. Which is less than \$200.00 per week in State unemployment benefits. Due to the cost of living my rent payment is \$875.00 plus additional fees for sewer, trash, and water. After paying the rent my expenses are: an electric bill, Internet bill, phone bill, auto and renters insurance, a car payment, and purchasing food. Without the receipt of the additional weekly Pandemic Unemployment Insurance benefit some of my services would be cut off. After the NC legislators cut the unemployment benefits we could receive in 2016 I was only eligible for \$25.00 per week in unemployment benefits which not even a child could make ends meet on a payment that low.”
- Peggy from Michigan: “Unemployment insurance has allowed me to pay my bills and feed my family. I have not been able to work because I am a parent monitor, which means that I monitor parental interaction with their children under supervised visitation by order of the court system. We are not set up to have parental visits at this time. Thank you for allowing me the ability to maintain an important part of my life.”
- Korry from Michigan is a U.S. veteran who lives with his wife, and their five children. He met his wife at Panera, where they both worked, but they have been laid since shortly after the stay-at-home order came out. Korry is collecting unemployment while he stays home to take care of the kids, but his wife, who is pregnant, got another job at Amazon to support them rather than collect unemployment. Without the current \$600 per week, Korry would be getting less than \$300 per week based on his prior earnings with Panera. Normal State weekly benefits even when combined with Brittini’s salary would not be enough to support their family of nearly 8. The \$600 per week makes it possible for Korry to be the children’s caretakers. The daycare they used to rely on is no longer operating during COVID-19 and the only family nearby are their great-grandparents, both of whom are elderly and would not be able to watch five children under 10.
- Stephanie from Michigan and her husband have two children, ages 5 and 3. He works from home as an IT specialist for the University of Michigan. But Stephanie ran a home daycare where she took care of children for 8 other families. Because of COVID-19, she was forced to shut down her daycare entirely and is grateful for PUA because she does not qualify for UI as she is self-employed. Michigan has a low maximum weekly benefit so without the additional \$600 in unemployment benefits, her family would have already depleted their liquid savings and would have to borrow from retirement savings and family members to make ends meet. Stephanie and her husband use the \$600 not just to stay afloat, but to donate to local charities caring for people in need and to support local businesses such as grocery stores and restaurants doing take-out and delivery service so they can help keep their local economy afloat.
- Casey from Michigan is a bartender for a local craft cocktail bar and was in the first wave of people to lose their jobs due to the COVID-19 shutdown. His last day of work was March 16th. Because he was early to start receiving benefits, Casey did not receive the additional \$600 for the first two weeks of his unemployment. When he took account of his finances after receiving the first check, he realized that even with his partner still working that he would have to deplete his savings for them to get by without her shouldering most of the burden. When he received his first check with the additional \$600, he remembers breathing a huge sigh of relief. His mental State went from crisis management mode to a feeling of stability, since the \$600 brought him much closer to what he was making at work. The additional \$600 has also allowed him to support local businesses that are still open. Casey says he would love to go back to work since he really enjoys the small, locally owned bar that he works for and he’s worried that they are hurting. Whether or not he was receiving the \$600, Casey says he would go back to work. For him, the most

important factor in his decision to go back is whether the bar can reopen safely for its workers and its customers.

- Jennifer from New York: “My husband and I are both unionized workers in the Broadway theatre; I work on stage as a member of Actors’ Equity Association, and he works backstage as a proud IATSE member. Like many who work in the arts, we book jobs months, sometimes years in advance to manage our income and ensure we maintain health care. When the pandemic forced theaters to close, within 24 hours we both lost not only all our current income, but also close to \$110,000 in income we were counting on for the rest of the year. There is no end in sight right now. All of us working in the live arts will be the last to go back to work. We are also the parents of a 19-month-old son, for whom I am the primary provider of childcare. Rents are high. Diapers are expensive. Utility bills are creeping up. Our mobile phones and Internet costs are even more necessary as we search for new jobs and, in my husband’s case, train for a career change. Without an extension of the emergency benefits, we will be forced to give up our apartment and move in with my parents, but even that is an expensive, complicated solution. Due to my parents’ health conditions, we will need to spend 2 weeks in quarantine at a hotel before we can safely join them. And when Broadway does eventually reopen, we will not be in the city to return to work. PUC is the only thing keeping our heads above water now. We are doing everything we can to weather this storm: staying home, not visiting grandparents, exploring new careers and taking free online courses. It’s not enough.”
- Ben from California is an actor with a wife, a 10-year-old son and 2 dogs, both of whom have medical conditions which can be expensive from time to time. He earns most of his income from self-employment, but because of residuals that he earns from past work, he has just enough income to qualify for a low UI benefit, rather than a more robust PUA benefit. “While my wife continues to work at home (thank God!), making her salary and keeping our health benefits, her monthly income covers about half of our monthly expenses (which include a mortgage, various insurances, utilities, food, etc). So until I get consistent UI every 2 weeks, we are dipping into our savings to pay for life’s necessities. We also have had to curb a number of expenses and lifestyle habits . . . not donating to charitable causes, not ordering from restaurants more than 2× a month, changing our cable subscription to a basic plan, finding and using coupons for grocery store trips, and probably the hardest one . . . keeping the AC off as much as possible despite hot temps. So yeah, it hasn’t been easy. If the \$600/week disappears before I regain employment, we will undoubtedly be forced to make some additional really difficult financial decisions about what else we’ll need to cut—and possibly have to move out of town where the mortgages wouldn’t be as high. Bottom line is that it’s just insane that physical work I did 3–15 years ago is preventing me from receiving the full financial assistance Congress intended me to receive right now via the PUA.”
- Bonnie from California is an actor who, before the pandemic, made a comfortable living a year, earning about \$200,000 per year. But all the work she had lined up for this year ceased and filming may not resume for a long time. She applied for benefits and though the vast majority of her income is not earned as an employee, she made just enough in recent years as an employee that she was awarded \$65 per week in UI, rather than the weekly maximum of \$450 per week. Though she wants Congress to remedy the penalty that mixed-income earners are facing, she also writes that “I am grateful indeed for the \$600 the government is adding to my \$65.00 U.I. compensation because it is crucial to my getting by right now. I don’t know what would happen were that to disappear at the end of July! Even with that weekly amount, I am running up a serious credit card bill. The entire film industry is shut down . . . with everything being pushed until ‘early next year’ at the soonest. There will be no work for some time. We really need some help here.”
- John, who runs a chiropractic practice in Virginia tells us that “Unemployment benefits, especially the \$600 per week, helped keep my family afloat and out of debt while I had to close down my practice. As someone who has contributed to the Federal Government for years, it was nice to know that the Federal Government was there for me when I needed help.”
- Axel lives in Queens, NY: “I am one of those fortunate enough to receive unemployment benefits during this pandemic. Right now, I receive \$979 in

weekly benefits, \$600 of which is Pandemic Unemployment Compensation (PUC). All of it goes towards covering only the most basic necessities for me and my family: our rent, which is \$1,500 per month, utility bills, food, medical costs, and transportation. Everyone in my family has fallen ill to COVID-19—my brother is still struggling to recover—and this has caused significant psychological and emotional stress on top of the financial stress I feel to make ends meet. I had an emergency operation at the beginning of the pandemic, and I am terrified that I will be unable to pay for medical care should something else happen to me in the months to come. Without the extra \$600 in PUC, life in New York would be impossible. Even with benefits, we must rely on food pantries to keep us from going hungry. We must extend PUC benefits past July, because \$379 is not enough.”

- Ahmad in Pennsylvania writes: “On March 16th, I was laid off from my job as a line cook at a Philadelphia restaurant. I’m a community college student but I worked full-time at the restaurant. When I was working, I was able to help my parents pay for groceries and help my mom cover the costs of starting her new business. I also was trying to save up so that I could move out of my parents’ place and afford a down payment on a house. Without the \$600, my benefits would be very low—\$219/per week. Because the restaurant industry in Philadelphia has been destroyed by this pandemic, I’m afraid I won’t be able to find a job for a long time. If Congress cuts my benefits to \$219 per week, it would really be hard for me to help out my family. I’ve been working so hard to build a better life for myself, but these cuts would send me back to square one.”
- Mary in Ohio: “On March 13, 2020, I was laid off from my job as a substitute teacher and was not able to pay rent for 2 months. I struggled getting through to ODJFS through phone and email with no resolution for my specific issues. The extra weekly \$600 is crucial to ensure that Ohioans can meet our financial needs. With the \$600, I can pay my rent, put food on the table, and cover my other bills.”
- Cindy from Ohio is self-employed and is supporting herself on PUA and PUC: “I’m a self-employed painter of 18 years finding myself as one out of the countless 1st-time filers for unemployment. My last day of work was March 14, 2020 and as a caretaker of my compromised parents, my imperative is to keep them safe. After Governor Mike DeWine’s request to stay at home, I waited 10 weeks for the PUA system to be “built” with no income! After FINALLY receiving the \$600 addition in weekly “back pay” (which is less than my normal income), I can make sure my overdue mortgage can be brought close to current, that my taxes that are due in July will get paid, and that several other bills will get partially paid. That \$600 is security that I need while trying to move forward into an unknown workscape. Due to the public health crisis, my projected work is about 30 percent of what is normal for the last 3 months! I HAVE to protect my parents’ health first. But without the continued \$600 benefit, we are being forced to choose between our health, the health of our loved ones, or our jobs, when we did not choose this path! This is unacceptable and beyond cruel. I’m certain none of our public officials would choose to walk in our shoes, but I hope they can imagine being in them!”
- Katie from Ohio: “I work in education and am only getting \$340 every 2 weeks. Since I am not able to pay all my bills with this amount, I am being reported to the credit bureau and my credit score has dropped significantly. I was told by my employer that due to the pandemic they’re making cuts and that I will not have a job when/if school opens in the Fall. I have MS (multiple sclerosis), so for my personal health and my family’s safety, I am currently looking for a remote position. I have applied to 15 job openings, but I have yet to receive any interviews. Ohio’s unemployment system has failed to provide livable unemployment relief and I am struggling with paying bills. My family and I need assistance, and that extra \$600 a week would allow me to pay my car, mortgage, medical and other bills. Please expand PUA and extend the \$600 a week past July 2020.”
- Brittany from Louisiana: “The recent payments of unemployment have been a great help to my finances. I recently bought a car, and between that, food, and providing for my son, the additional \$600 from the CARES Act has really helped me out. We need to extend these benefits and start paying people real wages.”

- Jason from Nevada: “Receiving the \$600 has helped me keep all my bills up to date. Otherwise, I would miss payments and then would have to pay late fees. I would go further into debt like so many people I know during this pandemic. These benefits have taken the place of what I would have gotten if I was still working at the job I had before this pandemic. Without them, I would not be able to keep up.”
- Samantha from Nevada: “I’ve been working for MGM Resorts since 2017 and as a union worker, I always felt secure in my workplace. Before the pandemic, I transferred to the MGM Resort Pool and unfortunately was laid off before I could even have my first day of work. I had enough money saved up to pay my upcoming bills but not enough to last me through the months to come. Thankfully with the help from unemployment benefits, I’ve had a weight lifted off my shoulders from the stress of not knowing how I was going to pay my next car payment, rent, and my other monthly bills. I’ve been able to live with my family with one less thing to worry about through these hard times. I strongly believe we need to keep unemployment benefits because I don’t know how long it will be until resort pools will open back up to the public again. Not having that income would affect me drastically.”
- Joe from Pennsylvania: “Our company closed due to the Coronavirus. We had 65 people working, most between the ages of 30 and 63 years, who are now on unemployment. One of my coworkers has prostate cancer and, like the rest of us, he’ll be losing his medical insurance come July 1st. A lot of us are in our 50s and are not yet able to go on social security, but we still have car payments, mortgage payments, and utility bills on top of paying for our family’s medication and food. It’s tough to get a new job when you’re in your late 50s and 60s, especially in this environment. This is why it is essential for the benefits to continue a bit longer. We need these additional unemployment benefits to help our families pay for necessities while we look for work.”
- Jared from Pennsylvania: “I worked at my company for about 1 year before COVID-19 hit and we were forced to leave our positions. While unemployment compensation from the State is helpful during this time of joblessness, it’s not enough to cover living expenses, and the additional \$600 per pay period for unemployment is necessary because our company has shut off our medical insurance. It’s stressful to think about how I would be able to cover hospital expenses or prescription medications if I’m only receiving the State unemployment compensation. The \$600 makes scenarios like this a little more manageable. I [also] have close family members who are greatly affected by this and already have severe medical conditions that require expensive medicines previously covered by health insurance offered by their employer. The loss of the \$600 would mean that their prescriptions cannot be purchased because they are too costly. I ask that the additional \$600 per pay period be extended for people on unemployment compensation until the end of this year. Not only will this provide additional funds to cover utility bills and medical insurance, it will give me time to find another job should our company shut down business permanently and not be able to offer employment.”
- Justin from Florida: “I’m a stagehand technician/rigger and proud member of I.A.T.S.E. Local 647 of this month, and I’ve been a stagehand technician since I was 22 years old. Last October, for the first time in my life, I was able to get a mortgage and purchase my very own home. Then COVID-19 appeared. I was immediately told to stay home, with no means to pay my bills or put food on the table. To make matters worse, I live in Florida, where the unemployment program pays so little for such a short period of time, it could be construed as a joke. I now have a mortgage to worry about and am afraid I’ll lose this house as fast as I got it. And the real cherry on top is that with no end insight regarding COVID itself, I don’t know when I’ll be able to return to work. I’m not sure our industry will ever truly recover from this. Even with a vaccine, so many Americans are so fearful of coronavirus and mass gatherings that I just don’t see the ticket sales being high enough to support a show staying out on tour. We were the first industry to be laid off, and we’ll be the last to return. We have been absolutely devastated. It is my hope that Congress may understand just how unique and urgent our situation is and come to our aid by extending the Cares Act \$600 per week. To be clear, and I feel I can speak for most of us in the entertainment industry, where most folks deign to work, we actually dream to work. I don’t want to have to rely on Federal assistance to scrape by. I want my job back. I love my job, and I wouldn’t trade it for anything in the world. I thank you for your time.”

- Victoria from Virginia is a sole proprietor of a hair salon. She has been receiving the CARES Act unemployment insurance benefits and hopes the benefits extended not just for herself so she can maintain her business, but for her community and customers. As she contemplates reopening her salon, she knows that she can only make a living if her clients have money to spend. “I get the bulk of my bookings around major events and windfalls—weddings, proms, graduations, job interviews, church events. Those are the hard-earned special treatments, the ones that often require months of saving and compromises on food or utilities. On the flipside are the windfalls. The most exciting time of year is tax refund time, when people come and get their hair done because they received their tax refunds.”
- Sarah, a musician in New Jersey: “Our industry was among the first to lose work and will certainly be among the last to return to work. The expansion of the extended benefits program beyond July 31st will be essential to my financial well-being. The additional \$600 per week is the difference between paying the rent or not paying the rent. Full stop.”
- James, a musician in California: “Simply put, unemployment insurance with added PUA financial assistance has kept my household afloat. Without this assistance I would have to seriously consider abandoning the profession.”
- Sara, a musician in New York: “The stress of this uncertainty, and the precarious financial situation we find ourselves in, is amplified by a reality that will come to pass in October: the birth of our first child, a daughter. The PUA has been absolutely essential to our well-being since I first went on unemployment in April. PUA has helped us remain solvent and provided means for us to cover the essentials, like nourishing food for my pregnancy. The continuity or disappearance of the PUA \$600 per week will single-handedly determine our future.”
- Maria, a musician in New York: “As a single mother of two, I am so grateful that losing my job as a result of COVID-19 has not jeopardized my children’s stable home or dinner table. Without the PUA I would not be able to pay my rent. I would be forced to choose between buying food and paying the electricity.”
- Laureen, a musician in Illinois: “My husband is in the severe stage of early-onset dementia at the young age of 58. I am paying \$210 a day for 24/7 live-in care for my husband. It is alarming and stressful to have a lifetime of savings get spent so quickly. I truly need the help of the \$600 PUA to continue.”
- Melanie, a musician in Massachusetts: “My immune system is compromised, so I am unable to easily find work. Receiving unemployment insurance has literally saved my life. If I no longer received that amount, I would no longer be able to afford rent, let alone groceries, or pay my bills.”
- Anne, a musician in New York: “As the mother of a prematurely born baby girl, I have had tremendous hurdles in providing for her. The CARES Act has made it possible for me to continue to pay bills . . . health care and medicine, food, diapers, infant supplemental formula, and a slew of other non-negotiable necessities. It is the only thing keeping me afloat.”
- Jennifer, a musician from California: “If not for PUA and PUC, I would have become homeless in April and I would have had to file for bankruptcy.”
- Michael, a musician from Oregon: “Our careers have been decimated. Most of us live in large cities where classical music thrives and our rents and monthly expenses are extremely high. Some of us have already had to leave our homes as the costs have been prohibitive. Without the help of PUA, many of us would not be able to pay our bills. Thank you so much for the additional \$600/month and I implore you to extend the pandemic unemployment insurance past the end of July. Without your help our industry faces possible ruin.”

HOW DO WE MOVE FORWARD?

This crisis has laid bare the shortcomings and opportunities for action to improve our Nation’s unemployment insurance system in so many ways. Workers who have very little waited in line for weeks for needed benefits. The inequality of access and benefit levels is obvious. That is why we must act now to change the system—we will never have a more important moment to get lasting and long-needed change. Crises expose our greatest weaknesses; if we ignore the moments when systemic flaws are laid bare, that is nothing short of political and policy failure. We must

take advantage of the clear lessons we have learned about our UI system to establish a meaningful Federal floor, including adequate funding for States to upgrade their IT systems and handle the current flow of applications for unemployment benefits. If we fail to do so, States will face real pressure from employers to cut benefits when State trust funds run out, and our UI system will only be further decimated before the next crisis hits.

First, in the short term, we need to establish a way to scale up and scale down benefits automatically as the economy calls for it, rather than rely on ad-hoc extensions that could come erratically, force States to continually reprogram their systems, and end too soon and too abruptly, thereby stranding families without necessary income support and damaging our country's economic recovery. Ranking Member Wyden has proposed a fact-based, rational way to scale benefits as health care and economic conditions call for it. Senators Reed and Bennet have also proposed a thoughtful approach to accomplish this as well. At a minimum, we must reauthorize the full PUC, PUA, and Pandemic Emergency Unemployment Compensation (PEUC) until the public health crisis ends and unemployment is back into the single digits, and authorize additional weeks of PUA and PEUC sufficient to meet the needs of unemployed workers and their families during what will likely be a drawn-out recovery from this pandemic and recession.

As we look beyond just the temporary benefits we need so that we may improve the entire UI system, it is important to consider where the program does *not* provide equal and fair access to benefits. The Urban Institute found that during the last Great Recession, Black workers were on average 13 percent less likely than white workers to receive benefits, and Latinx workers were 4 percent less likely.²³ Obviously, structural racism inherent in the occupational segregation in the U.S. plays a role in access to those benefits, but it is also clear that there were hurdles to benefit access disproportionately affecting workers of color back then that persist to this day.

The most obvious hurdle was the move by many States to reduce the maximum duration of benefits below 26 weeks in the aftermath of the Great Recession. Ten States cut duration of benefits. The most recent is Alabama—last June, it cut maximum duration to just 14 weeks. Three States cut maximums from 26 to 20 weeks—Michigan, Missouri, and South Carolina. Arkansas cut maximum benefit duration to 16 weeks. Florida, Georgia, North Carolina, Kansas, and Idaho have adopted sliding scales tied to State unemployment rates. Fortunately, four states—Idaho, Kansas, Georgia, and Michigan—have reversed course and restored benefits to 26 weeks of reciprocity. Reducing duration is necessarily going to have a disparate impact on communities of color until other structural reforms are implemented to get people in affected communities back to work faster. As of the third quarter of 2019, during a period of record low unemployment, the average duration of an unemployment spell was 21 weeks. For white workers, a 20-week cutoff would not affect the average worker who remained unemployed for 19 weeks. However, Black workers averaged 25.9 weeks in their unemployment period.²⁴ A 26-week benefit period would completely cover average duration for Black workers; any duration reduction therefore statistically harms Black workers more.

We also need to enact an important reform to the UI/PUA method of delivering benefits to unemployed workers. PUA is available only to workers who are not eligible for UI, whether by virtue of not earning enough income to qualify, being self-employed, or facing some other exclusion. Many workers, however, have sources of income both as an employee and as a self-employed worker. Far too many workers, including some featured above, earn most of their income through self-employment but earn just enough income as an employee that they receive a minimum or near-minimum State UI benefit. As a result, they are ineligible for PUA, and over the course of the 39 weeks of authorized benefits, they may stand to lose literally tens of thousands of dollars in benefits they desperately need, not just for their own financial support, but perhaps for the financial support of their businesses as well. This clearly unintended consequence is having a devastating effect on workers throughout the country. We are ready to work with Congress to enact a solution that provides workers with the relief to which they should be entitled, but also gives State UI agencies adequate time and resources to reprogram their IT systems to implement this fix.

²³ Austin Nichols and Margaret Simms, "Racial and Ethnic Differences in Receipt of Unemployment Insurance Benefits During the Great Recession," Urban Institute, June 2012.

²⁴ BLS Labor Force Statistics from the CPS, https://www.bls.gov/web/empsit/cpsee_e18.htm.

Because there is so much disparity across States and populations within those States, we are at a point where Congress should consider federalizing UI to operate similarly to Social Security. Short of that, NELP endorses Senator Bennet's plan for long-term reform.

If States emerge from this recession with empty trust funds and having had to borrow money to pay benefits, there will likely be widespread efforts to cut benefit access and amounts going forward. Key components of effective long-term reform include the following:

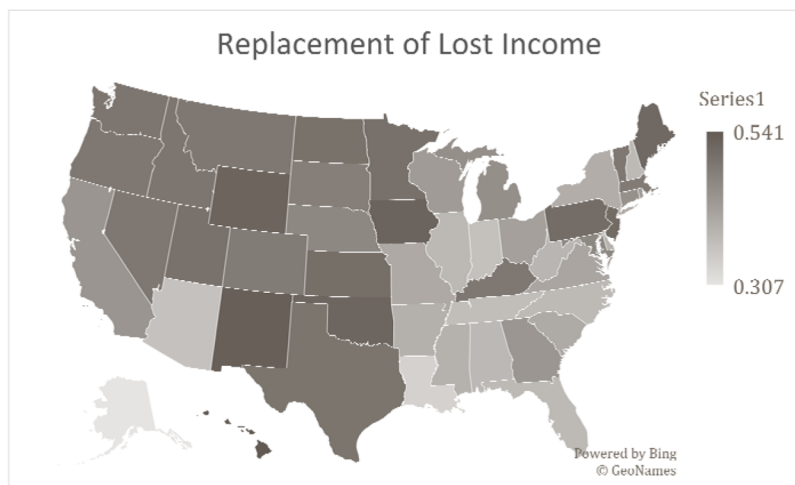
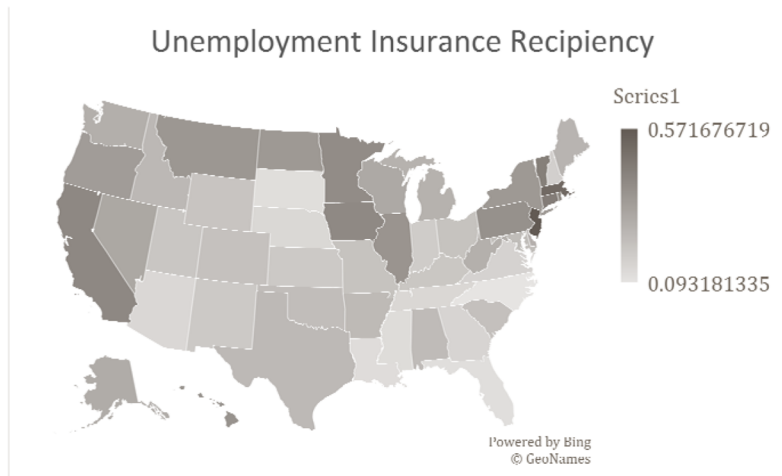
- Minimum of 26 weeks of benefits.
- Benefits replace 60 percent of income for workers below the earnings limit.
- More workers should be eligible. Employers in the gig economy and low-paid educational contract employees like adjuncts and paraeducators should be able to access UI in every State.
- Permanent reform of Extended Benefits. During a recession, benefit weeks should automatically be extended as the unemployment rate increases.
- Every State should provide a dependent allowance for people who have children to care for.
- UI should be available to part-time workers in every State.
- Good cause to quit should be uniform across States, so workers fleeing domestic violence, following a spouse whose job has moved, or whose work jeopardizes their health and safety should be able to resign and get UI.
- Work-sharing should be universal and available in every State. Employers should have the option to spread layoffs across the work force and allow workers to get UI to cover their lost hours rather than completely laying off part of the workforce.
- Make the optional Alternate Base Period mandatory so workers with erratic schedules can maximize their benefits.

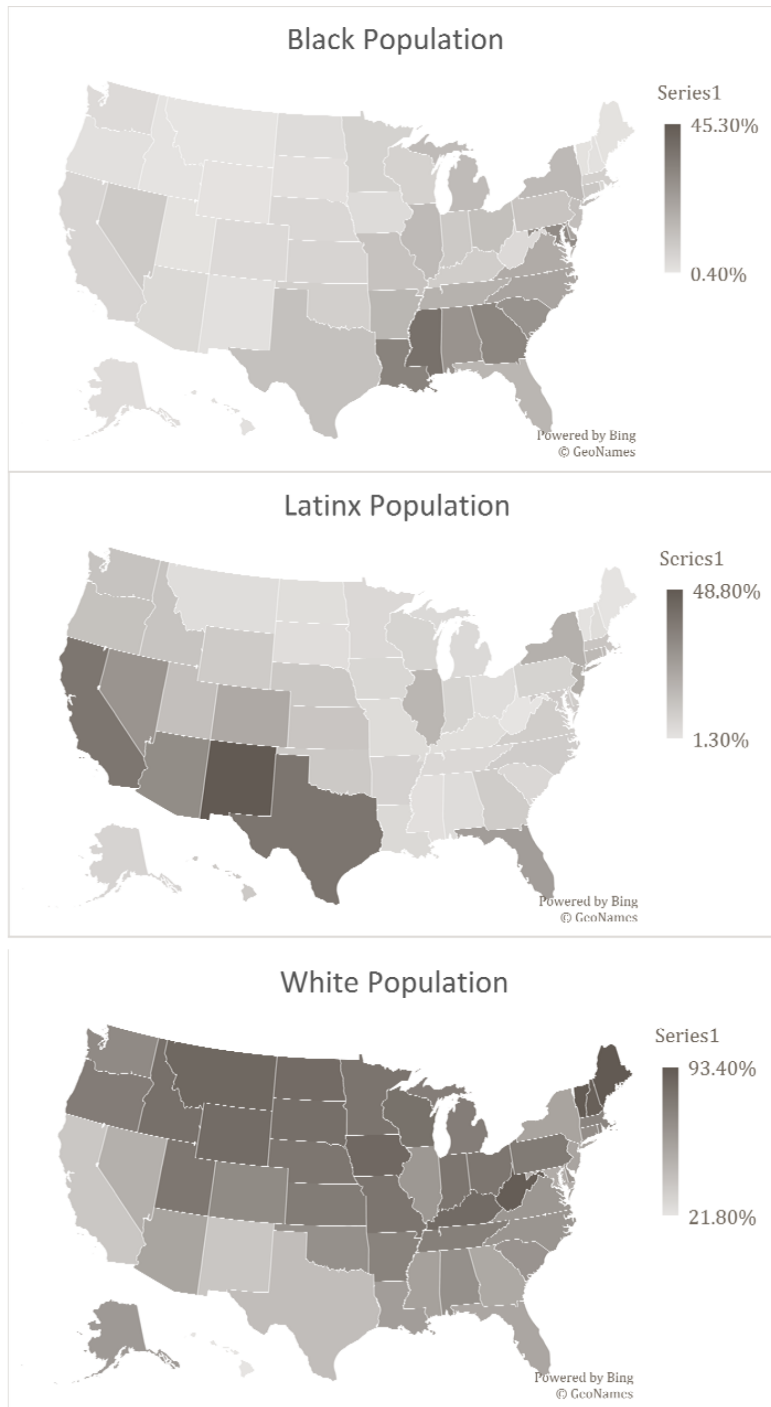
State	IU	PUA	PEUC	Total	PUC Amount Paid
Alabama	190,205	0	0	190,205	\$114,123,000
Alaska	48,000	0	0	48,000	\$28,800,000
Arizona	217,968	0	0	217,968	\$130,780,800
Arkansas	120,043	0	6,058	126,101	\$75,660,600
California	2,155,310	699,745	324	2,855,379	\$1,713,227,400
Colorado	265,499	101,510	0	367,009	\$220,205,400
Connecticut	272,695	55,117	0	327,812	\$196,687,200
Delaware	50,780	0	1,547	52,327	\$31,396,200
District of Columbia	70,103	0	1,104	71,207	\$42,724,200
Florida	529,384	0	0	529,384	\$317,630,400
Georgia	731,762	0	0	731,762	\$439,057,200
Hawaii	127,921	0	0	127,921	\$76,752,600
Idaho	56,692	633	1,774	59,099	\$35,459,400
Illinois	762,367	373,443	28,873	1,164,683	\$698,809,800
Indiana	253,536	285,913	9,097	548,546	\$329,127,600
Iowa	178,619	17,545	0	196,164	\$117,698,400
Kansas	104,553	0	0	104,553	\$62,731,800

State	IU	PUA	PEUC	Total	PUC Amount Paid
Kentucky	244,342	0	0	244,342	\$146,605,200
Louisiana	328,409	174,070	304	502,783	\$301,669,800
Maine	138,219	135,681	70	273,970	\$164,382,000
Maryland	255,017	236,342	5,575	496,934	\$298,160,400
Massachusetts	594,515	1,612,010	0	2,206,525	\$1,323,915,000
Michigan	985,294	2,116,842	33,561	3,135,697	\$1,881,418,200
Minnesota	416,668	73,411	13,405	503,484	\$302,090,400
Mississippi	184,150	0	0	184,150	\$110,490,000
Missouri	255,374	83,638	7,437	346,449	\$207,869,400
Montana	49,917	53,390	1,612	104,919	\$62,951,400
Nebraska	61,604	20,352	10	81,966	\$49,179,600
Nevada	343,030	172,346	4,745	520,121	\$312,072,600
New Hampshire	109,184	0	0	109,184	\$65,510,400
New Jersey	586,532	547,887	0	1,134,419	\$680,651,400
New Mexico	105,568	43,236	2,595	151,399	\$90,839,400
New York	1,811,012	1,111,488	53,737	2,976,237	\$1,785,742,200
North Carolina	564,068	72,422	0	636,490	\$381,894,000
North Dakota	31,100	7,956	3,609	42,665	\$25,599,000
Ohio	636,869	615,968	11,024	1,263,861	\$758,316,600
Oklahoma	139,196	0	1,732	140,928	\$84,556,800
Oregon	293,081	0	0	293,081	\$175,848,600
Pennsylvania	907,252	1,010,651	531	1,918,434	\$1,151,060,400
Puerto Rico	194,272	388,484	2,139	584,895	\$350,937,000
Rhode Island	87,966	38,972	0	126,938	\$76,162,800
South Carolina	241,793	88,160	48	330,001	\$198,000,600
South Dakota	22,454	4,107	100	26,661	\$15,996,600
Tennessee	327,768	81,439	0	409,207	\$245,524,200
Texas	1,272,557	164,386	1,080	1,438,023	\$862,813,800
Utah	82,054	111,038	0	93,092	\$55,855,200
Vermont	50,285	0	0	50,285	\$30,171,000
Virginia	402,926	193,684	13,825	610,435	\$366,261,000
Virgin Islands	4,354	0	3,776	8,130	\$4,878,000

State	IU	PUA	PEUC	Total	PUC Amount Paid
Washington	593,287	193,276	0	786,563	\$471,937,800
West Virginia	93,086	0	0	93,086	\$55,851,600
Wisconsin	291,677	567	0	292,244	\$175,346,400
Wyoming	17,631	5,209	0	22,840	\$13,704,000
Total	18,857,948	10,790,918	209,692	29,858,558	\$17,915,134,800

Source: Authors calculations, Department of Labor, Employment and Training Administration, Initial Claims Report.





QUESTIONS SUBMITTED FOR THE RECORD TO MICHELE EVERMORE

QUESTION SUBMITTED BY HON. RON WYDEN

WORKERS WITH WAGE AND SELF-EMPLOYMENT INCOME

Question. Workers who are eligible for regular unemployment compensation cannot claim PUA. This has led to some workers who lost both wage income and self-employment income only being able to claim regular unemployment compensation even when their PUA benefit would be bigger. Can you explain the challenges this creates for workers and any possible solutions?

Answer. The penalty being paid by many workers who earn what we call “mixed-incomes,” that is people who earn some wages as an employee and some in other forms including self-employment, is extensive and growing. In many industries, including the performing arts for example, people earn most of their income not as employees, but as independent contractors or otherwise self-employed people. They may earn a little money on the side as an employee, or may get an occasional artistic job as an employee, and therefore qualify for a minimum UI benefit which is some States can be as small as \$5 per week. If they weren’t eligible for that small UI benefit, they would qualify for a much higher PUA benefit, perhaps even a maximum benefit. Similarly, there are self-employed people all over the country, true entrepreneurs, who may hold part time jobs on the side to help make ends meet, especially while building a business, who also have the bulk of their income come from non-W-2 wages. In California alone, the State UI agency estimates that at least 100,000 people will face this penalty. In New York, the number grows to at least 150,000 people, likely more.

It is no exaggeration to say over the course of this year alone, mixed-income earners would have received over \$10,000 more in benefits had all their income been considered, or had they been able to receive PUA, than they will in UI. This is money they need for rent and mortgages, food and utilities, and health insurance premiums. This is not an inconsequential penalty and it isn’t a penalty that can be solved simply by reauthorization of PUC because while PUC is designed to make up for the portion of W-2 wages that aren’t replaced by UI, it isn’t at all making up for the wages that aren’t replaced for mixed-income earners.

We understand that there are considerable administrative hurdles to implementing a fix for this problem. But that doesn’t mean we shouldn’t implement a fix. Congress could mandate that if an individual has mixed income and their weekly UI benefit is less than the minimum PUA benefit for the State, that they should be able to collect PUA and have all their income count toward the calculation of their benefit amount. Because this will require considerable administrative effort to implement, States should be given adequate time to reprogram their systems, perhaps 2 to 3 months. This will also help manage expectations from mixed-income earners, but still let them know that relief is on the way.

QUESTIONS SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. The CARES Act’s Pandemic Unemployment Assistance (PUA) program expanded eligibility for unemployment benefits to new, previously excluded categories of workers.

Are there any other categories of workers that are still excluded from benefits?

Beyond the current crisis, how can Congress move to incentivize States to expand their unemployment insurance systems to include the workers covered by PUA and any other potential categories that are still excluded from State programs?

Answer. Yes, other workers who are still excluded from Pandemic Unemployment Assistance and regular Unemployment Insurance include undocumented workers, workers who work outside the formal economy, and new entrants who did not have a bona fide job offer rescinded due to COVID-19, such as people just graduating high school or college or people re-entering the workforce after incarceration. To cover the last category of workers, I would strongly support the inclusion of a Job-seeker’s Allowance in future stimulus measures.

One of the most important ways that States should modify their programs to cover more workers would be to establish an inclusive definition of employer as California or Washington have in place to cover the increasing number of workers in the “gig economy.” There is precedent for Congress to incentivize UI system im-

provements in States, as the Unemployment Insurance Modernization Act passed in 2009 did just that—it provided States with economic incentives to establish laws to expand eligibility, such as adding part-time workers, adding good causes to quit, and establishing an Alternative Base Period so workers who could not establish earnings sufficient to qualify for unemployment benefits in the first four of the last 5 quarters of employment.

NELP's research has also established that other barriers to access include States increasing the amount of money workers need to earn to qualify for unemployment insurance. Interestingly, the three States with the highest monetary eligibility requirements are also States with surprisingly high numbers of workers qualifying for PUA. Arizona, Michigan, and Ohio have the highest base period earnings requirements and respective continuing PUA claims of 1,416,134, 1,080,267, and 815,459 for the week ending June 6th. Congress should set a lower maximum monetary eligibility requirement to deal with this.

Question. Are there any changes to the current model of collaboration between the Federal and State governments that you think could improve the provision benefits?

Answer. In the wake of this pandemic, with all of the inequalities in the system exposed, this is a good time to have a robust conversation about federalizing the program and administration thereof. Short of that, the Federal Government may need to take different approaches in different States. There are States that are working to be more creative in finding ways to make establishing eligibility easier, and in those cases, flexibility should be encouraged. On the other hand, the agency should work with States with lower than average reciprocity to develop an improvement plan to improve access to benefits. The ETA should also report reciprocity by county and with other demographic data such as race, so that we can better understand who is unable to access benefits and why.

Question. What is your assessment of how the States have handled unemployment insurance?

Answer. Last summer, I authored a brief discussing how States were unprepared to deal with a recession, called “Are State Unemployment Systems Still Able to Counter Recessions?” Looking at the States that have struggled to provide benefits, those States largely match up with those that I predicted to be unprepared. That is because benefit provision is a matter of political will. States that erected barriers to entry were caught unprepared to take on the massive amount of new claims during the pandemic. No State has perfectly handled this unprecedented crisis, but in States with claimant-friendly UI agencies, benefits did get to deserving workers faster. In a couple of States in which systems were in place that created challenges to claimants to access benefits, new administrations with a commitment to claimants were even able to wrestle the system into paying appropriate benefits—Michigan and Maine are good examples of this.

As a constituent and resident of the State of Maryland, I have been working with policymakers to improve the application process here. As you may know, Maryland's performance in paying benefits has been largely average, but advocates are looking to States like Rhode Island to share information about how to move roadblocks out of the system. More efforts to improve sharing these kinds of best practices across States would be helpful.

Question. Could you please provide an overview of ways in which State unemployment insurance policies unnecessarily keep many people from receiving benefits?

Answer. Ten States reduced the maximum benefit duration below 26 weeks, which accounts for roughly one-quarter of the national decline in the percent of the unemployed collecting UI. The most recent is Alabama. Last June, it cut benefits to 14 weeks. Michigan, Missouri, and South Carolina cut maximums from 26 to 20 weeks. One State—Arkansas—cut maximum benefit duration to 16 weeks. Florida, Georgia, North Carolina, Kansas, and Idaho have adopted sliding scales tied to State unemployment rates.

Even after initially qualifying for benefits, the risk of disqualification for non-compliance on a week-to-week basis has grown dramatically. More UI-eligible workers than ever are being denied benefits because of stricter enforcement of a variety of “continuing eligibility” requirements, especially work search. The 10 States with the steepest increases in denials for non-separation reasons were South Carolina, New Mexico, Florida, Mississippi, Tennessee, Massachusetts, Pennsylvania, Michigan, Louisiana, and North Carolina. Five of these 10 States launched new claim filing systems in the past 5 years (New Mexico, Florida, Tennessee, Massachusetts,

and Michigan), a factor that may be driving increases in disqualifications for process reasons. While much attention has been paid to the antiquated COBOL systems that most States still rely on, it is important to remember that even in some States that have modernized their computer systems, the modernization effort came at a time that the State was seeking to limit access to benefits.

States are imposing more onerous work search contacts and documentation requirements. The 10 States with the highest rates of disqualification for able, available, and work search issues are Alaska, South Carolina, North Dakota, Utah, Nebraska, Idaho, Florida, New Hampshire, Ohio, and Missouri. As could be expected, half of these States require four or five new employer contacts weekly, while nearly all of the harshest disqualifiers have moved to systems in which work search documentation is now required to be submitted as part of each weekly or bi-weekly certification.

The focus on “program integrity” is both increasing denials and discouraging take-up. The majority of overpayments, incidentally, stem from two things: work search requirement violations (which can include making a mistake in reporting) and going back to work and not having asking the agency to stop UI payments the first week back.

The decline in take-up also includes denials. According to Employment and Training Administration data on erroneous denials, the denial error rate for separation reasons in 2017 was 17.44 percent, while that error rate in 2007 was just 8 percent. Similarly, in 2017, 17.54 percent of benefits were erroneously denied for nonseparation issues, while in 2007, the improper nonseparation denial rate was only 9.9 percent. It would be helpful for the Department of Labor to examine the reasons for this dramatic increase in agencies erroneously denying benefits.

Question. The high level of unemployment and therefore high level of disbursement of benefits is applying significant pressure to State unemployment trust funds.

Could you please provide your assessment on the current condition of State unemployment trust funds and in others you may know of?

How do you envision any challenges affecting future State budgets and taxes?

Is there any assistance you and states would like to see from Congress?

Answer. Eleven States have already applied for Federal loans. Surprisingly, State trust funds were in slightly better shape entering this recession than the Great Recession, but given the magnitude of this crisis, it seems unlikely that most if not all trust funds will be exhausted. States are quickly exhausting funds.

My first suggestion would be to extend the period between the issuance of loans and the application of interest and additional FUTA penalties during this crisis by 2 years. That would give States time and breathing room to begin to recover from this economic crisis.

Ultimately, however, it may be the case that Federal assistance will be needed to forgive massive trust fund balances. It is important to keep in mind that it was the state of UI trust funds exiting the last recession that was the catalyst for the massive wave of benefit cuts that swept States. If we exit this recession with States with depleted trust funds and no Federal floor on benefits, we face a probable wave of new and even more draconian cuts to access and benefit level.

PREPARED STATEMENT OF HON. CHUCK GRASSLEY,
A U.S. SENATOR FROM IOWA

I think it's important again to note what's going on all around us, and that is the acknowledgment of racial injustice that has gone on for far too long in this country. I certainly support those who are speaking out and making their voices heard in a peaceful manner to bring about change. While change does not always come easily, I want to remind those watching this hearing today that change is possible.

In December of 2018, the First Step Act—which I introduced—became law. This law is the most significant criminal justice reform law in a generation. A lot of people didn't think it was possible. But we did it by working together—it was a bipartisan effort.

We're also working together in other ways to address racial disparities, such as in health care. The CARES Act and other COVID response efforts aim to help all, but especially minority populations that have been hit hardest by the virus. We've

knocked down financial barriers to receiving care during the pandemic and provided support to our frontline providers to ensure access. We continue to focus attention on the devastating effect COVID has had on nursing homes and the need to do better for residents and staff.

The Trump administration has also announced a number of efforts to address the disparate impact of COVID-19 on African Americans and others. I ask unanimous consent to insert a document describing those efforts into the record. We are also taking action beyond COVID. We're working on a bipartisan effort to tackle the tragic issue of maternal mortality and the need to improve outcomes for moms and babies.

All Americans want lower prescription drug costs, but our efforts are especially important as minorities suffer from high rates of common diseases such as diabetes and hypertension. We're exploring improvements for those with kidney disease, patients in need of organ transplants, and more.

We're also in the middle of a transformation of our child welfare system. We know that too many children end up in foster care, and that black children are overrepresented in this system. Thanks to our bipartisan efforts, States are now transforming the way they operate to keep more kids safely at home instead of placing them in foster care.

There is obviously much more to be done, and I look forward to working with my colleagues on both sides of the aisle to continue these efforts.

Now I'd like to shift my remarks to focus on the topic of our hearing today. As a result of COVID-19 and related stay-at-home orders, millions of Americans across the country have lost work.

Congress passed the CARES Act to provide help to those affected in many different ways, including by temporarily expanding unemployment insurance, or UI. These increased UI benefits have played an important role in helping those who lost a job or who couldn't work as a result of the pandemic. Given the need to act quickly to reduce the spread of COVID-19, providing extra help through the unemployment system made sense as a way to reduce the economic impact of stay-at-home orders.

But now we're facing a much different situation than we were in mid-March. States are reopening, employment recently turned positive, and we need to shift our focus to helping people safely return to work, making sure businesses are able to come back quickly and put the country back on a path to economic growth. We've also learned a few things since the CARES Act became law.

The CARES Act provides an additional \$600 per week to those receiving UI—representing the gap between the U.S. average weekly wage and the average weekly UI benefit. One thing we've learned is how poorly targeted the additional \$600 per week payments are, as it appears most recipients are being paid more on UI than they were when working. This discourages people from returning to work or taking a new job, delaying the recovery.

Recent research published by the University of Chicago estimates more than two-thirds of UI recipients may receive benefits that exceed lost earnings, with more than 20 percent potentially getting double what they used to earn—as long as they don't work. Some will say this is just an academic paper, and that these extra payments aren't really an issue today.

Those folks haven't been reading the many letters I get from Iowans each day, and I'm sure every member on this committee is hearing from businesses having a hard time bringing people back to work or from hard-working constituents earning less than others they know who are getting unemployment.

Let me share a few stories from the letters I've received.

LETTER 1

My daughter went back to work voluntarily because she wanted to help ensure the company would still be around after COVID-19. Many of her co-workers chose to stay home and, due to the \$600 extra per week, are making more than she is. This isn't right.

LETTER 2

Senator Grassley, I am a small business owner who is in desperate need for additional employees, yet I receive very few applications when I post jobs. The issue is

the additional unemployment. With the additional \$600 per week, my potential employees make more on unemployment than they would working.

LETTER 3

We are trying to hire back laid-off COVID-19-related employees (or anyone else too) for \$15/hour and we find that they are receiving the equivalent of \$20/hour in unemployment benefits. Suddenly the government became our competitor. How could that happen?

These letters represent a small sample of those who write in daily with concerns about the additional \$600 payment. Based on these letters and others I'm sure we've all received, you'd think everyone would agree we need to find a better way to help those who have lost income. But you'd be wrong.

Despite mounting evidence of the problems these extra payments are causing, the House passed a bill recently to extend them—not just for a month or two, but for another 6 months, through January 2021. Given this, I asked the Congressional Budget Office what impact these additional payments might have if continued. Here's what they said: *roughly five of every six recipients would receive benefits that exceeded the weekly amounts they could expect to earn from work during those 6 months.*

Employment would probably be *lower* in the second half of 2020 than it would be if the increase was not extended; in calendar year 2021, employment would be *lower* than it would be without the extension. That doesn't sound like a recipe for economic growth, especially given last week's jobs report, which shows people are returning to their jobs and that millions more expect to return soon.

I know everyone is focused on these extra \$600 checks. But let me remind everyone of the other CARES Act policies that continue past July. First, the CARES Act allows those out of work as a direct result of COVID-19 to get UI benefits through December. This includes people who are infected or caring for someone infected, those who can't go to work because their workplace is closed due to COVID-19, and those who rely on day care that's not available as a result of the pandemic.

Second, individuals will get an additional 13 weeks of unemployment benefits if they're still unemployed after State benefits run out. And in States where unemployment rates remain high, further weeks of benefits will also be available. And most importantly, the CARES Act provides funding for what are called "work sharing" programs.

Under these programs, instead of laying off employees, businesses with reduced hours can pay employees a partial UI check to offset lost income. States can also use it to bring back workers on a part-time basis if they can't fully reopen yet. And don't forget, UI isn't the only game in town here.

The CARES Act included many policies to help those affected by the pandemic, including the employee retention tax credit, the Paycheck Protection Program, direct payments to individuals, and other policies designed to help businesses reopen and people to return to work. The UI system will continue to play an important role in addressing the impacts of the pandemic. However, our efforts must be coordinated to help workers and businesses in a way that is most productive.

I look forward to hearing from our witnesses today to learn what's worked, what hasn't, and discuss how we can make sure our efforts in Congress can best support a strong economic recovery.

HHS Initiatives to Address the Disparate Impact of COVID-19 on African Americans and Other Racial and Ethnic Minorities

PRESIDENT TRUMP IS COMMITTED to equipping racial, ethnic, and underserved communities with the health-care resources needed to combat the COVID-19 pandemic. The information below outlines some of the immediate steps underway to improve prevention, testing, and treatment of COVID-19 in minority populations and reduce racial and ethnic disparities.

The administration recognizes that effectively addressing the underlying issue of overall poorer health status in some racial, ethnic, and other underserved communities requires both short- and long-term strategies. Broader initiatives that address both economic opportunity and health-care disparities are critical and the administration has multiple such initiatives underway, including the creation of Oppor-

tunity Zones, the White House Council on Eliminating Barriers to Affordable Housing, and HHS's targeted efforts on chronic underlying health conditions such as diabetes, hypertension, maternal morbidity, and tobacco use, all of which are more prevalent among some minorities. This fact sheet is focused on the immediate steps the U.S. Department of Health and Human Services (HHS) has taken to address the disparate impact of COVID-19 on African Americans and other racial and ethnic minorities.

Improving our Understanding of COVID-19's Impact on Minorities

Reliable and timely data is critical to identify the populations most vulnerable to COVID-19 or any other infectious disease. Currently, however, only a small proportion of data reported to the Centers for Disease Control and Prevention (CDC) includes information on a patient's race or ethnicity. Efforts are ongoing to improve completeness of reporting from public health departments and laboratories, such as developing modernized systems to enable complete and timely reporting that will be used for COVID-19 but will be adaptable to any specific health issue in the future. The CDC continues to collaborate with hospitals, academic institutions and State, local, territorial, and tribal public health partners to gather and report more racial/ethnic data. These collaborations will allow CDC to get more complete data on race/ethnicity, reflected in preliminary data and can inform and improve clinical management of patients, allocation of resources, and targeted public health information.

CDC Is Strengthening Data Collection and Reporting on Racial and Ethnic Minority Populations: The CDC is publishing and updating daily available race/ethnicity data received through case-based reporting from public health departments on the CDC website. HHS has standardized reporting to ensure that public health officials have access to comprehensive and nearly real-time data to inform decision making in their response to COVID-19. Laboratory testing data, in conjunction with case reports and other data, also provide vital guidance for mitigation and control activities and is a critical piece to better understanding the impact on socially vulnerable populations.

CDC's COVID-NET Is Publishing Data on Hospitalizations by Race and Ethnicity: The COVID-NET surveillance system collects data from a network of over 250 acute-care hospitals in 14 states and publishes COVID-19-associated hospitalization rates on a weekly basis. Data are also displayed by age, gender, and underlying condition. From March 1 to May 16, 2020, 82 percent (18,136) of laboratory-confirmed COVID-19-associated hospitalizations reported to COVID-NET included data on race/ethnicity.

CDC Shows Higher Hospitalization of African Americans for COVID-19: In March 2020, the CDC out-lined characteristics and clinical outcomes of hospitalized COVID-19 patients in Georgia, documenting that African American patients were overrepresented in hospital admissions relative to other racial groups.

CDC Is Using Surveillance and Epidemiology to Assess Risk Factors: CDC is complementing its work to gather more real-time demographic data by using surveillance networks and epidemiologic investigations to better understand risk factors for severe COVID-19 disease. These surveillance networks and investigations will allow CDC to gather and analyze data over time to build an evidence base about COVID-19 and how demographics like race/ethnicity, age, sex, occupation and others may increase a person's risk.

CDC Is Using Electronic Health Records: CDC is actively working with multiple vendors and aggregators of electronic health records data (EHR). EHR data are a rich, timely source of detailed clinical and demographic data that can provide insight into COVID-19 and its impact on our communities and families. Further, these data can help us understand and address the impact of COVID-19 on minority and vulnerable communities.

Making Testing More Accessible and Affordable

Expanding Testing at Federally Qualified Health Centers (FQHCs): In May, \$583 million was awarded to 1,385 FQHCs, many of which are located in medically underserved communities and are often the main source of affordable and accessible health care in those communities. Over 22 percent of people served by FQHCs are African American.

A large majority (91 percent) of FQHCs are testing for COVID-19: These funds will support and expand that effort. In addition to the ongoing health center program funding, the administration has invested a total of \$2 billion in community health

centers to respond to COVID-19, ensuring that the 28 million served by FQHCs in a given year have access to the care and testing they need.

Getting Testing at Community-Based Retail Testing Sites: HHS supports public-private partnerships that established COVID-19 testing locations by CVS, Rite Aid, Walgreens, Walmart, Kroger, and Health Mart to accelerate testing for more Americans in communities across the country. The partnerships provide Americans with faster, less invasive, and more convenient testing; protect health-care personnel by eliminating direct contact with symptomatic individuals; and have expanded rapidly to areas that are under-tested and at highest risk of COVID-19. Approximately 70 percent of these sites are located in areas with high social vulnerability, according to the CDC.

Helping States Protect Vulnerable Populations: The CDC awarded \$186 million from the Coronavirus Preparedness and Response Supplemental Appropriations Act and an additional \$631 million from the CARES Act to state and local jurisdictions to support contact tracing, public health surveillance, and testing, all of which are fundamental to protecting vulnerable populations, particularly as communities take steps to reopen. In addition, from the funds appropriated by the Paycheck Protection Program and Health Care Enhancement Act, the CDC has awarded \$10.25 billion to States to increase testing in 64 State and local jurisdictions, and the Indian Health Service (IHS) will be allocating \$750 million to increase testing.

Making Treatment More Accessible and Affordable

Paying for Care of Uninsured Individuals: HHS is using a portion of the \$175 billion Provider Relief Fund to pay for COVID-19-related care of uninsured Americans. Doctors, hospitals, and other providers who have provided testing or treatment for uninsured individuals with a COVID-19 diagnosis can request reimbursement through the program and will be reimbursed generally at Medicare rates, subject to available funding.

Protecting Patients From Debt Collectors: HHS also is protecting uninsured individuals coping with COVID-19 by prohibiting providers from seeking to collect out-of-pocket payments from a patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider. This guarantees that uninsured individuals will not have hospitals or other health-care providers who receive funds from the Provider Relief Fund attempting to collect additional sums for the care provided to support COVID-19 treatment and recovery.

Strengthening Access to Treatments for Substance Use Disorders and Serious Mental Illnesses: Ensuring consistent and ongoing treatment for substance use disorders and serious mental illness is important, particularly as the pandemic has added significant new stressors that may be felt more acutely by the physically and financially vulnerable. The Substance Abuse and Mental Health Administration (SAMHSA) released \$110 million to State, local, and tribal governments to continue to expand access to appropriate treatments. Whether for preexisting mental health conditions or for mental health challenges arising during this emergency, making sure there are enough resources for communities is an essential role for which States can use this funding.

Supporting Hospitals That Serve Low-Income Communities: As elective procedures were canceled, the continued financial viability of some hospitals has been threatened—especially those that were already operating on thin margins because they serve rural populations or care for a disproportionately high number of Medicaid, Medicare, and uninsured patients. The Health Resources and Services Administration (HRSA)'s Federal Office of Rural Health Policy awarded \$150 million to assist hospitals funded through the Small Rural Hospital Improvement Program (SHIP) to assist capacity building in small hospitals to help them provide services to fight COVID-19. Because of the importance of these rural communities, HHS further allocated \$10 billion to support rural providers and targeted an additional \$2 billion to hospitals with a disproportionate share of uncompensated care and seeing 100 or more COVID-19 patients.

Tailored Guidance for Individuals and Communities Most at Risk

CDC Offers Guidance for At-Risk Populations: Through data collected by doctors and epidemiologists across the country, we know that people with underlying health conditions are at elevated risk for complications from COVID-19. The CDC has published information for people who need to take extra precautions. Conditions like diabetes, hypertension, cardiovascular disease, asthma, cancer, and other chronic health conditions that are prevalent at higher rates in some minority communities

can elevate the risk for complications due to COVID-19. The published information offers guidance on how to protect those most vulnerable populations and important information about reducing the risk of severe illness from COVID-19 infection.

Expanding Telehealth Options to Ensure Access to Needed Care

Expanding Access to Telehealth Services: At-risk populations can face additional challenges accessing health care, including transportation and a higher risk for infection. The Federal Government, particularly the Centers for Medicare and Medicaid Services (CMS), has taken steps to make accessing care through telehealth services easier. For example, CMS is helping people enrolled in Medicare to receive medical care using telecommunications technology. CMS also announced a waiver allowing doctors to provide telehealth and other services using communications technology wherever the patient is located, including at home and outside of designated rural areas, even across State lines. The types of telehealth that can be offered can also be flexible. Typically, devices must be equipped with audio and video capability to provide telehealth services. Now, some telehealth visits can be billed for audio-only encounters. The HHS Office for Civil Rights (OCR) also issued a Notification of Enforcement Discretion to empower covered health-care providers to use widely available communications applications without the risk of penalties imposed by OCR for violations of Health Insurance Portability and Accountability Act of 1996 (HIPAA) rules for the good faith provision of telehealth services.

Rural Health Clinic (RHC) and FQHC Flexibilities: RHCs and FQHCs are essential parts of the health-care system, particularly for underserved communities and the uninsured. To expand upon flexibilities to increase access to care, CMS released information for RHCs and FQHCs on Telehealth and Virtual Communications Flexibilities during COVID-19. Using telehealth protects patients at highest risk from potential exposure to COVID-19, allows for the provision of health care to manage both chronic and acute health issues, and also helps those who may have transportation challenges in getting to their provider.

Expanding Funding for Telehealth Programs: HHS, through HRSA, has awarded money through several different programs to expand telehealth availability. First, HRSA awarded \$11.5 million through Telehealth Resource Centers. HRSA also awarded \$20 million to increase telehealth access and infrastructure for providers and families to help prevent and respond to COVID-19.

Telehealth for Medicaid Substance Use Disorder Services: CMS released an Informational Bulletin to States that identifies opportunities for telehealth delivery methods to increase access to Medicaid services for substance use disorder.

Strengthening Outreach and Effective Communication on COVID-19 to Minority Communities

Improving Outreach and Communication on COVID-19 to Minority Communities: HHS's Office of Minority Health announced a competitive funding opportunity to invest up to \$40 million for the development and coordination of a strategic network of national, State, territorial, tribal, and local organizations to deliver important COVID-19-related information to racial and ethnic minority, rural and socially disadvantaged communities hardest hit by the pandemic. In addition, the award will support linkages to COVID-19 testing, vaccination, other healthcare services and social services in communities highly impacted by or at greater risk for COVID-19.

Enforcing Civil Rights Laws During the COVID-19 National Public Health Emergency: In March 2020, OCR issued a bulletin to ensure that entities covered by civil rights authorities, including section 1557 of the Affordable Care Act, are aware that their obligations under laws and regulations that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, religion and exercise of conscience in HHS-funded programs, are not suspended in the provision of health-care services during COVID-19.

Ensuring Access to Language Assistance Services During the COVID-19 National Public Health Emergency: In May 2020, OCR issued a bulletin to covered health entities to ensure they continue to serve individuals with limited English proficiency (LEP) during the COVID-19 emergency. Under regulations implementing section 1557 of the Affordable Care Act, recipients, including hospitals and other health-care providers, must take reasonable steps to provide meaningful access to individuals with LEP eligible to be served or likely to be encountered in their health programs and activities.

National Network to Eliminate Disparities (NNED) in Behavioral Health: SAMHSA continues to operate the NNED in Behavioral Health, which is a network of over

1,100 community-based organizations across the country serving primarily ethnic minority populations. The NNED provides training and informational resources. During the COVID-19 pandemic, the NNED has accelerated the development and release of informational materials, including CARES Act provisions, to these communities. It has hosted virtual webinars and roundtables focusing on strategies to address mental health and substance use issues exacerbated by the pandemic in minority communities.

Multilingual COVID-19 Information: The Food and Drug Administration (FDA) has increased outreach by developing and disseminating COVID-19 health education materials for consumers in multiple languages. The agency's official COVID-19 webpage has been translated into Spanish and includes the FDA COVID-19 Frequently Asked Questions (available in English and Spanish). The FDA has also created a COVID-19 Multilingual Resources webpage that features a growing collection of educational materials in Spanish, Simplified Chinese, Korean, Vietnamese, Tagalog, among other languages. To further enhance outreach and dissemination, the FDA launched a COVID-19 Bilingual (English/Spanish) Social Media Toolkit that features consumer friendly messages and culturally appropriate graphics.

PREPARED STATEMENT OF LES NEILLY, PRESIDENT,
NEILLY CANVAS GOODS COMPANY

Good afternoon, Chairman Grassley, Senator Wyden, and the other distinguished members of the Senate Finance Committee.

It is an honor and a privilege for me to represent small business owners across our great country, and to express my experiences regarding the extra \$600 per week pandemic unemployment compensation enacted as part of the CARES Act. I know I am not alone as countless other small business owners have had similar experiences. My name is Les Neilly, president and controlling owner of Neilly Canvas Goods Company, a fourth-generation family business that manufactures tarpaulins (tarps) for trucking and industrial use and we also make, install, and service commercial and residential awnings in the fabled Strip District in Pittsburgh, PA.

I got thrown into the business at the age of 20 upon the sudden and untimely death of my father, Harry Neilly, at the age of 47 on May 11, 1976. I helped my mother, Faye Neilly Renz (later remarried) run the business until her retirement in 2013 at age 81 after she had a minor stroke which caused her to lose her peripheral vision to the left in both eyes. She failed the mandatory eye test required by the State of Pennsylvania that all stroke victims must take, lost her driver's license, and immediately declared, "I retire."

My brother Drew and I have been running the business ever since and became the owners when our mother signed the business over to us effective January 1, 2019. We have nine full-time employees and two part-time employees between our two locations. We have one full-time employee in our satellite location in Dundalk, MD outside of Baltimore.

We offer our employees medical coverage. We pay about 60 percent of the premium and the employees pay the remaining 40 percent. We provide vision coverage for all our employees, and we offer dental insurance as an option the employees can take as a payroll deduction. We also offer AFLAC insurance products as a payroll deduction.

We provide three paid personal days per year and paid vacation of 1 to 3 weeks earned depending on the amount of seniority. We pay the six standard holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.

We also offer a SIMPLE IRA retirement plan for all who would like to participate. The employees can contribute any amount they choose up to the maximum limit as legislated. Neilly Canvas matches up to 3 percent of the amount the employee puts into the SIMPLE IRA plan.

Our employees make between \$14.00 and \$21.25 per hour, in addition to the benefits described above. We also pay time and one-half for all hours worked over 40 hours per week. With the passage of the CARES Act, the extra \$600 per week of unemployment compensation amounts to \$15.00 per hour based on a 40 hour work week. The pandemic unemployment compensation alone pays our lowest-paid employee more than they make working a 40 hour work week, and all they had to do was sit at home and do nothing.

Pennsylvania Governor Wolf announced the shutdown of all non-essential businesses on Thursday, March 19th, effective immediately. Since we make tarps for the trucking industry, which is an essential industry, we were able to continue to operate. However, due to the lack of orders from our customers, we laid everyone off effective Monday, March 23rd, announced at the end of the day on Friday, March 20th. Drew and I went to work every day to answer the phones and make the small orders that came in.

By the end of the second week of the employees being laid off, we had enough orders to call two people back to work for Monday, April 6th. We received some additional orders that week and called two more people back starting on Thursday, April 9th. We continued to operate with four employees in Pittsburgh and the one employee in Dundalk, MD for the next 3 weeks.

On the third week back to work, Friday, April 24th was payday. We pay our employees bi-weekly, with a one week lag from the end of the pay period until the employees get paid for the previous two weeks worked on the following Friday.

Just before noon on April 24th, one of the employees completed an order and brought it up to my office. They asked to see their pay stub, as all of our employees have direct deposit. I handed it to them, and they opened the envelope and looked at it, then started complaining to me and asked me why they were working and the employees at home were not. They then stated that their co-workers who were still at home laid off were making more money than those employees who were working, and that wasn't fair. They told me that they and their spouse were going back on unemployment, which I missed hearing during our conversation, and they didn't show up for work on Monday, April 27th, or Tuesday, April 28th.

Immediately after the first employee left, a second employee came into my office with the same complaint, saying they were missing out on a lot of money by working and not being laid off. They asked if it was possible to have a rotating schedule with the employees who were still laid off so everyone could participate in getting the extra \$600 per week instead of their co-workers who were laid off the entire time. They stated they knew I was trying to run a business, and understood that I had to make tough decisions, but they were missing out on the extra \$600 per week the Federal Government mandated for the laid-off workers every week, and they wanted to share in the "pot of gold."

We applied for the Paycheck Protection Program loan through a small community bank that we had worked with previously. We received immediate approval and the money was deposited in our payroll account about a week later, on Tuesday, April 28th.

Once the PPP money hit our account, I called all the employees who were laid off and told them to report to work on Wednesday, April 29th, because we received the PPP money. The remaining laid-off employees reported for work on Wednesday, April 29th, including the married couple who declared on Friday, April 24th, they were going back on unemployment.

When the married couple checked into getting paid for a partial week of unemployment, they discovered they were ineligible for two days of unemployment and a partial payment of the extra \$600. Since Congress legislated the extra \$600 per week in unemployment compensation, the married couple figured they could just put themselves back on unemployment. It cost them two days of wages. That was another negative ramification of this provision.

I held a meeting with all employees first thing on Wednesday, April 29th. I explained the PPP loan and our requirements as an employer. We are responsible for getting everyone back to work who was employed previously, and the company must use at least 75 percent of the PPP money for payroll and medical benefits, and 25 percent of the PPP money for a few other expenses to be eligible for loan forgiveness. We also instituted paying every employee a \$20.00 per day bonus for each day they worked through the end of June, retroactive to when we called back the first two employees. We did this as an attempt to ease the resentment of the people who worked versus the laid-off employees. Since everyone was called back to work, everything now seems to be okay regarding employee attitudes and morale.

May I suggest, as a business owner and someone who, like many other small business owners who have experienced similar situations as I did regarding employees who were working being resentful that they were not receiving the extra \$600 per week unemployment compensation like their co-workers who continued to be laid off, DO NOT pay someone more money than they make in a 40-hour work week.

Pay the laid-off workers the full amount they earn in a 40-hour work week to make them whole, but nothing extra. Paying someone laid off more than they make in a week for unemployment compensation is rewarding them for being laid off and penalizing an employee who is helping the company survive and move forward because they are working.

Owning a small business, or any size business, is hard enough on a daily basis without having to deal with situations created by Congress that put business owners in a position to mitigate resentments between employees. Employees who are working to help keep the business afloat feel frustrated and angry that their laid-off co-workers are reaping “rewards” bestowed upon them by elected representatives, many of which have never owned a business to understand the ramifications of policy decisions and the potential precarious situation it puts business owners in.

Further, I am concerned that small business owners who survive this historic downturn will be saddled with high unemployment taxes as a result of this policy. I worry that this \$600 per week incentive will entice employees to remain on an already overburdened unemployment system rather than return to work.

Thank you for allowing me to express my experiences regarding the extra \$600 per week Federal pandemic unemployment compensation. I appreciate the opportunity to appear in front of the Senate Finance Committee representing small business owners, and I hope you consider my testimony when contemplating future legislation to extend the CARES Act unemployment compensation and the amount paid to laid-off workers on a weekly basis.

QUESTIONS SUBMITTED FOR THE RECORD TO LES NEILLY

QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

Question. Many employers across Pennsylvania and across America are facing similar circumstances in which employees are discouraged from returning to work because of distorted government incentives. As you know, approximately two-thirds of Americans on UI are earning more on unemployment than they previously were while working, meaning that many small businesses across America will be faced with this same difficult situation as you were. The loss of a job is not merely the loss of a paycheck, but is also a loss of routine, purpose, and connection with others.

Do you believe that long-term unemployment could have negative effects on Americans’ well-being and mental health?

Answer. I do believe that long-term unemployment has a negative effect on the American people, as we have seen a rise in suicides, depression, overdoses, and domestic violence since the Wuhan virus led to the shutdown of much of the economy and businesses. I cite the article from *The Washington Post* from May 4, 2020. This is the link to the article, <https://www.washingtonpost.com/health/2020/05/04/mental-health-coronavirus/>. When people aren’t working and they are at home, they have more time to think and dwell on the negatives, questioning their worth, they feel they are letting their families down, and it could lead to a tragic outcome for the individual and have a direct effect on their family unit.

Question. Do you believe that the extra \$600 UI benefit encourages workers to stay on UI for a longer period of time?

Answer. Yes, I believe the extra \$600 per week UI benefit has a negative effect on the unemployment situation. I feel it encourages employees to want to stay on unemployment because in about 70 percent of the time, the laid off worker makes more money with the extra \$600 UI than if they were working and getting their regular paycheck for a week. As I mentioned in my written and oral testimony, it also creates animosity and resentment from the employees who have been called back to work to help the company while their co-workers who are still laid off are making more money sitting at home not helping the company move forward. Is that fair to the employee working, I think not, and it created an awkward situation for me to be in when our employees complained to me about the scenario described above. I was trying to run a business and make decisions to help keep it afloat under the strained circumstances caused by the shutdown, and I also had to deal with employee unrest caused by our Federal elected officials giving laid off workers an extra \$600 per week UI.

PREPARED STATEMENT OF JOSÉ JAVIER RODRÍGUEZ,
STATE SENATOR, FLORIDA SENATE

Chairman Grassley, Ranking Member Wyden, and honorable committee members, the following is my testimony submitted for your consideration in my capacity as a State legislator serving in the Florida Senate who has advocated for out-of-work constituents.

Unemployment systems, when they work, give workers, their communities and oftentimes even employers an economic bridge over troubled water. In these unprecedented times, with the CARES Act¹ you have done a great deal of good. For that, I thank you on behalf of the constituents that I serve back home in Florida.

Florida entered this economic crisis with one of the (if not *the*) least prepared unemployment systems. None of its flaws were hidden.

There is no State that currently provides a fewer number of weeks. Florida is near the bottom in State benefit amounts, capped at \$275 per week. Florida also has major gaps in eligibility rules; and because of those rules, last year only 11 percent of out-of-work Floridians were able to collect unemployment, lower than all but one other State. Added to that, the application and payments system is infamous for its failures, as well as for how persistent those failures are, having endured unchanged through several gubernatorial terms, successive audits and prior Federal intervention. Even before COVID-19, Florida was not meeting DOL² metrics on promptly paying benefits.

I serve a half-million residents of Miami-Dade County in the Florida Senate. We live and breathe trade, tourism, and hospitality.

The CARES Act has lifted many of my constituents when Florida's system alone would not have. The PEUC program³ adds 13 weeks to our paltry 12 weeks. Last week our first constituents got on it; without it they would have been cut off without having yet found work again.

The PUC program⁴ adds \$600 a week until July 31st. Its design is simple. It goes right where it's needed: to out-of-work Americans who spend it in their communities on necessities. It is the easiest program to administer, and that is a significant benefit in States like Florida with so many problems getting benefits paid.

Ricardo, 56, worked as a bellman at the Fontainebleau Hotel for 8½ years before his layoff in March. A diabetic, he loses his health insurance this month. He wants to get back to work but his industry has not returned. He wanted me to tell you the added "\$600 is necessary for me to survive, including being able to pay for my medications. I have been paying my taxes since I was 14 years old. I have been working for decades. I've never collected unemployment. This money is not a luxury, it's a necessity."

Karen, 30, worked in marketing at Gulfstream Park Racing and Casino for 9 years before being laid-off during the pandemic. She hopes to return and is looking for work in the meantime. A single mother to a 9-year-old daughter, she needs the \$600 added benefit to keep paying her bills. She wanted me to tell you "[m]y fear is that me and my daughter will end up homeless without this. I waited over a month to receive Florida's unemployment and honestly \$275 a week is just not enough. This Federal aid is important to help us for all we do as taxpayers."

Randi, 47, is the mother of an 8-year old boy and 5-year old girl. A recruiter for over 20 years, she owned her own business for the last 4. She had a thriving business until the pandemic and after an "arduous" application process she was able to file on March 22nd; but only just received her first payment last week. She needs the economy to pick back up to get back to work and wanted me to tell you "[u]nfortunately this \$600 has become vital to me and my family. We are relying on that money for basic needs, like food, utilities, etc., as well as finally being able to buy my daughter a toy. Seems simple, but we've been in quarantine since March 15th and I haven't been able to buy my children anything."

¹The Coronavirus Aid, Relief, and Economic Security Act, Public Law No. 116-136 (March 27, 2020).

²U.S. Department of Labor.

³Pandemic Emergency Unemployment Compensation or "PEUC" was created by section 2107 of the CARES Act.

⁴Federal Pandemic Unemployment Compensation or "PUC" was created by section 2104 of the CARES Act.

With the CARES Act, you also shored up a highly successful layoff aversion program called Short Time Compensation, or STC. Businesses want to do the right thing and often need help, like Bernie, a small business owner we assisted. He employed 17 people before the crisis and will avoid layoffs by implementing a work-share program with an STC.

Unemployment is a Federal/State partnership. Oversight of the administration of our unemployment systems is on your side of the deal. Despite the successes of your programs, that oversight is sorely needed.

On top of design flaws coming into the crisis, Florida's system was, and continues to be, slow, unreliable and inept in its response to the crisis in general; and in its deployment of CARES Act programs specifically. Other State agencies in Florida have been able to deploy Federal flexibility and resources effectively; but not the Department of Economic Opportunity, or DEO, who administers our unemployment programs.

For hundreds of thousands of Floridians the system was effectively down, inoperable and inaccessible, for at least the first half of the crisis, punctuated by unmet ever-changing goals and seemingly-never-ending mishaps. So bad was it that Florida earned the distinction of being the only State in the Union paying out less than it received during the period. Florida's employers have dutifully paid taxes to fund a system we all needed to function; but it did not.

Leah, 63, worked part-time for an airline to pay the bills. A recent survivor of lung cancer whose job could not be performed remotely, she was considered "compromised" and became unemployed on March 20th. She could not apply because the system crashed daily for weeks. After DEO, out of sheer desperation, created a paper application, she mailed one in on April 13th. The first day she was "in the system" was May 3rd. Were it not for assistance from our office she would not have been able to adjust the date of her claim and would have lost over a month of benefits.

The ordeal for many is like the ancient military punishment of running the gauntlet. Unlike Leah, Randi, Karen, and Ricardo, thousands have not made it through the gauntlet and are left in limbo for weeks and months. No response. No reasons given. No assistance from DEO. More than half speak credibly of threatened or certain eviction once a moratorium is lifted. Many ask about food assistance, going hungry for the first time in their adult lives. Savings decimated, retirement plans a memory, others worry for their high school graduates whose futures they are less certain to support. They include a worker furloughed from a department store, another laid off after 20 years in the restaurant industry; single parents with young children and caretakers of children with disabilities or frail parents.

Florida's failures have worked a special hardship on people, adding needless anxiety and uncertainty to economic pain. There's a bipartisan group of legislators whose offices field a bulk of the calls. Each of us has a list we manage of critical cases to informally bump up to DEO and finally get them paid. The lists have different names but internally we called ours the "exigent circumstances" list. Applicants get on whose live circumstances, including those who depend on them, are especially difficult without income. Applicants also get on—and these are real examples—if we hear one say "I'm at the end of the road;" a middle-aged man say "I'm struggling to maintain a positive attitude and my wife is afraid that this could be the death of me—please help sir, I'm desperate;" a young man say he fears "something very bad" will happen to him if he cannot get back on his feet; or that a mother of a 2-year-old is at the "end of [her] rope." We err on the side of caution in alerting the appropriate people, of course, before adding them to the list.

The DEO has been so inconsistent and unreliable in deploying assistance—having yet to put in place a system where the majority of call-takers are both trained and have authority to address callers' issues—and has done such a poor job communicating its last-minute and ever-changing rules around CARES Act programs, that networks of legislators, applicants, and journalists dispense the latest advice with greater efficiency than DEO. The best tips on making it through the system are effectively crowdsourced.

Florida remains an outlier in deploying the CARES Act. In Florida, of those deemed ineligible for traditional unemployment only about one-fourth end up qualifying for the COVID-19 catch-all program in the CARES Act, the PUA program,⁵

⁵ Pandemic Unemployment Assistance or "PUA" was created by section 2102 of the CARES Act.

that includes coverage for independent contractors, the self-employed and others who normally would not be eligible. That rate is far below that of other States. It remains unclear why, although Florida's late start—creating a PUA application 5 weeks after the CARES Act was passed—may account for part of the explanation.

One of the latest issues to surface is that it appears DEO is awarding many applicants the minimum level of benefits under the PUA as a default without advising them of the need to request a “monetary determination” to adjust their benefits up to the level they are entitled to receive. Such a self-inflicted wound further deprives the State of Florida access to our own tax dollars via the CARES Act.

In other States, individuals exhausting traditional benefits are transitioned onto PEUC's additional weeks as automatically as possible; but not in Florida. Despite early promises to make it seamless, DEO created a PEUC application for those who have exhausted traditional benefits, increasing the likelihood that many of those applicants will never get onto PEUC.

Finally, it appears that the State of Florida has only paid out about half of the \$600 weekly benefits available to Floridians under the simplest program to administer: the PUC. This comes more than two months since the CARES Act was signed into law.

The health of Florida's unemployment trust fund is an illusion that relies on the Nation's stingiest benefit levels and on an architecture so cumbersome and inaccessible for so long that it seems that way by design. Florida's experience should serve as a lesson to other States. The economic crisis may tempt others to do what Florida did in the wake of the last economic crisis: shrink, starve and ignore its unemployment system. If they do, it will be a State legislator from their State delivering these remarks next time.

Continued Federal attention is warranted in the form of Federal oversight of States' administration of unemployment systems to ensure full and fair access to benefits, along with resources for them to modernize their infrastructure. In addition, CARES Act programs ought to remain in place until a recovery has reached all major sectors of our economy. Otherwise, for communities like mine I fear it will set us back in our path to recovery.

PREPARED STATEMENT OF SCOTT B. SANDERS, EXECUTIVE DIRECTOR,
NATIONAL ASSOCIATION OF STATE WORKFORCE AGENCIES

Chairman Grassley, Ranking Member Wyden, and members of the committee, on behalf of the National Association of State Workforce Agencies (NASWA), I thank you for the opportunity to testify and submit written testimony to discuss the efforts made by our members to provide essential unemployment insurance benefits to workers who have lost their jobs because of and during the COVID-19 pandemic.

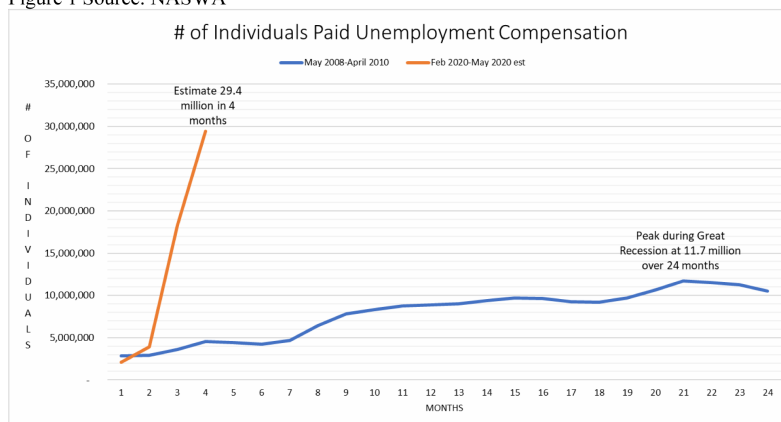
The members of our Association are State leaders of the publicly funded workforce development system including the unemployment insurance (UI) program. NASWA serves as an advocate for State workforce programs and policies, a liaison to Federal workforce system partners, and a forum for the exchange of information and practices. NASWA is a private, non-profit corporation, governed by a Board of Directors elected from the Administrators of the State workforce agencies. We are nonpartisan and our membership includes all 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Our dedicated members have been working tirelessly to implement the new unemployment insurance programs under the CARES Act which was signed by the President on March 27, 2020, just over 2 months ago. The new Federal Pandemic Unemployment Compensation (FPUC), the additional \$600 to be made with other UI payments, was implemented by all States by the end of April. The new Pandemic Unemployment Assistance program (PUA) requires State UI programs to pay self-employed individuals on a State-wide basis which has never been done before in any State. Our information is that 38 States and the District of Columbia paid PUA by the end of April and all States by the end of May.

Claims both in the regular programs and the new UI programs have increased drastically. In February 2020, the average number of weekly payments was 2.1 million. By May 2020, the average number of weekly payments skyrocketed to 29.4 million. In contrast, during the Great Recession, the peak was just 11.7 million (See Figure 1). No entity, public or private, would reasonably have contingency plans in place for this scenario to which States have responded, yet our member agencies

have continued to work through these overwhelming workloads tirelessly, and with great dedication. Against this backdrop, I will highlight three of the primary challenges that States are experiencing during this UI crisis: Promoting Integrity, Trust Fund Solvency, and Administrative Funding (to handle the increased volume, including the area of information technology (IT) systems).

Figure 1 Source: NASWA



1. PROMOTING INTEGRITY

Our members work hard to assure the integrity of the unemployment insurance program. An important part of integrity is making sure that key program components are easy for claimants to understand and for agencies to administer.

NASWA, in partnership with the U.S. Department of Labor (USDOL), developed the UI Integrity Center in 2015 which has allowed States to share best practices, assisted States in reducing improper payments, created and utilized State intensive services teams, the national integrity academy, the integrity knowledge exchange and more recently, the integrity data hub (IDH).

As a result of the large number of regular UI State and PUA claims, States are seeing a rise in fraudulent activity. There are four significant factors that have contributed to the increase. First, despite rules allowing States 21 days to make payment, there is intense public pressure to issue payments quickly. Second, the large number of incidents over the past few years where massive amounts of stolen personal identifying information has occurred. Third, the lack of individual employment data for States to verify PUA claims. Finally, the ability of claimants to self-certify eligibility for a PUA claim.

As States rapidly adjust to these new and increasing threats, the IDH is playing an integral role. The IDH is an innovative data and information sharing system that for the first time allows States to immediately compare mass volumes of claims with each other. The IDH allows for use of a suspicious actor repository, suspicious email domains, multi-State cross matching, monitoring foreign and suspicious IP addresses, and fraud alerting. In addition, the IDH harnesses the power of the investigative work of all States for the benefit of each individual State as they report their findings. States are acting quickly to utilize the IDH, and as they increasingly begin using this system, the national fraud schemes we have seen recently will be detected in all States as soon as they are detected in one State.

These cross State collaborative efforts will continue to enhance NASWA and its members' ability to promote nationwide efforts on the integrity of all UI claims.

2. SOLVENCY OF STATE UNEMPLOYMENT INSURANCE (UI) TRUST FUNDS

Recessions offer significant challenges to maintaining adequate State UI trust funds due to increased benefit outlays, extended durations of claims, and declines in taxable payrolls resulting in decreased UI revenues. The crisis currently facing many State UI trust funds is unlike anything in the history of unemployment insur-

ance. During the Great Recession, 36 States depleted their trust funds leading toward the ultimate cumulative borrowing of \$51.2 billion from Federal general revenues to finance regular UI benefits.

As a result of the economic impact of the pandemic, trust fund balances are beginning to rapidly deplete. At the end of 2019, the total trust fund balances in all States totaled \$75.7 billion. This amount has dropped to \$52.2 billion as of May 31, 2020. Since March 31, 2020, eight States have seen their trust fund balance decline by more than 50 percent and another 21 States have seen trust fund balance reductions ranging from 25 percent to 50 percent.

Adding to this concern, States have already collected approximately 65 percent of their tax revenue for 2020. With the dramatic increase in weekly claimants, the outflow of benefits will far exceed the deposits, exacerbating the declining trust fund balances.

To determine UI tax rates for employers in 2021, the level of the State's trust fund is a key variable in setting the applicable tax rate. This determination is usually done between July to September, so the status of each State's trust fund in the next few months will have significant bearing on next year's tax rate. With drastically lower balances, we can expect significant increases in UI tax rates in most States, which will hamper businesses as they try to bounce back economically and generally hinder our economic recovery.

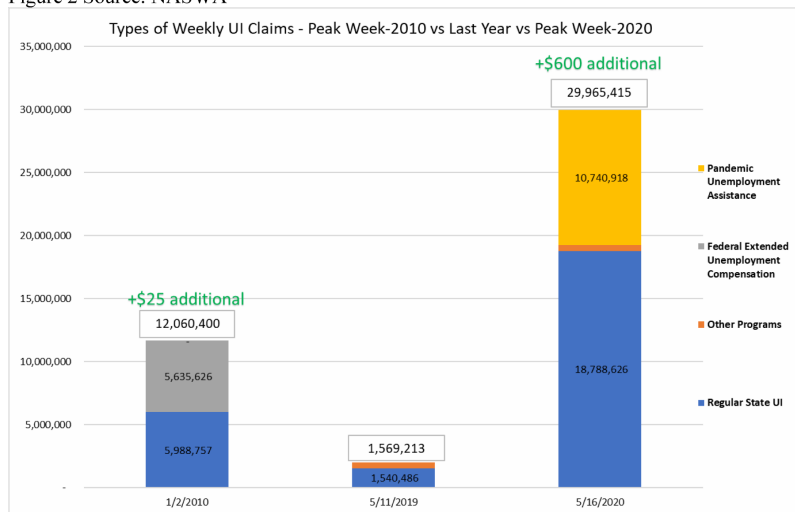
There are two options for Congress to consider in averting this impending trust fund crisis. First, Congress could enact legislation to forgive trust fund loans made to States this year or next. Providing loan forgiveness would help ensure employers avoid layoffs that would otherwise occur, due to an increase in employer UI taxes.

Another option would be for Congress to direct a Federal payment to State UI trust funds, which would provide immediate support. Funds could be distributed to the States by using the formula process as done with administrative funding or a Reed Act (Pub. L. 83-567) distribution—this approach was utilized to address a rapid increase in unemployment after the 9-11 attack (Pub. L. 107-147 Section 209).

3. ADMINISTRATIVE FUNDING INCLUDING NEED FOR FUNDING FOR IT SYSTEMS

In 2010, the week ending January 2nd, was the peak week of claims payments during the 24 months (May 2008 to April 2010) of the Great Recession (Figure 2). States paid a total of 12.1 million claimants with roughly 6.0 million in regular State UI claims, along with 5.6 million claimants in Emergency Unemployment Compensation (EUC), a new program at the time. In addition, States had to add an additional \$25 Federal Additional Compensation (FAC) to each claim.

Figure 2 Source: NASWA



For comparison, last year for the week ending May 11, 2019, States paid a total of 1.6 million claimants. State workforce agencies' staffing levels reflected these lower claim levels. These reduced staffing levels were also a result of flat lined funding prior to the pandemic.

In sharp contrast, the week ending May 16, 2020, States paid a total of 30.0 million claimants with roughly 18.9 million in regular State UI claims, along with 10.7 million claimants in Federal Pandemic Unemployment Assistance (PUA), a new national program. In addition, States were asked to add the FPUC \$600 to each claim. These phenomenal increases in claims explain some of the extraordinary challenges States have faced in processing and paying UI claims during the pandemic.

Through this crisis and the rising number of claimants and new programs, States have made significant changes in the way they operate their UI programs. States have waived work search and other requirements to ensure that individuals who have lost their jobs are not penalized by the pandemic. States have mobilized new call centers; hired, borrowed, and outsourced staff; and purchased new and/or modified existing IT systems. While the additional \$1 billion funding provided to the States in the Families First Coronavirus Act has assisted States to meet the challenges of the CARES Act, there is more that needs to be done to manage the continued downturn and future recessions.

UI Administrative funding continues to decline in real dollars relative to the growth in the number of claimants covered in the program. The administrative funding factors used to determine the actual costs of providing adequate funding levels for State operations remain largely unchanged since the mid-1980s. An example of this steady erosion in the funding is evident by a specific line in UI appropriation language which is particularly critical now, "an additional \$28.6 million shall be available for obligation for every 100,000 increase in the AWIU level," a dollar amount which has remained unchanged since the mid-1980's. A simple inflation adjustment to the dollars per 100,000 claim increase would almost double the amount of marginal funding available to States to administer the program during the current COVID-19 period.

Since the early 2000s States have been required to annually report to the USDOL an estimate of the funding levels they need to run an effective program. Because of budget and appropriation limits (outside of State control), the estimated funding levels have never been achieved, forcing States to constantly understaff and under resource their operations. This year-to-year underfunding has cumulatively affected States' abilities to make capital investments, specifically in IT resources.

As Congress addresses the immediate need to provide additional funding for State UI operations, NASWA also recommends updating the basic methodology of the ad-

ministrative UI funding process to ensure a strong UI system that will meet today's needs as well as the needs of potential future recessions.

In closing, as Congress considers extending or adding new programs, NASWA and our member States look forward to working with you to ensure that integrity is maintained and that any extensions or new programs for claimants are delivered in an efficient and timely manner.

Thank you for providing this opportunity to testify on the three important issues of Promoting Integrity, Trust Fund Solvency and Administrative UI Funding. NASWA looks forward to continuing to work with the committee to address the needs of our member States, job seekers, and employers during these challenging times.

QUESTIONS SUBMITTED FOR THE RECORD TO SCOTT B. SANDERS

QUESTION SUBMITTED BY HON. JOHN THUNE

Question. Unemployment offices in States across the Nation continue to be overwhelmed with unemployment claims, even as the number of unemployment claims level off. In addition, States' unemployment systems are dated. These two factors likely make additional changes to unemployment programs potentially overly burdensome on unemployment agencies.

Can you speak to the general capacities of State unemployment systems and to what degree they may be able to accommodate further programmatic changes in terms of the administration of unemployment compensation?

Answer. The challenges States faced in implementing the CARES Act programs were driven by several factors:

- Staffing and resources were at the lowest level in decades, due to historically low unemployment rates before the pandemic.
- The sudden increase in demand was unlike any other ever in the history of the UI program.
- The CARES Act created three new programs, all of which were immediately effective. And given the lead time for USDOL to issue guidance, essentially retroactively.
- Annual appropriations for UI Administrative funding have been in long term decline since the 1980s, resulting in inadequate investments in the modernization of UI information technology systems.

If States were asked to implement further programmatic changes, similar challenges would result, but Congress could help minimize those struggles by:

- Enacting legislation with a prospective implementation date, providing States with an adequate lead time before any changes are effective.
- Designing the legislation to meet policy goals with minimal change to existing programmatic features and without implementing additional new programs.
- Providing a significant new infusion of UI Administrative funding in the next stimulus package.

QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

Question. In Pennsylvania, the State unemployment agency has discussed the difficulties of administering the PUA system in particular. In addition to the initial lack of guidance, this program is particularly ripe for fraud, given that claimants can self-certify their own eligibility and that they don't have to provide up-front evidence of prior income.

Are the problems with administering PUA in particular due to primarily the inherent structure of the program (for example, the fact that it is self-certifying), or could they be largely resolved by a modernized IT system?

Answer. There is an inherent conflict in the necessity to pay PUA benefits quickly and the ability of States to validate information provided by claimants. With the regular State UI program, States have access to employee wage records submitted by employers to validate earnings. States have also developed processes and other informational channels, such as separation notices to employers and the Directory of New Hires, to validate a claim. Wage records and many of the other resources used to validate regular UI claimants do not exist for self-employed PUA claimants.

This is true whether a State has a modernized system or not.

Question. I understand that NASWA has set up an Integrity Data Hub, to “allow participating UI agencies to crossmatch UI claims against a database of information associated with potentially fraudulent claims or overpayments.”

Do you believe that States cross-checking benefit claims with this database could effectively reduce improper payment rates?

What other steps can States take to prevent large-scale fraud, to ensure that funds go to where they are most needed?

Answer. NASWA’s Integrity Data Hub is a proven solution in helping States identify and prevent fraudulent benefit payments. Even with the information from the Integrity Data Hub, States must have the necessary trained staff to act on the crossmatches and other information they receive from the system. If all States were fully participating in the Integrity Data Hub and acting on the information provided, we believe it would provide significant reductions in UI fraud.

The large-scale fraud occurring in the UI and PUA program is mainly due to identity theft. Some steps States can take are:

- Discontinue direct deposit and require claimants to receive a State issued debit card. This is not a popular option but a significant portion of UI fraud is occurring through direct deposit.
- Invest in identity verification tools—The Integrity Data Hub will begin providing identity verification for all participating States in July through a NASWA partnership with Experian. There is no cost to States to participate.
- There are many Federal agencies (IRS, SSA, HHS, FEMA) that all have data on prior fraudulent activity in their programs, yet few if any of those agencies share that information. For example, the IRS maintains data on bank accounts that have been used to receive known fraudulent tax returns. Making these bank account numbers available to other agencies for real time crossmatching would thwart the efforts of fraudsters identified by the IRS from exploiting other Federal programs as well. This could be done without sharing the heavily protected PII of tax payers. Federal legislation that requires these agencies to share specific and relevant data, similar to how the Integrity Data Hub functions for State UI agencies, is a much needed step in fraud prevention.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

UI SYSTEMS

Question. Secretary Scalia spoke at length in his testimony about how “one of the greatest challenges in the UI system is the information technology infrastructure used by States to administer their programs”—which was primarily why the \$600 “plus up” in the CARES Act was set at a flat rate. But, these system challenges aren’t new—these same system issues occurred back during the Great Recession. Ms. Townsend, you also describe the complexities with Iowa’s legacy system in your testimony.

What system changes do you think would help States be better prepared for the long term in case we ever face a situation similar to COVID-19 again?

Answer. The information technology infrastructure challenges States have faced during COVID-19, and during the Great Recession, are the result of a decades-long underinvestment in the UI program. Since the early 2000s, States have been required to report annually to DOL an estimate, using a DOL-developed model, of the funding levels necessary to run an effective program. Due to Federal budget and appropriation limits, those funding levels have never been achieved, forcing States to constantly understaff and under-resource their operations. This chronic underfunding has cumulatively affected States’ ability to make capital investments, including information technology.

With adequate investment, State UI information technology systems could be modernized, componentized, shared, cloud-hosted, and scaled for future events. These systems would have two critical features often lacking today: flexible functionality to allow States to implement quickly new programs that Congress inevitably enacts with no advance implementation timeline in response to economic events; and scalability to allow for rapid increases in workload.

WORK SEARCH REQUIREMENT

Question. Most States, including Indiana, waived job search requirements in order to encourage people to stay home and prevent further spread of the virus. But, now as States start to re-open, employers are recalling their workers or hiring additional staff to get their businesses up and running—and are having difficulty doing so because of the additional UI plus-up.

At what point will be it reasonable for workers to be expected to search for work as a condition of receiving unemployment?

How will that happen?

Answer. States are having discussions now about when and how to reintroduce work search requirements. The reinstatement of work search requirements will vary State by State; most States waived work search requirements by executive order.

\$600/UI SYSTEMS—FUTURE LEGISLATION

Question. Some recent proposals in the Senate have included triggers and other mechanisms to continue the \$600 plus-up post-July. Based off what was described in many of your testimonies about the complexities surrounding the rigidity and age of State UI systems.

Is it even possible for States to implement these types of proposals?

If so, how long would claimants have to wait until those States get those systems up and running?

Answer. States will face challenges in implementing a modified Federal Pandemic Unemployment Compensation (FPUC) program that differs significantly from the existing FPUC program created by the CARES Act. The length of time to implement will depend on the factors involved with the new method.

Proposals that aim at tailoring the “plus-up” to individuals’ earnings will prove challenging. There are two main factors—availability of data, and individualized calculations. State UI programs base eligibility calculations on quarterly wage records that are reported by employers well after the quarter has ended—thus there is a lag in data. The data is an aggregate wage total for the quarter—not hourly and not weekly. Requiring States to gather new data from workers or employers will substantially slow implementation as compared to a system based on information already within the agency. Any program changes involving individualized calculations will also require programming and testing.

The current FPUC program is also payable to recipients of Pandemic Unemployment Assistance (PUA). The rubric and data available for PUA implementation vary significantly from regular UI, with many claimants eligible for minimum benefits without proof of earnings. New processes would need to be adopted and capacity created to receive and analyze earnings data for self-employed or gig workers.

If Congress chooses to implement further programmatic changes, we suggest also including the following measures to smooth its implementation:

- Enact legislation with a prospective implementation date, providing States with an adequate lead time before any changes are effective.
- Design the legislation to meet policy goals with minimal change to existing programmatic features and without implementing additional new programs.
- Provide a significant new infusion of UI Administrative funding in the next stimulus package.

 QUESTIONS SUBMITTED BY HON. RON WYDEN

STATE IT INFRASTRUCTURE

Question. We know that in the years leading up to this crisis, many States under-invested in their UI systems. It is my understanding that most States need more than just IT patches. They need complete overhauls of their systems. Is that something they will be able to accomplish while they are flooded with an unprecedented number of claims?

Looking to the future, what do States need from the Department of Labor and from Congress to modernize their systems to more efficiently administer benefits?

Is it worth considering whether it would be more efficient to have the Department of Labor develop a modern benefits administration system that all of the States could interface with to administer benefits? If so, what features should such a system have?

Answer. While many States have invested State revenue and other funds in their UI operations, State UI systems are predominantly federally funded. The information technology infrastructure challenges States have faced during COVID-19, and during the Great Recession, are the result of a decades-long underinvestment in the UI program. Since the early 2000s, States have been required to report annually to the USDOL an estimate, using a USDOL-developed model, of the funding levels necessary to run an effective program. Due to Federal budget and appropriation limits, those funding levels have never been achieved, forcing States to constantly understaff and under-resource their operations. This chronic underfunding has cumulatively affected States' ability to make capital investments, including information technology.

With adequate investment, State UI information technology systems could be modernized, componentized, shared, cloud-hosted, and scaled for future events. These systems would have two critical features often lacking today: flexible functionality to allow States to implement quickly new programs that Congress inevitably enacts with no advance implementation timeline in response to economic events; and scalability to allow for rapid increases in workload.

Many States have modernized their UI information technology, but many more States still face that effort. UI system modernization is challenging even when there is not the largest workload in the history of the program. States need an investment concomitant with the cumulative, decades-long underfunding.

Building a federalized benefits administration system for the UI program would be a very significant challenge for the USDOL to undertake, given the fundamental nature of the State-Federal partnership inherent in the UI program. Simply put, the variation in State laws is so vast that trying to build a single system to handle 53 different sets of rules would preclude any timely implementation of such a system.

EXTENDING FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION

Question. There has been a lot of debate about what is going to happen to the \$600 Federal Pandemic Unemployment Compensation after it expires on July 31st. I'm concerned that if Congress waits until the eleventh hour to decide what's going to happen on August 1st, it will put States in a really difficult situation, as they'll have to make changes to their systems overnight.

How important is it for States to have certainty about what is going to happen after the end of July? Are there going to be additional delays in processing claims and getting benefits out if Congress waits until the last minute to decide what to do?

Answer. If Congress acts to extend the FPUC program after July 31st, and that action makes changes to the program—even if those changes seem insignificant—there will be a delay affecting millions of claimants. We suggest, regardless of what policy changes Congress chooses to make, if FPUC or FPUC-like payments are to be made after July 31st, Congress should make the new or changed program effective at some future date, to allow States time to implement the changes, with FPUC as originally set forth in the CARES Act extended from August 1st to that new effective date.

WORKERS WITH WAGE AND SELF-EMPLOYMENT INCOME

Question. Workers who are eligible for regular unemployment compensation cannot claim PUA. This has led to some workers who lost both wage income and self-employment income only being able to claim regular unemployment compensation even when their PUA benefit would be bigger. Would it be administratively feasible to allow claimants to claim the greater of their UI and PUA benefits, or to have PUA make up the difference between the regular UI benefit amount and the PUA benefit amount? Why or why not?

Answer. States would face a significant administrative challenge to allow workers to choose between PUA and UI, or to augment UI with PUA. Setting aside the fact that calculating both benefit amounts for each claimant would be an enormous effort, the necessity to contact each individual, provide the choice, register the worker's choice, and effect that choice would cause gridlock in State UI customer service channels—whether online or by telephone.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. This crisis has shown how painfully out-of-date our unemployment insurance system is. We have States tweeting out desperate calls for people who can program in a coding language that is practically dead. According to a recent *Bloomberg* article, about one-third of people who are eligible have not yet received their benefits.¹

Please provide separate answers to each of the following questions.

How much administrative funding would Congress need to appropriate to build a 21st-century, state-of-the-art unemployment insurance system?

Answer. During the hearing I shared that NASWA is advocating for an additional infusion of administrative funding in the amount of \$500 million to \$1 billion annually. We have also supported a structural shift in the structure of the administrative funding system for UI. Because of budget and appropriation limits, outside of State control, estimated funding needs have never been achieved forcing States to constantly under resource their operations. This year-to-year underfunding has a cumulative effect, which has seriously reduced States' ability to make capital investments, specifically in IT resources.

We would need additional information on building a state-of-the-art UI system to calculate the estimated cost on either a State-by-State basis or a national system and rules for adoption.

Question. Are you aware of any States that by the end of July 2020 will be prepared to—instead of administering a flat additional benefit like the \$600—replace 100 percent of wages for all workers who continue to be unemployed or remain on furlough, given the ongoing health risks, lack of child care, and lack of available jobs? How many States would be able to administer such a wage replacement regime?

Answer. Our Association does not have information on the ability of each individual State to adjust their systems in this way. We do know, however, that the majority of our members have expressed that such a change would be extremely challenging.

Question. How much money and time would it take for every State to have a system that could handle adjusting wage replacement rates, rather than adding a fixed payment like the \$600 top-up?

Answer. We do not have information on the cost of such a change or the time for each State to make these adjustments. It would be significant.

Question. In other words, if we extended a flat benefit beyond July to allow for additional time for States to upgrade their systems, how long should we extend that flat benefit to ensure that States have enough time to transition to a wage replacement regime?

Answer. We do not have data in response to this request. If the calculation of wage replacement involved data already available to the State workforce agency, then that would be preferred over a calculation that would require information not on hand. The current FPUC program is also payable to recipients of Pandemic Unemployment Assistance (PUA). The rubric and data available for PUA implementation vary significantly from UI and would provide an additional challenge to States.

PREPARED STATEMENT OF HON. EUGENE SCALIA,
SECRETARY, DEPARTMENT OF LABOR

Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you for the invitation to testify today.

Although last week's jobs report for May was extremely encouraging, we know that the coronavirus has had an immense impact on American workers. Fortunately, President Trump and this Congress responded swiftly, first with the Families First Coronavirus Response Act (FFCRA) and then—less than two weeks later—with the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act created both a temporary \$600 weekly unemployment insurance benefit on top of the

¹ <https://www.bloomberg.com/news/articles/2020-06-02/one-third-of-america-s-record-unemployment-payout-hasn-t-arrived>.

benefit provided by the States, and a new unemployment benefit available to independent contractors and the self-employed. FFCRA created a \$1 billion fund to assist States with emergency UI program administration.

These two enhancements—the CARES Act benefit, and FFCRA’s assistance to the States—have made an immeasurable difference in the lives of countless Americans put out of work by the public health measures necessitated by the virus. Moreover, these enhancements were accompanied by other path-breaking programs passed by Congress and signed into law by President Trump: the first Federal paid sick leave benefit for the private sector, the Paycheck Protection Program to help small businesses contend with shutdowns and keep employees on payroll, and direct \$1,200 Economic Impact Payments for individuals and families. These efforts have helped to sustain American workers and position the country for a vibrant economic recovery.

I am proud of the efforts of the staff at the U.S. Department of Labor to implement the UI provisions of FFCRA and the CARES Act, and welcome the opportunity to speak to the committee about the steps we have taken and the path ahead.

OVERVIEW OF THE UNEMPLOYMENT INSURANCE SYSTEM

The Nation’s unemployment system is a Federal-State partnership designed to provide benefits to wage-earning workers who face unemployment through no fault of their own. The system provides direct benefits to cover workers’ basic financial needs, and requires that the recipients be able and available for work, and seeking work, during the period of unemployment. Ordinarily the benefits are funded almost entirely by State taxes on employers, and are tied to workers’ previous wages and attachment to the labor force.

Each party to this Federal-State partnership has distinct and complementary responsibilities. States are responsible for ensuring that their unemployment compensation laws conform to the requirements of Federal law; State laws vary widely within those Federal parameters. It is the States that administer the program, on a State-by-State basis, and States are responsible for maintaining the solvency of their UI trust funds. The Federal Government is responsible for verifying that State laws and operations conform to Federal law, for calculating and providing funding for State program administration, and for maintaining the Federal UI trust fund.

One of the greatest challenges in the UI system is the information technology infrastructure used by States to administer their programs. Fifty-one different systems are used by the States; the average age of these systems is 28 years. Many States’ systems are more than 40 years old. These cumbersome, outdated systems inhibit the collaboration and data-sharing associated with sophisticated program management. Although some States have made the investment needed to maintain their systems, few have been able to implement much-needed overhauls, and even fewer have installed new and more nimble systems.

As members of this committee are aware, the rigidity of these systems was a principal reason that in the CARES Act, the \$600 “plus-up” was set at a flat rate, without regard to a worker’s prior income. The computer systems’ age and rigidity are also a principal reason many States were delayed in beginning to deliver all the CARES Act benefits.

THE LABOR DEPARTMENT’S ASSISTANCE WITH UNEMPLOYMENT INSURANCE DURING THE PANDEMIC

In late February of this year—less than 4 months ago—few of us were focused on the unemployment insurance system. The unemployment rate was tied with a 50-year low, and more than 450,000 jobs had been created in the first 2 months of the year. More than 7 million jobs had been created since President Trump took office. But in February, the Labor Department’s Employment Training Administration (ETA) was already in discussions with the States of Washington and Maine on measures those States could take to address challenges presented by COVID-19. In the ensuing weeks, ETA (and other components within the Department) were intensely engaged on a range of tasks to help American workers obtain unemployment benefits:

- On March 12th, the Department issued Unemployment Insurance Program Letter (UIPL) No. 10-20, outlining flexibilities the States had to respond to COVID-19 impacts. This document—which was issued before the paid leave provisions in FFCRA were enacted—outlined ways that UI benefits could legitimately be paid to workers kept out of work by their illness or the illness

of a family member. For example, the Department clarified how States could interpret the “able to work” requirement in a manner that allowed workers affected by COVID-19 to remain eligible for benefits. Five days after issuing this innovative guidance document, the Department held an explanatory webinar for State agencies—800 State workforce leaders participated.

- On March 22nd, UIPL No. 13–20 provided guidance on the additional flexibilities granted in FFCRA. Among other things, States were provided the option to “non-charge” employers for unemployment related to COVID-19, since the pandemic had not been caused by individual employers. To date, all 53 States and Territories have taken advantage of at least one of the flexibilities in this document.

FFCRA implementation. With the passage of FFCRA on March 18th, the Department received new resources to support States’ unemployment response. The same day the law was enacted, the Department relaxed some reporting requirements. Four days later, the Department published a UIPL guidance document telling States how to access FFCRA’s emergency administrative funding. As soon as States certified that they had met the conditions established by Congress in FFCRA, the Department quickly provided the States’ respective allotments from the \$1 billion in UI administrative funding provided by the Act.

Satisfying the statutory conditions in FFCRA was not always an easy process for States—for some, it required special legislation—but by April 23rd, all States had received their first emergency grant allotment, and by May 15th, all States had received both allotments. These FFCRA funds have been instrumental in enabling States to add staff quickly and to address technology problems exacerbated by the immense surge in COVID-19-related claims.

CARES Act implementation. President Trump signed the CARES Act on Friday, March 27th. By the next day, the Department had obtained signed agreements to participate in the Act’s programs from all States and Territories with UI programs. Because the effective date of certain CARES benefits hinges on the date of the State’s agreement, this quick coordination with the States helped ensure maximum coverage for eligible workers.

In the weeks following, ETA continued to work as swiftly as possible to position States to make UI payments to the millions of workers displaced by COVID-19:

- On April 4th, the Department issued the first guidance document on implementation of the \$600 “plus-up” payment.
- The first States began issuing the \$600 benefit payments on April 5th and 6th.
- By April 7th, the Department and the U.S. Treasury had established all the proper funding channels for States to draw down funds to provide CARES benefits.
- As of April 28th, all States were paying the CARES Act \$600 increase in unemployment benefits. And as of June 5th, all but one State is paying benefits under the Pandemic Unemployment Assistance (PUA) programs for independent contractors and the self-employed. The program for those who have exhausted other benefits—Pandemic Emergency Unemployment Compensation (PEUC)—has been implemented by 38 States.

Labor Department staff have worked tirelessly since mid-March to assist States in understanding the CARES Act programs and in making benefit payments to eligible recipients. In nine weeks between mid-March and mid-May, the Department issued 19 separate UIPL guidance documents directly related to COVID-19. By comparison, in 2019 the Department issued a grand total of 19 UIPLs the *entire year*—and of course, the 2020 UIPLs to date concerned novel and often complex issues.

The Office of Unemployment Insurance has hosted fourteen webinars to provide direct implementation support to State unemployment insurance directors. Often, hundreds of State officials participated. On these calls, Department staff provided guidance on needed adjustments to State laws, best practices for implementing COVID flexibilities, and measures to protect program integrity. We will continue to host webinars as new guidance is published.

In addition to the webinars, Assistant Secretary for Employment and Training John Pallasch has convened State workforce agency leadership and UI directors multiple times to discuss program integrity, innovations in identifying and stopping fraud, and to respond to questions raised by State officials. I have joined the Assist-

ant Secretary's calls with State UI directors twice, in addition to arranging calls with more than 20 Governors since mid-March to discuss challenges and questions they were confronting, and to let them know of the resources the Department was providing. Last week I sent a letter to all Governors reminding them of our shared, Federal-State responsibility for program integrity. And last month, the Department Inspector General and I sent a joint message to all Labor Department personnel underscoring the importance of ethical and responsible conduct, particularly in connection with the large new CARES programs.

Altogether, Labor Department staff and I have addressed State, territory, local and tribal workforce leaders, the National Governors Association, the National Association of Counties, chambers of commerce, employers, trade associations, mayors, city and municipal employees, State legislators, and county commissioners among others. Department staff have also spent countless hours collaborating and problem-solving with the Department's Office of the Inspector General, U.S. Treasury, Small Business Administration, the Office of Management and Budget, and other Federal agencies. And of course, my staff and I have spoken periodically with members of this committee and your staff regarding CARES and FFCRA implementation.

Payments by the States. We have also done what we can to assist States with their dated computer technology, enlisting the Department's Chief Information Officer and the U.S. Digital Service to provide IT support to individual States. (The USDS is a team of technologists in the Executive Office of the President that provides targeted support across the Federal Government.) To date, more than ten States have followed up with the Department and USDS on this offer of assistance. Projects have included updating public-facing website design, resolving technical database configuration problems, and identifying ways to use automation to handle massive claims volume.

The Department also swiftly addressed an IT challenge that arose on the Federal side, when the gigantic surge in claims caused difficulties with the Interstate Connection (ICON) network, a national data system used by States to process claims. The Department funded and executed the necessary system upgrades over the weekend of April 4th and 5th, just days after the system difficulties were identified. Since the upgrades, ICON has handled the increased traffic with no system performance problems.

For all the efforts of staff at the Department and in State UI offices across the country, we are acutely aware that the States' difficulty in timely processing claims and providing CARES Act benefits has caused frustration and hardship for countless Americans unexpectedly forced to rely on the UI system. No system could have been fully prepared for unemployment filings that for 2 weeks in a row, were nearly 10 times higher than the previous all-time high. State unemployment offices were lightly staffed, as befitted a period that had been characterized by record *low* unemployment, yet suddenly had to respond to simultaneous challenges: unprecedented volume and implementation of entirely new programs. The information available to the Department does indicate that by the end of May, States had turned the corner in addressing their backlog of claims. We will continue to do everything within our capacity to assist this. The experience of the last few weeks has also confirmed beyond doubt the need to modernize the information technology systems States use to pay unemployment benefits.

ENSURING PROGRAM INTEGRITY

Guarding against fraud is essential to the unemployment insurance system. UI fraud takes many forms. Employers sometimes establish fictitious accounts to enable fraudulent claims against the accounts, or take actions to avoid tax liability. Claimants sometimes falsely certify their availability or ability to work under State law, refuse offers of suitable employment while continuing to certify eligibility, or collect full benefits without accurately reporting wages or other income. And we are seeing networks (including domestic and foreign transnational organizations) engage in systematic fraud using false and stolen information and unwitting and witting third parties.

Fraud in the UI system has been of concern to the Department and to Congress for many years. Both the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and its successor, the Payment Integrity Information Act of 2019, require that covered agencies and programs maintain an annual improper payment rate of 10 percent or less. Lowering the improper payment rate has required ongoing commitment and partnership between the Department and the States, with particular attention to eleven States that have had especially high rates of improper

payments. For the first time in 9 years, the national improper payment rate was under 10 percent for the four quarters ending December 31, 2019.

The circumstances since March of this year, however, have presented a substantially heightened risk of fraud and improper payments. The Labor Department, States, employers, and claimants will all have important roles in ensuring that billions of American taxpayer dollars are not now lost through fraud, waste, or mismanagement.

State implementation. As the CARES Act has been implemented, the Department has become aware of practices in some States that are virtually certain to result in substantial improper payments. One State had omitted any requirement that PUA recipients attest how they meet the COVID-19 eligibility requirements, and had set a flat rate for PUA weekly payments without regard to previous earnings.

Several States asked to waive, and one did briefly waive, the requirement that claimants provide weekly or bi-weekly certification of their eligibility for unemployment; this makes it highly likely that as some claimants returned to work, they would continue receiving State UI benefits and the \$600 Federal “plus-up” without reporting their reemployment and weekly earnings.

As these changes, proposed or implemented, became known to the Department, we promptly contacted the States and engaged them in vigorous discussions to ensure adherence to the laws’ requirements. Where appropriate, we have required corrective action plans, including retroactive correction, and have provided ongoing technical assistance to State UI staff. The OIG’s advisory report—“CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions”—has also been useful in highlighting to the States some of these programmatic concerns.

Third party fraud. A number of States are facing challenges from sophisticated domestic and international fraud rings that attack States’ online systems to illegally claim benefits using stolen or synthetic identities and using technology, including “bots,” to rapidly file hundreds of claims. The Department is working with the States, the Department’s Inspector General’s Office, and the States through the UI Integrity Center of Excellence to repel these attacks. We have provided the OIG access to critical State UI data, including fraud alerts from States through the Integrity Center’s Integrity Data Hub, and are working to identify and share best practices with the States. New functionality has been added to ICON to enable States to do the same cross-matching for the CARES Act UI programs that is done for regular UI programs. The Department has also launched a UI fraud page on its website to encourage the public to report fraud.

Work search requirements. Some observers, and some members of this committee, have expressed concern that the generous \$600 CARES Act benefit may deter recipients’ return to work as businesses reopen. Recent analyses, including by the University of Chicago and by this administration, found that more than two-thirds of workers will receive unemployment benefits greater than their prior weekly wages, and that approximately 20 percent of unemployed workers will receive benefits double their pre-layoff wages. This is consistent with data in the Congressional Budget Office report sent to Chairman Grassley last week.

Federal and State unemployment laws contain numerous requirements, including some described above, squarely calculated to ensure that claimants choose work over unemployment benefits. It is a cornerstone of the system that workers who refuse offers of suitable employment without good cause are ineligible to receive unemployment compensation—and an offer to return to a job that a worker left weeks ago would typically be an offer of suitable employment. Throughout its administration of the CARES Act programs, the Department has underscored these requirements in its discussions and communications with the States, including in a letter I sent the Governors last week.

Of course, the very reason for these firm legal requirements is that, while most workers prefer work, there will always be some who will not energetically seek employment when unemployment benefits are available. The greater the unemployment benefit, the greater the incentive for that handful of workers to remain out of the workforce. For these reasons, and as our economy re-opens, it will be critical for States to use all tools at their disposal to help workers make the transition from unemployment back into the workplace. This includes making clear to employers how to submit documentation if they believe a UI claimant has refused an offer of suitable work, and how to verify each week that PUA recipients continue to be unemployed due to at least one statutory COVID-19 criterion.

The CARES Act unemployment benefit was an extraordinary benefit for the extraordinary situation that American workers began to confront in March. Through shut-down and stay-at-home orders, governments across the country were temporarily closing businesses and barring millions of workers from gainful employment. The \$600 CARES plus-up was intended to make these workers whole, as near as was possible given the very substantial limitations of the State UI systems described above. (During the “Great Recession,” a Federal plus-up was provided of \$25 per week.) The CARES benefits were intended to be temporary, and will expire at the end of next month, by which point we expect the economy to be deep into the process of reopening, with shut-down orders ended and—Friday’s jobs report confirms—millions of Americans freed to return to work. Unemployment benefits will still be needed past that date, of course. But the circumstances that originally called for the \$600 plus-up will have changed; policy will need to change as well.

SUPPORTING WORKERS IN THEIR RETURN TO WORK

The subject of this hearing is unemployment insurance, but of course, unemployment insurance is never the most preferred outcome. Our first goal for workers is work—good jobs. And the first prerequisite for that is a thriving business base.

Our economy was achieving both those goals at a spectacular pace before the coronavirus. Unemployment was at a 50-year low, jobs were being created at a far higher rate than projected, and wages were rising, particularly for lower-wage workers. As businesses thrived and the stock market soared in 2019 and earlier this year, the benefits to workers grew deeper and broader, with ever-lower unemployment and increased opportunities for populations that historically have difficulty in the job market, including Americans with disabilities and those without a high school degree.

Our recent strong economy means that now, unlike any other economic downturn in the country’s history, we have the good fortune of not having to reconsider or jettison the economic policies that preceded the downturn. The policies were working—phenomenally. The problem was a virus, not economic policy.

Accordingly, as we consider now how to help workers, we should pursue the measures the Trump administration already was using successfully to lift Americans out of unemployment. Chief among these are tax relief and eliminating unnecessary regulatory burdens. These were the cornerstones of an economic program that, while disputed at the time it was adopted, led to the undeniably exceptional job market we enjoyed until March. Similar measures to spur investment and job growth should be part of any stimulus plan going forward. That is why, last month, the President signed his Executive Order on Regulatory Relief to Support Economic Recovery.

As we speak of returning workers to work, job training and State workforce development systems are also naturally part of the discussion. Here again, lessons learned from our recent booming economy should guide us.

One such lesson is the effectiveness of involving business in providing worker training. The men and women running businesses know better than educators or the government what skills will be most needed in the workforce; the more that businesses help guide the training we provide workers, the more likely that training is to lead to valuable, long-term employment. That is the reason for the success of the apprenticeship training model, which enjoys exceptional bipartisan support. Apprenticeships allow employers’ anticipated needs to steer the investments made in worker training, with the result that workers acquire skills for which there is immediate demand.

For similar reasons, it makes sense to give businesses a role in determining the shape that apprenticeship programs take. The Department’s Registered Apprenticeship Program has been effective at supporting apprenticeships in certain industries, such as construction. But workers in other sectors—like advanced manufacturing and cybersecurity—can also benefit from alternative apprenticeship models that provide high-quality work-based training. That is the purpose of the rule the Labor Department adopted in March for “Industry Recognized Apprenticeship Programs,” which gives businesses and business groups, educators, labor unions, and others the ability to recognize apprenticeship programs that do not necessarily conform to all the criteria of the Department’s registered program, but which effectively equip workers with the skills in demand at the growing edge of our economy. These programs can be an attractive option for unemployed workers reentering the workforce;

they warrant congressional support alongside DOL's Registered Apprenticeship Program.

Another lesson of recent years that should guide investment in worker training is the convergence of the roles played by our workforce and educational systems in preparing Americans for productive careers. In helping unemployed Americans return to work, the different components of the public workforce system should act in coordination and partnership—as One Workforce. The entire lifecycle of an American worker's needs—from career search to unemployment insurance to training in new skills—should be supported by an integrated service delivery system. The need now is great for States to think about how to consolidate, integrate, and mobilize the disparate pieces of their workforce investments into a coherent workforce continuum. Any new Federal funding should recognize the value of this approach.

CONCLUSION

One of the hallmarks of our Nation's experience with the coronavirus has been rapid change. Initially, that meant rapid deterioration—in a single month we went from record-low unemployment to record-high unemployment filings. But now, as the May jobs reports illustrates, the rapidity of that change can be change for good. The Department of Labor remains focused on helping deliver CARES benefits to eligible workers. At the same time, we will work intensely with States to help workers make the transition from unemployment back to the workforce and toward the vibrant economy we enjoyed just weeks ago.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. EUGENE SCALIA

QUESTIONS SUBMITTED BY HON. PAT ROBERTS

Question. Are there better ways to help people get back into the workforce other than extending the additional \$600 provision that was included in the CARES Act?

Answer. Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act as the U.S. economy was shutting down. The \$600 weekly payment was an important, extraordinary measure to support workers who in many instances were being prohibited from earning a living as a result of necessary public health measures put in place by States and locales. A study by the University of Chicago indicates that more than two-thirds of workers receiving benefits under the CARES Act have seen their wages replaced at rates above 100 percent, with some low-wage workers experiencing replacement rates above 200 percent (<https://bfi.uchicago.edu/working-paper/2020-62/>). The Congressional Budget Office, in response to a query by Chairman Grassley, has reported that if the \$600 plus-up were continued past July, five-sixths of the covered workers would receive higher payments through unemployment than by working, resulting in a more elevated unemployment rate than would occur otherwise. Given these circumstances, Congress's decision to sunset the \$600 plus-up at the end of the month was appropriate. Unemployment benefits will continue to be important after July, but as the economy reopens and jobs return, it will be appropriate to take a different approach than taken in March as the economy was closing. The Department is available to work with Congress to fashion the approach that best support workers and economic growth.

Question. Do you believe that extending the \$600 provision would incentivize people to remain unemployed due to their UI checks being higher than a previous paycheck?

Answer. Most Americans would prefer to have a job than to be dependent on unemployment benefits. As the Department has repeatedly emphasized in guidance, moreover, failure to accept suitable employment when offered, including when an employer has called a worker to return, typically should result in the worker being determined ineligible for future benefits. That said, studies of unemployment insurance benefits indicate that some number of workers do elect to remain on unemployment, even when suitable work does become available. This disincentive to work must be kept in mind when structuring an unemployment program, and individuals should not receive more in unemployment benefits than they were paid while working. The Department is available to work with Congress on potential strategies.

Question. Which job sector has been the hardest hit, to date, since the start of this pandemic?

Answer. Total nonfarm employment declined by a net 14,661,000 employees between February and June 2020. Among the major industry sectors, the leisure and hospitality sector has lost 4,827,000 jobs over that same period. Within this sector, food services and drinking places lost a net 3,131,000 jobs, arts, entertainment, and recreation lost a net of 909,000 jobs, and accommodation lost a net of 786,000 jobs. Professional and business services lost a net of 1,830,000 jobs. Within this major sector, administrative and waste management services lost a net of 1,299,000 jobs. Education and health-care services lost a net of 1,814,000 jobs, with a net loss of 904,000 jobs in health care, many as a result of postponement of elective surgery and non-COVID-19-related dental and medical appointments. Within government, State and local governments lost a net of 1,487,000. Retail trade lost a net of 1,273,000 jobs. Manufacturing lost a net of 757,000 jobs, of which 489,000 were lost in durable goods manufacturing. Other services lost a net of 752,000 jobs.

QUESTIONS SUBMITTED BY HON. JOHN THUNE

Question. South Dakota has taken proactive steps to inform the public about circumstances in which an individual will lose his or her unemployment benefits for refusing an offer to return to work. Are there specific steps the Department of Labor may take over the coming weeks and months to help States educate the public about what circumstances make an individual ineligible UI benefits, as well as informing the public about other Federal programs that are available to assist individuals still facing financial hardship?

Answer. The Department has issued extensive guidance on Unemployment Insurance (UI) programs under the CARES Act, as well as news releases, fact sheets, and “frequently asked questions” documents that can be found at <https://www.dol.gov/coronavirus/unemployment-insurance>. The Department’s guidance and technical assistance have also encouraged States, in turn, to employ a variety of forms of communication to further public understanding eligibility requirements and the processes for filing UI claims, which to a large degree are determined by State law and practice. The Department will continue remain in communication with States on these issues over the coming weeks.

Question. My office has heard that self-employed individuals that have mixed earnings (self-employed income and are on an employer’s payroll) could be disqualified from the Pandemic Unemployment Assistance program. Is this interpretation correct even if an individual primarily relies on the selfemployment income?

Answer. An individual should not automatically be denied Pandemic Unemployment Assistance (PUA) under the CARES Act simply because she has W-2 income. If an individual has sufficient covered employment (*i.e.*, W-2 income) to qualify for regular unemployment compensation and meets the other eligibility requirements, then she is eligible for regular unemployment benefits and not eligible to receive PUA. The monetary requirements for regular unemployment compensation depend on State law.

If the individual is ineligible for regular unemployment benefits and is unemployed, partially unemployed, or unable or unavailable to work due to a listed COVID-19-related reason under the CARES Act, then she may be eligible for PUA. PUA eligibility includes both covered employment and noncovered employment (*e.g.*, self-employment).

QUESTION SUBMITTED BY HON. RICHARD BURR

Question. Some military veterans and reservists, who are the head of their households, lost their jobs due to COVID. Some States restrict veterans from applying for and collecting unemployment while also using the Post-9/11 GI Bill, considering the GI Bill pays out a housing allowance and a small stipend. For families that rely solely on the income and benefits of the veteran/reservist, losing a civilian job still significantly impacts their financial well-being. Will DOL consider releasing guidance to State unemployment offices encouraging them waive this restriction until the national emergency is lifted?

Answer. The Department has not learned of any States disqualifying ex-service members or reservists from receiving UI benefits because of receipt of Post-9/11 GI Bill education benefits. In receiving follow-up information from Senator Burr’s office,

the Department understands the question to involve reservists and National Guardsmen who have lost their civilian employment.

The Department does not have authority to waive the statutory provisions of the National Defense Authorization Act of 2016 (NDAA). However, it published Unemployment Insurance Program Letter 1416 (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9737) to discuss the provisions of the NDAA. This guidance noted that the Department is coordinating with the Department of Veterans Affairs (VA) regarding procedures to facilitate the necessary information exchange between the VA and the States to address Post-9/11 GI Bill education benefits that may affect Unemployment Compensation for Ex-Service Members (UCX) claimants. The Department of Labor plans to issue future guidance regarding State responsibilities to address Post-9/11 GI Bill education benefits for affected UCX and UI claimants. States have been advised that until the Department publishes additional guidance on this matter, they are to process UCX and UI benefits in accordance with normal procedures. The Department continues to work with the Department of Defense and the VA to develop guidance on this matter.

The Department has reached out to North Carolina to ensure the State is handling such claims appropriately.

QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

Question. Each State unemployment system requires that, in order to be eligible for benefits, claimants must be “able, available, and actively searching for work”—and are ineligible for benefits if they refuse an offer of suitable employment, including returning to their previous job.

Can States decline to investigate or pursue reported cases of UI fraud?

Answer. No. The Department issued guidance under Unemployment Insurance Program Letter (UIPL) 23–20 (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4621), which reiterated that the same tools used to investigate and pursue fraud under the regular unemployment compensation program also apply to the CARES Act programs. The Department is authorized to take additional action with States, including requiring corrective action plans or, in egregious cases, severing CARES Act agreements in response to unaddressed program integrity problems.

Question. To what extent are States able to waive or provide their own modified guidance regarding the requirements that claimants must be able, available, and actively searching for work?

Answer. Section 303 of the Social Security Act requires that an individual collecting unemployment benefits be able, available, and actively searching for work.

Prior to enactment of the Families First Coronavirus Response Act (FFCRA) and the CARES Act, the Department issued guidance under UIPL 10–20 (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8893) regarding the significant flexibilities permissible under existing Federal law for the requirement that an individual be able and available to work in the context of the COVID–19 pandemic. Accommodations are allowable for individuals who have not withdrawn from the labor market or who are on temporary lay-off from an employer. The Department is reviewing the guidance in UIPL 10–20 in light of changing conditions to determine whether States should begin more rigorously enforcing the work search requirements.

FFCRA provides States the ability to modify or suspend the requirement to actively seek work in response to the spread of COVID–19. In fact, a modification or suspension of the work search requirements for individuals “directly impacted by COVID–19 due to an illness in the workplace or direction from a public health official to isolate or quarantine” is a required condition for States to receive Allotment II of the emergency administrative grants made available under the FFCRA. Additionally, the Pandemic Emergency Unemployment Compensation (PEUC) program under the CARES Act requires that States provide flexibility for individuals collecting PEUC “in cases of individuals unable to search for work because of COVID–19, including because of illness, quarantine, or movement restriction.” The FFCRA statute does not provide a specific ending date for this flexibility but rather ties it to COVID–19 impacts. The Department believes that these flexibilities should be phased out as States’ economies reopen and the effects of COVID–19 recede.

Question. To what extent do States have discretion to define “suitable employment”? For example, if an employee is offered their exact previous job at the same wage but at temporarily reduced hours, can a State determine that the job no longer constitutes “suitable employment”?

Answer. The Federal Unemployment Tax Act establishes baseline criteria for a State to use in determining the suitability of work, including that work is unsuitable “if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.” Against this backdrop, States have significant flexibility in determining the suitability of employment. In the question posed, it is not clear by how much hours are reduced, and precisely how long the “temporary” reduction lasts. If the reduction and duration are both minor, then it would not appear the “substantially less favorable” requirement is met.

QUESTIONS SUBMITTED BY HON. STEVE DAINES

Question. Here in the Senate, I called early on for unemployment to be as close as possible to full wage replacement. Thousands of Montanans lives were upended through no fault of their own and ensuring they were able to make ends meet until the risk had passed was critical for our economy. As with any emergency program of such magnitude, there is potential for waste, fraud, and abuse.

To that end, how is the Department working with States to ensure the integrity of our unemployment system?

Answer. The Department is vigorously working with States, the Department’s Office of Inspector General (OIG), and law enforcement to combat the increase in fraud resulting, in part, from the added benefits provided under the CARES Act and the significant increase in volume of claims. As professional criminals have started to target State UI systems, the Department has required States to implement for CARES Act programs the same mandatory program integrity tools used for the regular UI program. In addition, the Department published UI Program Letter 23–20 (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4621) with more specific guidance on requirements for ensuring that payments can only be made to eligible individuals.

The Department also has taken the following actions to help combat fraud related to the CARES Act programs:

- I sent a letter in early June to all governors stressing the importance of program integrity requirements; the letter also identified some best practices to prevent fraud.
- The Department’s Employment and Training Administration (ETA), which oversees UI programs, has been working closely with the OIG’s Office of Investigations, Labor Racketeering and Fraud to ensure States’ cooperation with program integrity efforts, as well as to communicate fraud schemes in real time, work to secure State data, and provide to States effective fraud prevention and detection strategies.
- The Department has refocused the resources of the UI Integrity Center to provide tools and resources for States to combat fraud in the context of COVID–19 and the CARES Act.
- ETA and OIG staff have weekly calls, hosted by the Integrity Center, with State officials to share and communicate fraud prevention strategies.
- The Center’s Integrity Data Hub is a multi-State data analysis tool that allows participating UI agencies to cross-match UI claims against a database associated with potentially fraudulent claims or overpayments. The Hub currently includes:
 - A suspicious actor repository to enable States to submit known fraud data elements that will enable them to cross-match those elements to detect multi-State fraud;
 - Suspicious Internet Protocol (IP) addresses;
 - Multi-State claims data;
 - A fraud alert system; and

- Beginning in July 2020, an identity verification tool for use at the front end of a claim for all States.

Question. While changes to unemployment insurance were a critical piece of the CARES Act, other programs such as the Paycheck Protection Program were instrumental in ensuring that our small businesses survive, so that once we get through the pandemic, workers have a job to return to.

We all want to get people back to work but I hear from small businesses that re-hiring can be a challenge after they get the PPP loan. What are the barriers that you most frequently hear about and what policy changes would you suggest if Congress writes additional legislation?

Answer. The Department has heard reports that the amount provided by the Federal Pandemic Unemployment Compensation benefit has deterred some recipients from returning to work. States should continue to encourage employers to report individuals who refuse to return to suitable work in order to receive unemployment benefits.

As the economy reopens and many more jobs become available, it will be even more important to have policies that promote work. The Department is available to work with Congress on potential strategies.

Question. The suddenness of this crisis led to many States unemployment infrastructure to be overwhelmed, including Montana's, and we provided \$1 billion dollars in administrative funding in the Families First Coronavirus Response Act. Nevertheless, those in need of unemployment insurance were met by jammed phone lines and crashing websites.

Do you believe more needs to be done in regards to making sure unemployment agencies are adequately staffed and technologically up to date, and would you recommend additional funding or legislative changes?

Answer. The administrative funding model for the regular UI program creates a particular challenge for States because the additional funding needed to cover increases in workload is disbursed *after* the increase in work: States receive additional funding on a quarterly basis if their workload exceeds what was projected for base-level funding. Due to the record-low unemployment prior to the COVID-19 pandemic, State staffing and funding levels were also quite low, which slowed the modernization of information technology systems and other infrastructure, such as call center operations.

The Department agrees that current funding for the UI program should be reconsidered. We are ready to work with Congress on aspects of potential reforms.

Question. I would like to also discuss the process of getting the CARES Act provisions up and running in States. While Congress acted swiftly to pass this sweeping legislation, there were noticeable delays in States getting these critical enhanced benefits to recipients.

Can you speak about what may have caused some of these delays and what lessons have been learned so that should we have another crisis, those in need aren't waiting several weeks to get the benefits they need?

Answer. The Department is aware of the hardship faced by many Americans because of delayed payments. Unfortunately, States varied significantly in their capacity to ramp up the new programs made available under the CARES Act, with delays in some States arising from several different factors, including the complication arising from implementing new programs, antiquated information technology systems, and historic volumes of initial claims. The Department is ready to work with Congress on potential solutions.

Question. While expanding unemployment was necessary, I have concerns that about long-term unemployment leading to skill-erosion and make it more difficult for some workers to reenter the workforce.

Is this something the Labor Department is following, and how can we work with you to ensure workers are in the best possible position to reenter the workforce?

Answer. As cities and States re-open, the Department's top priority is to get Americans safely back to work. In June 2020, the unemployment rate declined by 2.2 percentage points, to 11.1 percent, and the number of unemployed persons fell by 3.2 million, to 17.8 million. However, the Department recognizes that the prospect of long-term unemployment remains a significant concern for many Americans.

In May 2020, there were 1.4 million individuals who reported long-term unemployed (LTU)—those jobless for 27 weeks or more.

Key tools used by the Department to serve the chronically unemployed include the Wagner-Peyser Employment Service and the formula grants made available under the Workforce Innovation and Opportunity Act (WIOA). At this point in Fiscal Year 2020, the Department has provided approximately \$4.3 billion to States through the WIOA and Wagner-Peyser Employment Service. LTU individuals are eligible to receive reemployment services through the Wagner-Peyser Employment Service and to receive reemployment and training services through the WIOA Adult formula program. Job search services are provided through online job banks and other virtual tools and through a network of approximately 2,370 American Job Centers, which offer in-person services for all components of the workforce cycle: recruiting, training, retraining, and transitioning workers.

As the economy continues to reopen, the Department is ready to work with Congress, in consultation with the States, on the best strategies to enable and incentivize Americans to return to the workforce with the skills necessary to succeed.

QUESTION SUBMITTED BY HON. TODD YOUNG

UI SYSTEMS

Question. You spoke at length in your testimony about how “one of the greatest challenges in the UI system is the information technology infrastructure used by States to administer their programs”—which was primarily why the \$600 “plus-up” in the CARES Act was set at a flat rate. But, these system challenges aren’t new—these same system issues occurred back during the Great Recession.

What system changes do you think would help States be better prepared for the long term in case we ever face a situation similar to COVID-19 again?

Answer. The Department recognizes the need to fund and modernize State UI information technology (IT) systems.

The COVID-19 pandemic has highlighted the unreliability of State UI IT systems—something the Department worked to educate Congress about during the drafting of the CARES Act. The UI program is structured as a Federal-State partnership based on Federal law but administered by States under State law. This structure makes the program unique among the country’s benefit programs in that States have significant flexibility to establish eligibility provisions, benefit duration and levels, and taxing structures to pay for benefits.

While State flexibility is important, this structure and the variance in State laws and processes make it more difficult to develop efficient administrative processes and to implement technologies that will work across the 53 different States and territories operating UI programs.

The Department believes there is opportunity for modernization across States and would welcome the opportunity to work with Congress and States to that end.

QUESTIONS SUBMITTED BY HON. RON WYDEN

WORKER SAFETY

Question. At the hearing, we discussed how to protect workers who turn down a job offer because of risks to their health or safety from losing their Unemployment Insurance or Pandemic Unemployment Assistance benefit. I also sent you a letter on this issue, along with 21 of my colleagues, on May 19th, and I have yet to receive a response. Based on our conversation at the hearing and your failure to respond to the letter, I remain concerned that the Department of Labor is not taking its responsibility to protect workers seriously, and that people across the country will continue to be forced to choose between their health and their income.

Please provide a response to our letter in writing, including responses to the questions in the letter, a summary of any related guidance the Department has issued, and the Department’s plan for issuing additional guidance on this topic that puts worker health and safety first.

Answer. The Department responded to your letter on July 24, 2020.

As the economy reopens, one of the Department's top priorities is ensuring that workers are returning to safe workplaces. Under the PUA program, an individual is eligible for benefits if he is otherwise able to work and available for work within the meaning of applicable State law, unless he is unemployed, partially unemployed, or unable or unavailable to work because of one of the COVID-19-related reasons outlined in Section 2102(a)(3)(A)(ii)(I) of the CARES Act.

An individual is considered available for work under State law if he is available for work that is suitable for him. Many State laws provide that work is unsuitable if it exposes an individual to safety risks. If an individual receiving PUA is offered work that unreasonably exposes him to COVID-19, the State providing those benefits could conclude that the work is not suitable, if permitted under the State's suitable work provisions. The individual would still be considered available to work and potentially eligible for PUA, provided the other eligibility requirements are met. Likewise, if an individual were to turn down work that would be considered suitable under State law but turned the work down for one of the COVID-19-related reasons in Section 2102(a)(3)(A)(ii)(I) of the CARES Act, the individual would still be eligible for PUA.

PUA ELIGIBILITY FOR WORKERS WITH IMMUNOCOMPROMISED
INDIVIDUALS IN THEIR HOUSEHOLD

Question. In my May 19th letter, I also asked you to clarify that someone may claim PUA if they are advised by a health-care provider to stay home because a member of their household is immunocompromised or at heightened risk from COVID-19.

Will the Department issue guidance clarifying that such individuals are eligible for PUA? If you disagree that such individuals are generally eligible for PUA under current law, please inform Congress of any necessary technical changes to the law that would ensure they are eligible.

Answer. On April 27, 2020, the Department published guidance on how an individual could make a claim for PUA if she was advised by a health-care provider to stay home because a member of her household is immunocompromised or at heightened risk from COVID-19. Specifically, this clarification was provided in Question 41 in Attachment I to Unemployment Insurance Program Letter 16-20, Change 1, (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5899).

Section 2102(a)(3)(A)(ii)(I)(ff) of the CARES Act provides that an individual "who is unable to reach the place of employment because the individual has been advised by a health-care provider to self-quarantine due to concerns related to COVID-19" may be eligible for PUA, provided she meets the other eligibility requirements. This assessment of eligibility does not require a specific underlying reason for the health-care provider's advice to self-quarantine due to concerns related to COVID-19.

PUA ELIGIBILITY FOR CHILD CARE PROVIDERS

Question. I have heard from self-employed child care providers in 41 States who have been rejected for PUA even after losing most of their business. This has been a particular problem for providers who have faced a significant drop in income but are not working fewer hours. For example, if a child care provider cared for 10 children before the pandemic but now only cares for one, the provider will have experienced a significant drop in work and income, but still may work the same number of hours. In some States, claimants have been told they do not qualify for PUA simply because they have not experienced a reduction in hours. Lost income should be sufficient to qualify the individual for PUA, but there appears to be significant confusion in many States about how to process these types of claims.

Other child care providers have been told that they were ineligible for PUA because they reported that they are not looking for work. A child care provider who is still watching a few children is not necessarily able to look for a new job. In this context, as long as the provider is willing to accept more children into care (while still meeting relevant social distancing and public health requirements), they should be considered to meet work search requirements.

Will you provide clarifying guidance to States on how to treat situations like those described above? If you disagree that child care providers in situations like these are generally eligible for PUA under current law, please inform Congress of any necessary technical changes to the law that would ensure they are eligible.

Answer. One of the qualifying conditions for an individual to receive PUA is that he is unemployed, partially unemployed, or unable or unavailable to work for a COVID-19 related reason listed in the CARES Act.

The PUA program under the CARES Act is largely modeled after the Disaster Unemployment Assistance (DUA) program and relies on the DUA regulatory framework where the CARES Act is silent. DUA regulations provide that a self-employed individual performing less than the customary full-time services is considered partially unemployed.

Child care providers in the situation you describe may be considered to be partially unemployed under the DUA regulations. Further, under the eligibility criteria the Department added pursuant to the authority in CARES Act Section 2102(a)(3)(A)(ii)(I)(kk), self-employed workers who have sustained a significant diminution of their customary full-time services because of COVID-19 may be eligible for PUA where they are forced to suspend the provision of services, though their benefit amount may be reduced because of income. The Department has aimed to make clear that this also applies to those who do not suspend the provision of services, and additional clarifying guidance will be issued to States in the near future.

With respect to your question regarding work search efforts, the Social Security Act requires that an individual collecting unemployment benefits actively search for work. However, the State has considerable discretion to determine the types of suitable work that individuals must seek. Additionally, FFCRA provides States with the ability to modify or suspend the requirement to actively seek work in response to the spread of COVID-19.

PUA ELIGIBILITY FOR SELF-EMPLOYED INDIVIDUALS WHO WORK FROM HOME

Question. There has been some confusion about whether self-employed individuals who work from home (*e.g.*, freelance writers) qualify for PUA. It appears that some States are saying that an individual cannot qualify for PUA if they are able to telework, but based on the law and the guidance the Department has already issued, a self-employed individual who would usually work from home but is no longer getting paid for any work would be eligible for PUA. You indicated that you agreed with this perspective in your response to a similar question from Senator Warner during the hearing.

Will you provide additional guidance to States to ensure that they are administering PUA correctly for self-employed individuals who usually work from home? If you disagree that such individuals are generally eligible for PUA under current law, please inform Congress of any necessary technical changes to the law that would ensure they are eligible.

Answer. Section 2102(a)(3)(B) of the CARES Act provides that an individual who has the ability to telework with pay is not covered under PUA. However, in the scenario presented, if the individual has experienced a significant diminution of freelancing work because of the COVID-19 pandemic, regardless of her ability to telework, and provided the individual meets the other eligibility requirements, she could be eligible for PUA under the criteria the Department issued under Section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act and in the Department's subsequent guidance.

WORKERS WITH WAGE AND SELF-EMPLOYMENT INCOME

Question. There have been a lot of questions and confusion about workers that have both wage and self-employment income. I have heard stories of workers being denied PUA if they continue to have any W-2 income at all, even if the majority of their income is generally self-employment income from a job they have lost. For example, a musician may continue to earn a minimal amount through a part-time W-2 job, but because they are no longer performing, they have lost the vast majority of their self-employment income. While eligibility will depend on an individual's specific circumstances and State laws, I have heard a number of concerning reports that people are being automatically denied PUA if they have any W-2 income—even if they don't qualify for regular unemployment compensation—despite the fact that the vast majority of their income has been lost.

Can you provide additional guidance to States for how claims should be processed for workers with both wage and self-employment income, to ensure that these workers receive PUA when they are eligible for it?

Answer. An individual should not automatically be denied PUA, as authorized under the CARES Act, simply because he has W-2 income. If an individual has suf-

ficient covered employment (*i.e.*, W-2 income) to qualify for regular unemployment compensation and meets the other eligibility requirements, then he is eligible for regular unemployment benefits and not eligible to receive PUA. The monetary requirements for regular unemployment compensation depend on State law.

If the individual is ineligible for regular unemployment benefits and is unemployed, partially unemployed, or unable or unavailable to work due to a listed COVID-19-related reason under the CARES Act, he may be eligible for PUA. PUA eligibility includes both covered employment and non-covered employment (*e.g.*, self-employment).

STATE TECHNOLOGY

Question. We know that almost every State workforce agency has sorely outdated technology, and all State systems need upgrades. We also know that it will be hard for States to make all of the necessary upgrades while they are buried in millions of unemployment claims. Have any States made successful IT transformations during this pandemic that allow them to process significantly more claims?

Looking ahead, rather than having each State develop their own technology, is it worth considering whether it would be more efficient to have the Department of Labor develop a modern benefits administration system that all of the States could interface with to administer benefits? If so, what features should such a system have, and what can Congress do to initiate or speed up this process?

Answer. The Department recognizes the need to modernize State UI IT systems.

The COVID-19 pandemic has highlighted the unreliability of State UI IT systems—something the Department worked to educate Congress about during the drafting of the CARES Act. The UI program is structured as a Federal-State partnership based on Federal law but administered by States under State law. This structure makes the program unique among the country's benefit programs in that States have significant flexibility to establish eligibility provisions, benefit duration and levels, and taxing structures to pay for benefits.

While State flexibility is important, this structure and the variance in State laws and processes make it more difficult to develop efficient administrative processes and to implement technologies that will work across the 53 different States and territories operating UI programs.

Despite these challenges, the Department believes it is feasible to implement modernization across States and would welcome the opportunity to work with Congress and States to that end.

UI DATA

Question. The Department of Labor and the States have struggled to accurately track data on the number of regular UI and PUA claims processed and paid. Right now, it seems that no one can report with certainty how many people have received a check and how many are still waiting for the benefits they are owed. How can data collection and reporting be improved? What resources would the Department and the States need from Congress to make these improvements?

Answer. The recent increase in unemployment claims processed by the State unemployment insurance agencies is unparalleled. Prior to this increase, claims had been at their lowest levels in 50 years. With the pandemic, States faced massive claims volumes and the responsibility to implement significant new Federal programs. During this ramp up, States prioritized paying claims over reporting. Adding to the workload, the PUA program is structured to require a determination of ineligibility for regular UI.

Even though the Department provided guidance to States clarifying that it was unnecessary to process a regular UI claim to determine eligibility for PUA—and strongly discouraged States from doing so—many nevertheless mandated this extra step. The Department advised States that PUA applications should not be counted as initial claims. Because of the staggering workload and the overlap of the two programs, States struggled to process and report in a timely and accurate manner.

The Department does not currently collect data related to the number of pending claims to be processed, although data on claims filed, claims paid, and the timeliness of payment is collected. The Department will consider the need for additional data.

Funding for unemployment insurance administration is closely tied to unemployment claims levels. The recent increase in claims has resulted in an increase of administrative funding to State agencies that should allow for increased staffing, technology capacity, and improved data collection and reporting. The Department believes that any system-wide technology enhancement should ensure more accurate, timely, and simple reporting. The Department is ready to work with Congress on potential strategies.

MISMANAGEMENT AND LACK OF OVERSIGHT OF
FLORIDA'S UNEMPLOYMENT INSURANCE PROGRAM

Question. The Department of Labor's Office of Inspector General recently put out an advisory report with regard to the implementation of unemployment insurance provisions in the CARES Act. One area it identified of particular concern was State preparedness, particularly staffing and system capabilities.

It seems that no State has failed worse in this regard than the State of Florida. The State of Florida's Auditor General warned over four reports between 2015 and 2019 that the State's unemployment system had widespread systemic flaws that were not being addressed and would likely fail in the event of increased claims. That is exactly what has happened. As claims ramped up and the system was plagued with crashes and glitches, Florida was the only State in the country that saw its unemployment trust fund grow in March and April.

Do you believe the State of Florida's unemployment program was adequately prepared for this economic crisis? Will you request that the Office of Inspector General open a review of the failures and lack of preparedness of Florida's unemployment program?

Answer. Florida, and many other States, have faced challenges in the administration of their unemployment systems due to an unprecedented volume of claims and the State's information technology support system. The Department has offered Florida, as well as weaknesses in other States, technical assistance to address these challenges; Florida has accepted this assistance and has committed to remedy its IT problems. The Department has been and will remain focused on helping Florida and any other State or territory facing administration challenges improve its ability to administer UI programs according to Federal law.

The Department will cooperate with the Office of Inspector General should it decide to open an investigation.

100-PERCENT WAGE REPLACEMENT

Question. When we negotiated the CARES Act, we agreed, based on input from the Department of Labor and from State workforce agencies, that State workforce agencies would be unable to implement a policy that provided a benefit equal to 100-percent wage replacement on an individual basis. My recent conversations with State workforce agencies have indicated that States are still unable to implement such a policy without significant delays and complications. What is the Department of Labor's current position on this issue? Are States able to calculate 100-percent wage replacement on an individual basis without unreasonable delays? If you believe such a policy is administratively feasible, please provide detail as to how you came to this conclusion and which States you talked to in evaluating the issue.

Answer. The Department has been in ongoing conversations with States regarding various proposed changes to CARES Act UI programs, and surveyed all the States on their capacity to implement a wage replacement structure. Although the time the States reported they would need to do so varied widely. We believe that all States have the ability to implement such a program within a few months at most.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. Washington State has four Department of Labor Job Corps Centers that employ approximately 130 people and serve hundreds of students a year. These Centers not only provide critical job training and careers to students, they also prepare students to meet the needs of local communities and Washington State. For example, in 2018 Washington State Job Corps Centers provided 119,539 hours of needed fire support.

It is important the Job Centers continue to train students and be a resource, however, we must ensure employees and students are able to return to the Job Centers safely during the COVID-19 pandemic.

Has the Employment and Training Administration's Office of Job Corps in the U.S. Department of Labor issued COVID-19 guidance for the reopening of Job Corps Centers?

Can the Department of Labor provide this guidance?

Answer. The safety and health of Job Corps students is the top priority of the Office of Job Corps (OJC). On March 17, 2020, the Department announced a temporary pause in Job Corps Center operations in order to protect students from coronavirus, and a mandatory spring break for all Job Corps centers was initiated. On April 24th, Job Corps issued Program Information Notice 19-17 to contractors regarding a transition to virtual operations and moving students from the COVID-19 "paid leave status" used for spring break to a "present for duty status," with students participating virtually in various aspects of the program. All centers implemented distance learning programs, which were in place by May 11, 2020.

The Department is now developing additional guidance to facilitate centers, further reopening. OJC will provide a copy of the updated guidance to the Senate Finance Committee when it is released to the Job Corps Center operators.

Question. How has the Department of Labor worked with local communities and States to adhere to State and county reopening plans?

Answer. To keep Job Corps Centers and students safe as they resume physical operations, the Department's guidance will reflect consideration of guidance from the CDC and Occupational Safety and Health Administration, as well as other experts and authorities. Center operators will be required to work within State and local guidelines as they plan for center reopenings; all reopening plans will be reviewed by the OJC national office.

Question. How has the Employment and Training Administration communicated this guidance to Job Corps Center administrators and students?

Answer. OJC has been working with Job Corps Center operators since students left campus to identify and implement the steps needed to bring students back to the centers. OJC has been in constant contact with center operators in order to develop guidance to safely return, house, educate, and support students at the centers. In addition, center operators are authorized to procure products for the safety of the students and to make physical changes at centers to support resumption of physical operations.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. Recent jobs reports indicate that State and local governments have shed more jobs in one month than in the entirety of the Great Recession. Projections by Moody's show that every State in the Nation has already, or will soon have historic budget shortfalls. If Congress does not act soon to help State and local governments, they are going to have to cut essential services businesses rely on, layoff or furlough public safety and emergency health personnel, or raise taxes. This will make it harder for businesses to reopen, drag the recession even deeper and make it more difficult to dig our way out of this hole.

Prominent economists, like Glenn Hubbard, have called on Congress to provide \$1 trillion in additional aid to States and cities. Mark Zandi predicted there would be 3 million State and local job losses in the next year alone, if Congress fails to act. Glenn Hubbard said "I can't imagine a successful (relief) package without that. . . . This is about as close to a no-brainer that you could do as possible."

Do you agree with these economists that assistance to State and local governments is essential in the next economic package?

Answer. The Department worked swiftly to implement the provisions of FFCRA, which provided \$1 billion in administrative funding to State UI agencies. This assistance was critical to enabling them to address the unprecedented number of UI claims that resulted from the COVID-19 pandemic. The CARES Act provided \$345 million in funding for Dislocated Worker Grants. To date, the Department has obligated initial funding increments for 57 grants totaling more than \$248 million, which is in excess of two-thirds of the funding provided under the CARES Act.

Funds will be used for disaster-relief cleanup and humanitarian assistance for the communities identified by the applicants as significantly affected by COVID-19, and for employment and training activities.

As the country continues to re-open and Americans return to their jobs, the Department is available to work with Congress on potential strategies to address the challenges faced by State and local governments.

Question. As you know, a majority of States are in need of modernizing their systems. These system modernizations are multi-year complex processes that require a permanent funding stream.

Is the Department of Labor considering plans for a uniform Federal solution for Unemployment Insurance modernization?

Answer. The Department recognizes the need to modernize State UI IT systems.

The COVID-19 pandemic has highlighted the unreliability of State UI IT systems—something the Department worked to educate Congress about during the drafting of the CARES Act. The UI program is structured as a Federal-State partnership based on Federal law but administered by States under State law. This structure makes the program unique among the country's benefit programs in that States have significant flexibility to establish eligibility provisions, benefit duration and levels, and taxing structures to pay for benefits.

The Department has been in ongoing conversations with States regarding various proposed changes to CARES Act UI programs, and surveyed all the States on their capacity to implement a wage replacement structure. Although the time the States reported they would need to do so varied widely. We believe that all States have the ability to implement such a program within a few months at most.

Question. The CARES Act enhanced and expanded unemployment to help workers make ends meet during these uncertain times. Specifically, Pandemic Unemployment Assistance (PUA) has been a critical lifeline for independent contractors, gig workers, and the self-employed. However, some home-based self-employed child care workers have faced challenges accessing PUA.

Is the Department of Labor considering any technical changes to PUA to ensure that self-employed family child care home-based providers can access either full unemployment benefits or partial unemployment compensation?

Answer. One of the qualifying conditions for an individual to receive PUA is that she be unemployed, partially unemployed, or unable or unavailable to work for a COVID-19 related reason listed in the CARES Act.

The PUA program under the CARES Act is largely modeled after the DUA program and relies on the DUA regulatory framework where the CARES Act is silent. DUA regulations provide that a self-employed individual performing less than the customary full-time services is considered partially unemployed.

Child care providers in the situation you describe may be considered to be partially unemployed under the DUA regulations. Further, under the eligibility criteria the Department added pursuant to the authority in CARES Act Section 2102(a)(3)(A)(ii)(I)(kk), self-employed workers who have sustained a significant diminution of their customary full-time services because of COVID-19 may be eligible for PUA where they are forced to suspend the provision of services, though their benefit amount may be reduced because of income. The Department has aimed to make clear that this also applies to those who do not suspend the provision of services, and additional clarifying guidance will be issued to States in the near future.

QUESTIONS SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. Can you elaborate on the nature of the problems faced by the Interstate Connection Network (ICON) earlier in 2020?

Answer. The Interstate Connection Network (ICON) is a secure, national telecommunications network through which States exchange UI claims-related data and other data. It operates as an information gateway, providing more than 30 applications that enable the exchange of information among States and Federal agencies to determine eligibility for unemployment benefits; the applications include cross-matches with the Social Security Administration to verify claimants' Social Security numbers.

Similar to State systems strained by high volumes of UI claims, ICON experienced performance and capacity issues in late March 2020. The Department worked quickly with the National Association of State Workforce Agencies (NASWA) and funded an upgrade for ICON to a more powerful mainframe that immediately took care of most of the difficulties States were experiencing—these were resolved in early April 2020.

Some States, however, had problems with their own systems being able to submit data to ICON for processing and receiving data back into their own systems. NASWA and the vendor worked with the individual States facing these problems to identify solutions and make accommodations where feasible.

Question. When were these problems present, and when were they resolved?

Answer. Since April 5th, ICON has had no further performance problems. When the Department has learned of difficulties, it has worked with NASWA and the vendor to provide information technology support to gain insight on the source of the problem and resolve it.

Question. Are there any notable administrative requirements for States that Congress can relax or streamline at least for the duration of this crisis?

Answer. The Department continues to work with States as they provide benefits and monitor and correct fraudulent activity. The Department will use these experiences to consider possible legislative actions and will share any proposals as they are developed by the administration. The Department will work with Congress to explore opportunities to make the unemployment insurance program more efficient, streamlined, and responsive to administrators and participants in the program.

Question. Are there any changes to the current model of collaboration between the Federal and State governments that you think could improve the provision benefits?

Answer. The variation across State UI programs can make it challenging to implement nationwide programs and enhancements, such as a modernization of State UI information technology systems. The Department will work with Congress and the States to explore strategies to address these challenges.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. According to the Department of Labor website, OSHA has received nearly 5,000 complaints from workers for worker safety concern related to COVID-19. At the hearing, you mentioned that OSHA is pursuing a number of investigations related to COVID-19 complaints.

How many on-site, in-person inspections has OSHA completed in response to workers' COVID-19 complaints as of June 15th? How many have resulted in any sort of citation of the employer for failing to protect workers? Please provide a list of all on-site, in-person inspections conducted as a result of a worker complaint and the outcome of those inspections.

Answer. The Occupational Safety and Health Administration's (OSHA) data system does not currently distinguish between on-site and remote inspections, and therefore the requested list cannot be generated. OSHA conducted a total of 772 COVID-related inspections from February 2, 2020 through July 30th. OSHA investigates every Federal complaint and referral and has responded to 8,464 complaints and referrals as of July 30th. As of July 30th, four COVID-19-related citations have been issued. One citation was issued on May 18th, and three were issued on July 13th. The majority of inspections are still open at this time. OSHA is working expeditiously to complete them.

Question. I wrote you a letter dated April 9, 2020 urging DOL to issue guidance instructing States on how to allow employers to submit employee information through the WARN system or its equivalent to speed up the unemployment insurance application process. In your recent response, you stated that "the majority of States have standard UI program processes in place for employers to provide employees' separation information to the State in a single communication."

Please provide a list of the States who do not currently have a process in place for employers to provide employees' separation information in a single communication.

Answer. This question refers to two different processes. One is the Worker Adjustment and Retraining Notification (WARN) Act process. The other is the systems

some State UI agencies, like Georgia's, have to allow employers to submit lists of employees in a single file for unemployment compensation determination.

Under the WARN Act, employers are required to notify State and local governments when making a qualifying layoff or worksite closing in order to trigger rapid response services. The Department does not collect information on State practices to enable employers to provide separation information on multiple individuals at the same time, but is aware anecdotally that most States implement this practice to expedite claims processing. Therefore, the Department is unable to provide the list requested.

Question. In its June 4, 2020 response to Chairman Grassley, the Congressional Budget Office found that the temporary increase of \$600 per week in unemployment benefits has increased unemployment recipients' spending on food, housing, and other goods and services such that it is closer to what they spent when they were employed. That is why the CBO found that "an extension of the additional benefits would boost the overall demand for goods and services, which would tend to increase output and employment."

Do you agree with CBO that the additional \$600 in weekly unemployment benefits has had a stimulative effect on the economy?

Answer. Congress passed the CARES Act as the U.S. economy was shutting down. The \$600 weekly payment was an important, extraordinary measure to support workers who in many instances were being prohibited from earning a living as a result of necessary public health measures put in place by States and locales. A study by the University of Chicago indicates that more than two-thirds of workers receiving benefits under the CARES Act have seen their wages replaced at rates above 100 percent, with some low-wage workers experiencing replacement rates above 200 percent (<https://bfi.uchicago.edu/working-paper/2020-62/>). The Congressional Budget Office, in response to a query by Chairman Grassley, has reported that if the \$600 plus-up were continued past July, five-sixths of the covered workers would receive higher payments through unemployment than by working, resulting in a more elevated unemployment rate than would occur otherwise. Given these circumstances, Congress's decision to sunset the \$600 plus-up at the end of the month was appropriate. Unemployment benefits will continue to be important after July, but as the economy re-opens and jobs return, it will be appropriate to take a different approach than taken in March as the economy was closing. The Department is available to work with Congress to fashion the approach that best support workers and economic growth.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. This crisis has had different effects on different communities. When it comes to the economic costs, black and Hispanic workers are far more likely to report having lost a job or income than white workers. Even though unemployment decreased overall in May, unemployment for black workers went up and unemployment rates for black and Hispanic workers remained very high.

We need more specific data to understand how we got here, and to create a more equitable system for black and Hispanic workers, who are experiencing severe economic conditions during this crisis.

Recently, your agency began include beneficiaries of Federal unemployment benefits in its weekly claims reports. However, they continue to be omitted from the Department's monthly report, which includes important information on characteristics of recipients, such as race and gender. This seems like important data to have.

Will you commit to providing States with guidance for reporting characteristics of workers receiving benefits through Federal programs and reporting this data each month for the duration of these programs?

Answer. Demographic data related to unemployment insurance programs can be valuable in analyzing the effect COVID-19 job and income loss has had on African-American and Hispanic workers. The Department has not historically required State reporting on claimant demographics for temporary programs that require swift implementation, given the urgent need to provide benefits to eligible individuals. The Department will consider the feasibility of requiring reporting on claimant demographics for the CARES Act programs.

Question. With more timely data on the full set of claimants, policymakers and researchers could get a better picture of the unemployment situation across different communities, especially our black and Hispanic workers.

Will you commit to providing States with guidance for reporting initial claims and continuing claims data by race in weekly unemployment data releases?

Answer. As noted, the Department has not historically required State reporting on claimant demographics for temporary programs that require swift implementation, given the urgent need to provide benefits to eligible individuals. The Department will consider the feasibility of requiring reporting on claimant demographics for the CARES Act programs.

Question. I'd like to ask about the guidance issued by the Department of Labor on health and safety standards and people returning to work, particularly a regulation that States that "a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual."

Your agency has issued conflicting and unclear guidance here. My home State of Colorado has clarified that workers receiving unemployment benefits who live with older and immunocompromised people should not be required to return to work under the "suitable work" rules, but that's not been adopted across the country.

I read about a woman named Tania Goolsbee, a maid whose husband has COPD and chronic emphysema. She's worried about going back to work when the risk of COVID-19 is still high. As she said, "If I were to bring [coronavirus] home to my husband, it would kill him."¹

Wouldn't you agree that, because she can't control the circumstances of her workplace, she is facing an unusual risk?

Answer. The Department's guidance on this issue is not conflicting. A State has significant flexibility in determining the suitability of employment and defining terms such as "unusual risk." The Federal Unemployment Tax Act provides baseline Federal criteria for a State to use in determining the suitability of work, including that work is unsuitable "if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality." The Department's regulations allow States discretion to define availability, as long as the definition excludes full withdrawal from the labor market. On March 12, 2020, the Department published Unemployment Insurance Program Letter 10-20 (https://wdr.doleta.gov/directives/attach/UIPL/UIPL_10-20_Acc.pdf), which provided States guidance in the flexibilities available to them in interpreting suitable work in the COVID-19 context. In assessing whether someone has good cause to not return to work or refuse suitable work, it is not sufficient for the individual to have a generalized fear of the virus; States must determine if there is a factual basis for the individual to believe that it is not safe to return to work or accept suitable work.

Question. Will you commit to publishing new guidance and FAQs to provide clarity on the standards for when workers remain eligible for State or Federal unemployment benefits if they leave work or refuse to work due to legitimate COVID-19 health and safety concerns?

Answer. One of the Department's top priorities is to ensure that workers are returning to safe workplaces. The Department has already provided guidance on this issue.

The Department's guidance in UI Program Letter 16-20, Change 1, Question 50, addresses the issue under the PUA program. An individual is eligible for benefits if he is otherwise able to work and available for work within the meaning of applicable State law, but is unemployed, partially unemployed, or unable or unavailable to work because of one of the COVID-19-related reasons outlined in Section 2102(a)(3)(A)(ii)(I) of the CARES Act. An individual who does not go to work due to general concerns about exposure to COVID-19, and who does not meet any of the other COVID-19 related criteria for PUA, is not eligible for PUA because a general concern about exposure to COVID-19 is not one of the reasons listed in section 2102(a)(3)(A)(ii)(I) of the CARES Act.

¹ <https://why.org/articles/coronavirus-unemployment-benefits-are-high-putting-workers-and-employers-at-odds/>.

With regard to the regular UI program, an individual is considered available for work under State law if he is available for work that is suitable for him. Many State laws provide that work is unsuitable if it exposes an individual to safety risks. If an individual receiving benefits is offered work that unreasonably exposes him to COVID-19, the State providing those benefits could conclude that the work is not suitable, if permitted under the State's suitable work provisions. We note that it would not be appropriate for a State to determine that work is unsuitable simply because of a worker's generalized fear of COVID-19. The determination would need to be based on facts about that particular workplace indicating that there is a reasonable ground to believe that the individual is at risk of contracting the virus at that workplace.

Question. Only 214,016 workers out of the 29.5 million claiming unemployment benefits are benefiting from workshare programs. Roughly half of States still have not adopted workshare programs. These programs allow employers to keep workers on payroll at a reduced schedule. They allow workers to keep their benefits, like health insurance, and most of their wages. And, the Federal Government will pay up to 100 percent of their unemployment benefits. The CARES Act provided funding for grants to States to establish or improve their workshare programs.

What is your agency doing to increase take-up of these programs among States who have not yet adopted them?

Answer. The Short-Time Compensation (STC) program—also known as “work-sharing” or “shared work”—is a lay-off aversion program in which an employer, under a State-approved plan, reduces the hours for a group of workers in lieu of layoffs, and these workers in turn receive a reduced unemployment benefit payment. Although the STC program can be operationally challenging for States to implement, the Department considers the STC program to be valuable for employers, workers, and the economy—it saves jobs, keeps workers employed, and helps employers maintain their skilled workers.

The Department is working to expand the use of the STC program, within the scope of current law, in ways that support the re-opening of State and local economies. Businesses that temporarily closed may use the STC program to bring back most or all of their employees in a reduced capacity when they reopen if social distancing measures, a decline in business, or other factors prevent operation at full staffing levels.

The Department has provided guidance to States on the provisions of the CARES Act related to the 100 percent Federal reimbursement of STC benefits through December 2020 and the available grants for implementation and expansion of State STC programs and employer outreach. The Department is also providing technical assistance to all States considering creation of a new STC program and is rolling out a multi-pronged strategy to promote the adoption of STC programs in States without them and the expansion of programs in States where they already exist.

Question. What are you doing to distribute these funds quickly so that States can establish and improve these important programs that help workers and employers?

Answer. The Department has provided guidance to States on the STC provisions in the CARES Act related to 100-percent reimbursement of benefits through December 2020 in addition to available grants for implementation and expansion of State STC programs and employer outreach. The Department is also providing technical assistance to any State considering creating a new STC program. In addition, the Department is rolling out a multi-pronged strategy to promote State adoption of STC, to expand STC programs in States that already have programs, and to encourage States to apply for the available grants as soon as feasible.

QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. Can you provide a detailed list of all of the specific steps the Department of Labor has taken thus far to promote and assist the creation and usage of short-time compensation programs, also known as workshare programs?

Answer. The STC program—also known as “work-sharing” or “shared work”—is a lay-off aversion program in which an employer, under a State-approved plan, reduces the hours for a group of workers in lieu of layoffs, and these workers in turn receive a reduced unemployment benefit payment. The Department considers the STC program to be valuable for employers, workers, and the economy—it saves jobs, keeps workers employed, and helps employers maintain their skilled workers.

The Department is working to expand the use of the STC program, within the scope of current law, in ways that support the reopening of State and local economies. Businesses that temporarily closed may use the STC program to bring back most or all of their employees in a reduced capacity when they reopen if social distancing measures, a decline in business, or other factors prevent operation at full staffing levels.

The Department has provided guidance to States on the provisions of the CARES Act related to the 100 percent Federal reimbursement of STC benefits through December 2020 and the available grants for implementation and expansion of State STC programs and employer outreach. The Department is also actively providing technical assistance to all States considering creation of a new STC program and is also in the process of rolling out a multi-pronged strategy to promote the adoption of STC programs in States without them and the expansion of programs in States where they already exist.

Question. What additional specific steps does the Department of Labor intend to take to promote and assist the creation and usage of workshare programs and what does the agency view as the most significant ongoing challenges preventing greater utilization of such programs?

Answer. The Department has provided guidance to States on the STC provisions in the CARES Act related to 100 percent reimbursement of benefits through December 2020 in addition to available grants for implementation and expansion of State STC programs and employer outreach. The Department is also providing technical assistance to any State considering creation of a new STC program. In addition, the Department is rolling out a multi-pronged strategy to promote State adoption of STC, to expand STC programs in States that already have programs, and to encourage States to apply for the available grants as soon as feasible.

Question. Workers with disabilities often have the slowest return to work after an economic downturn. The employment-to-population ratio for people with disabilities after the Great Recession never returned to pre-recession levels. The May 2020 employment-to-population ratio for persons with disabilities ages 16 to 64 was 27.7 percent, down from 30.7 percent a year prior. What will the Department of Labor do to ensure those workers with disabilities who have lost their jobs during this pandemic are included in efforts to help workers return to work so that people with disabilities do not experience the same slow return to employment they experienced after the Great Recession?

Answer. The Department seeks to respond to the needs of workers with disabilities and ensure that they can safely return to work.

Persons with disabilities experienced a slower economic recovery after the Great Recession than persons without disabilities. Importantly, persons with disabilities achieved significant employment gains from 2014 until March 2020 (pre-COVID-19). According to the Current Population Survey (CPS), between 2009 and 2019, the Employment-Population Ratio (proportion of the population employed) of working age persons with disabilities reached a low of 26 percent in 2014, yet increased steadily to 30.9 percent in 2019. The Unemployment Rate of working-age persons with disabilities peaked in June 2011 at 18.6 percent and then fell gradually to 6.4 percent in May 2019, the lowest level on record since these data became available in 2008.

In recent years, the Department's Office of Disability Employment Policy (ODEP) has implemented a number of initiatives designed to improve the employment outcomes of individuals with disabilities. In partnership with the Department's Bureau of Labor Statistics and Chief Evaluation Office, ODEP has taken steps to collect additional data on the employment of individuals with disabilities, such as adding a Disability Supplement survey to the Current Population Survey. These efforts will allow for a better understanding of the employment challenges experienced by individuals with disabilities.

ODEP and the Department's Employment and Training Administration have worked with the States for several years as they have established policies and practices to better serve individuals with disabilities, including through the Disability Employment Initiative in which the Department awarded grants totaling approximately \$139 million to 55 projects in 30 States over 8 years.

As a result of the COVID-19 pandemic, the Department bolstered the resources provided to workers with disabilities, and the Department strengthened the resources provided to employers to help them retain workers with disabilities. During

the COVID-19 pandemic, the Department also increased the technical assistance provided on reasonable accommodations, including those related to communicable diseases and self-disclosure. ODEP is also working with States to help them improve employment outcomes for individuals with disabilities as businesses reopen. Additionally, the Occupational Safety and Health Administration issued guidance to assist employers reopening non-essential businesses and their employees returning to work (<https://www.osha.gov/Publications/OSHA4045.pdf>).

Question. As noted in the May 19th letter addressed to you and signed by 22 Senators, the CARES Act states that Disaster Unemployment Assistance (DUA) regulations apply to Pandemic Unemployment Assistance (PUA). Section 625.13(b)(2) of the regulations for DUA states that “a position shall not be deemed to be suitable for an individual if the circumstances present any unusual risk to the health, safety, or morals of the individual. . . .” Is it the position of the Department of Labor that employers failing to take appropriate precautions to protect employees from COVID-19 presents such a risk to the health and safety of workers? If so, why has the agency not provided guidance clarifying what safety guidance must be implemented by employers before their offers of employment to PUA recipients are deemed suitable?

Answer. One of the Department’s top priorities is to ensure that workers are returning to safe workplaces. OSHA has issued return to work guidance to provide clarity to employers regarding the steps they can take to keep their workplaces safe from COVID-19 (<https://www.osha.gov/Publications/OSHA4045.pdf>).

PUA eligibility, as it broadly relates to the “available for work” criterion and, more specifically, to suitability, remains a matter of State law. The DUA regulations generally apply to the PUA program. However, the DUA regulations do not apply when they conflict with the CARES Act. Under the PUA program, an individual is eligible for benefits if he is otherwise able to work and available for work within the meaning of applicable State law, unless he is unemployed, partially unemployed, or unable or unavailable to work because of one of the COVID-19-related reasons outlined in section 2102(a)(3)(A)(ii)(I) of the CARES Act.

An individual is considered available for work under State law if he is available for work that is suitable for him. Many State laws provide that work is unsuitable if it exposes an individual to safety risks. If an individual receiving PUA is offered work that unreasonably exposes him to COVID-19, the State providing those benefits could conclude that the work is not suitable, if permitted under the State’s suitable work provisions. The individual would still be considered available to work and potentially eligible for PUA, provided the other eligibility requirements are met. Likewise, if an individual were to turn down work that would be considered suitable under State law but turned the work down for one of the COVID-19-related reasons in section 2102(a)(3)(A)(ii)(I) of the CARES Act, the individual would still be eligible for PUA.

Question. Please provide detailed data on the following:

The number of COVID-19 safety and health complaints OSHA has received each week since January 1, 2020, including weekly national totals and weekly State totals.

Answer. The table below provides the number of COVID-19 safety and health complaints OSHA has received per week since January 1, 2020 (Federal OSHA only).

		Number of Complaints
January	All	1
February	2/2 to 2/8	1
	2/9 to 2/15	4
	2/16 to 2/22	3
	2/23 to 2/29	4
March	3/1 to 3/7	32
	3/8 to 3/14	86

		Number of Complaints
	3/15 to 3/21	500
	3/22 to 3/28	503
April	3/29 to 4/4	488
	4/5 to 4/11	458
	4/12 to 4/18	433
	4/19 to 4/25	477
May	4/26 to 5/2	438
	5/3 to 5/9	400
	5/10 to 5/16	382
	5/17 to 5/23	343
	5/24 to 5/30	288
June	5/31 to 6/6	279
	6/7 to 6/13	289
	6/14 to 6/20	305
	6/21 to 6/27	283
July	6/28 to 7/4	279
	7/5 to 7/11	361
	7/12 to 7/18	356
	7/19 to 7/25	299
	7/26 to 7/30	185
Total		7,477

Question. The number of COVID–19 whistleblower complaints OSHA has received each week since January 1, 2020, including weekly national totals and weekly State totals.

Answer. The table below provides the number of COVID–19 whistleblower complaints OSHA has received per week from January 1, 2020* through the week starting July 30th. It includes weekly nationwide totals and weekly State plan referral totals.

Week Starting	Total COVID–19 WB Complaints, Nationwide	State Plan COVID–19 WB Complaint Referrals	Federal OSHA COVID–19 WB Complaints
2/3/2020	0	0	0
2/10/2020	0	0	0
2/17/2020	1	0	1
2/24/2020	1	0	1

*OSHA data collection began as of February 1, 2020, and the first whistleblower complaint was received the week of February 17, 2020.

Week Starting	Total COVID-19 WB Complaints, Nationwide	State Plan COVID-19 WB Complaint Referrals	Federal OSHA COVID-19 WB Complaints
3/2/2020	0	0	0
3/9/2020	5	4	1
3/16/2020	20	13	7
3/23/2020	89	32	57
3/30/2020	140	32	108
4/6/2020	175	30	145
4/13/2020	176	41	135
4/20/2020	166	42	124
4/27/2020	139	31	108
5/4/2020	162	34	128
5/11/2020	127	27	100
5/18/2020	143	18	125
5/25/2020	94	24	70
6/1/2020	141	22	119
6/8/2020	117	25	92
6/15/2020	94	38	56
6/22/2020	89	25	64
6/29/2020	92	12	80
7/6/2020	121	26	95
7/13/2020	110	36	74
7/20/2020	67	5	62
7/27/2020	17	1	16
Totals	2,286	518	1,764

Question. The total number of COVID-19-related inspections OSHA has completed each week since January 1, 2020, including weekly national totals and weekly State totals.

Answer. The table below provides the total number of COVID-19-related inspections OSHA has opened each week since January 1, 2020 (Federal OSHA).

		Number of Inspections
February	2/2 to 2/8	0
	2/9 to 2/15	0
	2/16 to 2/22	1
	2/23 to 2/29	0
March	3/1 to 3/7	1

		Number of Inspections
	3/8 to 3/14	2
	3/15 to 3/21	0
	3/22 to 3/28	1
April	3/29 to 4/4	11
	4/5 to 4/11	19
	4/12 to 4/18	43
	4/19 to 4/25	54
May	4/26 to 5/2	79
	5/3 to 5/9	68
	5/10 to 5/16	70
	5/17 to 5/23	67
	5/24 to 5/30	42
June	5/31 to 6/6	57
	6/7 to 6/13	51
	6/14 to 6/20	42
	6/21 to 6/27	37
July	6/28 to 7/4	23
	7/5 to 7/11	32
	7/12 to 7/18	30
	7/19 to 7/25	27
	7/26 to 7/30	15
Total		772

Question. The average amount of time between when OSHA received a COVID-19-related complaint and when an inspection occurred, when one did occur, since January 1, 2020.

Answer. The average time between OSHA receiving a COVID-19-related complaint and conducting an inspection is 3.3 days.

Question. The number of COVID-19-related complaints closed by OSHA each week since January 1, 2020, including weekly national totals and weekly State totals, as well as information on how many complaints were closed with and without an inspection having occurred.

Answer. As of July 30, OSHA has received a total of 7,477 complaints, both formal and nonformal, since January 1, 2020. Of those, 5,931 are now closed. Weekly data can be found on OSHA's website at: <https://www.osha.gov/foia/archived-covid-19-data>.

Question. The number of citations OSHA has issued in response to COVID-19-related complaints each week since January 1, 2020.

Answer. As of July 30th, four COVID-19-related citations have been issued. One citation was issued on May 18th, and three citations were issued on July 13th.

Question. The number of total inspections OSHA has conducted per month since January 1, 2019.

Answer. The table below provides the number of total inspections OSHA has conducted per month since January 1, 2019.

2019	Number of Inspections
January	2,880
February	3,043
March	3,336
April	3,537
May	3,158
June	3,175
July	3,428
August	3,444
September	2,783
October	3,378
November	2,663
December	2,237
Total	37,062

2020	Number of Inspections
January	2,660
February	2,440
March	1,780
April	538
May	888
June	1,642
July 1–30	1,214
Total	11,162

QUESTIONS SUBMITTED BY HON. MARK R. WARNER

Question. Secretary Scalia, as we discussed at the June 9th hearing, for a number of years, I have been calling on Congress to set up a national impact evaluation fund for States, cities, and non-profits to experiment with portable benefits innovation for independent workers to make sure that every worker in America has access to a safety net.

This is important for our economy as a whole—economists have found that access to portable benefits like health care increases business creation. We need that kind of innovation for worker benefits because this patchwork system of benefits we have doesn't go away after this crisis.

I hope you can agree that in a 21st-century economy we shouldn't need an act of Congress to shore up our safety net for American workers in the next economic downturn?

Answer. Access to affordable health insurance and retirement savings programs—which are often tied to employment—is important for American workers and their families, and is a priority for the administration and the Department. Working with the Department of Health and Human Services and the Department of the Treasury, the Department of Labor has taken three regulatory actions to provide greater choice and affordability in health coverage for American workers.

The Health Reimbursement Arrangements (HRAs) rule will allow workers to shop for plans in the individual market and select coverage that best meets their needs. Individual coverage HRAs are designed to give working Americans and their families greater control over their health care by providing an additional way for employers to finance health insurance. Under the rule, employers will be able to use individual coverage HRAs to provide their workers with tax-preferred funds to pay for the cost of health insurance coverage that workers purchase in the individual market, subject to certain conditions. This option gives workers greater choice in coverage, increases the portability of their coverage, and generally improves their economic well-being.

Association Health Plans (AHPs) will allow small businesses, including self-employed workers, to band together by geography or industry to purchase high-quality, affordable health insurance. By negotiating together, these small businesses gain the negotiating leverage normally enjoyed by much larger companies. The aim of the Department's 2018 AHP rule was to expand access to affordable, high-quality health-care options, particularly for employees of small employers. Unfortunately, a group of State attorneys general brought suit, and a Federal court vacated portions of the AHP rule. This was a setback for the 400,000 otherwise uninsured individuals nationwide who would have gained coverage under the rule. The Department has appealed the decision and is awaiting a ruling.

The Short-Term, Limited-Duration Insurance (STLDI) rule is designed to fill gaps in coverage that may occur when an individual is transitioning from one plan or coverage to another plan or coverage, such as when in between jobs. For Americans who are priced out of ACA-compliant insurance, access to STLDI can serve as a safeguard during a period of transition.

Finally, Congress recently passed the Setting Every Community Up for Retirement Enhancement Act. This important legislation, which builds on the Association Retirement Plans (ARPs) rule issued by the Department in July 2019, allows employers to join multiple employer plans (MEPs). These plans enable employers to join retirement plans that are administered by a “pooled plan provider,” even where the employers do not have a common interest other than adopting the plan. By banding together, employers can share the administrative burden of providing a retirement plan.

The Department is always willing to discuss with Congress other ways to provide flexible, affordable health insurance and retirement options for workers.

Question. In the second panel at the June 9th hearing, we heard advocates say that being a member of a union is a significant predictor of getting UI benefits faster in this crisis, I'm sure because these workers have an advocate and because they have an institution working to get helpful information directly to them. In Sweden, Belgium, and Denmark, unions actually help deliver government-supported unemployment insurance directly to workers through their Ghent system.

How can the Department of Labor empower unions and worker advocate non-profits to help get benefits like UI to workers in an American context?

Answer. The UI system was designed as a Federal-State partnership, and States have significant discretion in administering the program. Unions and other organizations may provide assistance to individuals who seek to submit unemployment claims. There is a real need for modernization of UI systems across States, and the Department is available to work with Congress and States on the modernization of States' UI systems.

Question. What are some solutions we can put in place so that employers cannot free-ride on these programs?

Answer. Whether a free-rider problem exists, and how to address it, depends on the details of the partnership arrangement. Consideration also should be given to the effects on non-members of the union or organization, particularly if employers contribute to or otherwise provide support for the program.

Question. The Markup did a series of investigations on State UI systems and found that online benefits systems have buckled under the weight of unprecedented applicants. In my April 3rd letter to the Department, I noted that the “Department of Labor should be taking the lead on innovative technological solutions that relieve the burden on States to recreate the wheel on their own.” In particular, I mentioned that “vendors with cloud-based solutions for PUA processing could streamline the process for State unemployment agencies.” We have seen cloud-based upgrades work well in Rhode Island, Connecticut, Maine, and Mississippi, the latter of which updated to the cloud after Hurricane Katrina hit.

In the context of a global pandemic and the worst economic crisis we’ve seen since the Great Depression, why did the agency not look into contracting with vendors for cloudbased solutions to streamline the process for States?

Answer. Cloud-based solutions can potentially address a number of the problems with UI technology that arose during the COVID-19 pandemic. For instance, cloud-based solutions could enable State UI applications to more effectively handle a high volume of claims. Under the longstanding Federal-State partnership toward UI, States maintain their own UI technology systems—which vary widely—and States are responsible for decisions about vendors and specific technology solutions. The Department has worked tirelessly, however, to help States develop technology solutions to deliver benefits effectively to eligible individuals. The Department’s Chief Information Officer and the U.S. Digital Service provided consultation to 15 States since the beginning of the pandemic, which included consultation on cloudbased solutions. In addition, the Department-funded UI Information Technology Support Center provided technical assistance and shared best practices with 43 State unemployment insurance agencies. The help provided by the UI Information Technology Support Center included technology options to address enhanced claims volume and assistance in effectively implementing the new CARES Act programs. These technical assistance resources remain available to the States.

Question. Can you provide an estimate to this committee on how much it would cost for every State to modernize its Unemployment Insurance IT infrastructure?

Answer. On average, modernized State UI IT systems that handle both Unemployment Insurance tax and benefit administration have cost tens of millions of dollars and, in some cases, more than \$100 million.

Question. As you likely know, a vast majority of Americans receive health-care insurance from their employer. Some estimates show as many as 80 percent of non-Medicare eligible individuals are enrolled in employer based coverage.

I am concerned that in the wake of massive job loss and in the midst of a global pandemic this administration has not done enough to ensure Americans with employer sponsored benefits have access to the health-care services they need.

I have already called on Leadership here in Congress to include strong health-care provisions in any future legislation Congress passes to address COVID-19, specifically: increased support for Medicaid, financial support for those enrolled in COBRA coverage, reopening the ACA marketplace so that additional individuals can enroll, and also adjusting premium assistance to those currently on the ACA exchange to ensure more can enroll in quality coverage.

How has your Department worked to ensure that millions of Americans who have lost their jobs and are at risk of losing their employer sponsored health-care coverage can still get the medical treatment they need? Is this something you have worked with HHS or the administration on?

Answer. In response to the COVID-19 pandemic, the Department—in conjunction with the Internal Revenue Service—provided extensions to allow participants and beneficiaries of employee benefit plans additional time to make important health coverage and other matters affecting their benefits. The Department’s guidance extended the time to elect COBRA continuation coverage and the date for making COBRA premium payments.

Additionally, on May 1, 2020, the Department issued Frequently Asked Questions (FAQs) about COBRA and revised COBRA model notices. These model notices are intended to be used by plan administrators to notify plan participants and beneficiaries of their rights under COBRA and to notify qualified beneficiaries of their rights to elect COBRA. The revised COBRA model notices include new information to help Medicare-eligible Americans make key decisions regarding their health-care coverage by addressing COBRA’s interaction with Medicare and explaining that there may be advantages to enrolling in Medicare before, or instead of, electing

COBRA. The FAQs highlight that if an individual is eligible for both COBRA and Medicare, electing COBRA coverage may affect enrollment in Medicare as well as certain out-of-pocket costs.

Question. What should we tell the millions of Americans who have lost their employer sponsored health-care coverage and may need access to care during the midst of this global pandemic? Shouldn't the administration and Leaders in Congress be working with us to strengthen the ACA marketplace and Medicaid, which could serve as a critical pathway to medical treatment for the millions of Americans losing their jobs? Or should we just leave them out to dry?

Answer. There are a number of options available to individuals who have lost their employer-sponsored health-care coverage. For example, COBRA continuation coverage allows for the continuation of group health benefits provided by an individual's group health plan. The law generally applies to all group health plans maintained by private-sector employers with 20 or more employees. Under COBRA, eligible employees are generally able to enroll in COBRA coverage for 18 months. Qualified beneficiaries entitled to 18 months of COBRA continuation coverage who experience a second qualifying event or who become disabled during an 18-month COBRA coverage period may be eligible to extend their COBRA continuation coverage for an additional 18 months for a total of 36 months. Employers and plans are required to provide notice to employees and family members explaining their COBRA rights.

As noted in the Department's FAQs on COBRA Continuation Health Coverage for Workers, eligible individuals should consider all options available to them. For example, an employee losing eligibility for group health coverage may be able to enroll in other group health coverage, such as a spouse's plan, without waiting until the next open season for enrollment.

The loss of job-based health coverage is also a Qualifying Event that triggers a Special Enrollment Period in the Affordable Care Act (ACA) Health Insurance Marketplace. In general, individuals who have lost their employer coverage have up to 60 days to purchase a marketplace plan after the loss of health coverage. Alternatively, an individual may report to the marketplace a future loss of coverage up to 60 days in advance to avoid a gap in health coverage.

Individuals losing employer-based coverage may also come to the marketplace to learn if they could qualify for Medicaid or the Children's Health Insurance Program (CHIP). Individuals who live in States that use *HealthCare.gov* will receive confirmation that they qualify from their State Medicaid or CHIP agency.

The high costs of plans in the ACA marketplace may limit the attractiveness of individual market coverage options to people who do not qualify for premium tax credits or cost sharing reductions. As an alternative, individuals may be able to purchase other coverage, such as a short-term, limited duration insurance policy from a health insurance issuer in their State.

As specified in the revised COBRA model notices issued by the Department of Labor on May 1, 2020, Medicare eligible individuals should consider whether there is an advantage to enrolling in Medicare before, or instead of, electing COBRA.

Finally, individuals who have general questions about any of these health coverage options can contact one of the Department's benefits advisors at <https://www.dol.gov/agencies/ebsa/about-ebsa/ask-a-question/ask-ebsa> or 1-866-444-3272.

Question. Your Department has led administration efforts to expand the use of health-care plans that can discriminate against individuals with pre-existing conditions and often do not provide comprehensive coverage for individuals that purchase them.

Notably, during the midst of this global pandemic my office has heard directly from Virginia residents and heard too many unfortunate stories about individuals who have been denied care or left with exorbitant health-care bills, because they have enrolled in skimpy plans pushed by your Department and this administration.

One of the more egregious stories I have heard is a young man that received care for COVID and left the hospital with a bill of more than \$3,000, because the skimpy plan he was enrolled in—made more accessible by your department—refused to cover full cost of his care.

Could you explain why it makes sense for your department to push these plans that don't offer comprehensive coverage and often leave Americans with thousands of dollars in medical bills when they actually go to seek care?

Answer. The Department has worked to provide Americans with more affordable options for health-care coverage. STLDI plans, which have existed for decades and during the previous administration, offer flexible and affordable coverage for American individuals and families. This coverage is more affordable, in part, because it generally does not cover all of the requirements imposed by the ACA, which raise prices for consumers. For Americans who cannot afford plans that include all ACA mandated benefits, access to STLDI plans can serve as a valuable alternative. For consumers with low expected health care costs, who are ineligible for premium tax credits and Cost Sharing Reductions in the ACA marketplace, and who choose STLDI plans, the Congressional Budget Office (CBO) expects that premiums may be as much as 60-percent lower than the lowest cost plans covering all mandated benefits.

The purchase of STLDI plans can lead to improved health outcomes and give individuals greater financial protection from catastrophic health care expenses. Individuals purchasing STLDI plans may also gain broader access to health care providers than they would have through individual market plans, which may have narrower provider networks.

Additionally, STLDI plans can serve as an affordable and flexible coverage alternative for people who expect a short coverage gap due to job loss. While people who lose their job may be able to remain on their employer plan for up to 18 months under COBRA, this typically requires paying the entire premium for coverages up to 102 percent of the cost to the plan affordable option.

Question. My office has received dozens of complaints about these plans and seen too many patient stories from around the country.

Has your department tracked these stories or heard similar concerns? Have you taken any steps to look into them and what should we tell these patients that need care?

Answer. Because coverage may vary depending on the STLDI plan and any applicable State requirements, consumers should assess their options before selecting a plan, as with any plan selection. The August 2018 final rule includes an important consumer protection provision, which seeks to ensure that consumers are aware of the potential limits of STLDI plans. The provision requires issuers to include an enhanced disclosure in the contract and in any application enrollment materials to inform consumers that these plans are not subject to the same insurance market regulations as other individual health insurance plans.

The Department has not received any complaints from participants relating to short-term, limited duration plans. Whereas these plans generally operate within State regulatory environments, the Department lacks authority to carry out investigations in the event a complaint is received. When the Department receives complaints that are beyond our jurisdiction, those cases are referred to the appropriate regulator.

Question. As you know, the CARES Act expanded the safety net for unemployed and partially unemployed individuals by creating the Pandemic Unemployment Assistance (PUA) program for individuals, particularly the self-employed, who are typically excluded from State unemployment programs.

In Virginia, anecdotal reports throughout the State found that self-employed family child care home providers (licensed by the State) who care for unrelated children in their home were declined for PUA (and therefore, also could not access PEUC). In a survey on June 13 conducted in Virginia, 14 family child care home providers who are currently closed reported filing for unemployment, half were rejected for PUA. Among another 31 family child care home providers who applied for partial unemployment, 20 (64.5 percent) have been rejected for partial payments. Many others reported that they have applied for unemployment, but have yet to hear anything related to their application.

The construct of a self-employed family child care home-based business involves caring for children whose parents pay weekly or monthly fees. These providers depend on these revenues to pay their operating expenses. If a provider previously cared for eight children and now cares for two children, they have incurred a significant reduction in income related to their self-employment. Because the two children she cares for may still require her to work 40 hours per week, she has not had a

reduction in hours, but has incurred a significant decline in income. It is unclear from the survey responses about a singular reason for rejection of unemployment claims. For example:

- Some family child care providers were told they earn too much income (above \$158 per week).
- Others report that they were told they did not work sufficient hours in 2019.
- Some were told they worked too many hours currently.
- One reported that the receipt of Social Security benefits was the reason her application was rejected.
- Many were given no reason for the rejection of their application.

The intent of the CARES Act PUA and related PEUC unemployment provisions was to offer a safety net for the self-employed, including family child care home providers.

Can you clarify what technical changes may be needed to the PUA and PEUC program to ensure that self-employed family child care home-based providers can access either full unemployment benefits (if closed) or partial unemployment compensation (if they have had a significant reduction in income)?

Answer. One of the qualifying conditions for an individual to receive PUA is that he is unemployed, partially unemployed, or unable or unavailable to work for a COVID-19 related reason listed in the CARES Act.

The PUA program under the CARES Act is largely modeled after the DUA program and relies on the DUA regulatory framework where the CARES Act is silent. DUA regulations provide that a self-employed individual performing less than the customary full-time services is considered partially unemployed.

Child care providers in the situation you describe may be considered to be partially unemployed under the DUA regulations. Further, under the eligibility criteria the Department added pursuant to the authority in CARES Act section 2102(a)(3)(A)(ii)(I)(kk), self-employed workers who have sustained a significant diminution of their customary full-time services because of COVID-19 may be eligible for PUA where they are forced to suspend the provision of services, though their benefit amount may be reduced because of income. The Department's current guidance affirms that individuals who did not suspend the provision of services, but did sustain a significant diminution of their customary full time services due to COVID19, may be eligible for PUA. Additional guidance specific to childcare providers is expected shortly.

Question. Can guidance be given to State labor agencies, or are technical corrections necessary to ensure that self-employed home-based child care providers can access unemployment compensation as intended?

Answer. The Department plans to issue clarifying guidance to States on this matter shortly.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. Rhode Island has worked very hard to implement the Federal unemployment measures included in the CARES Act, which have provided many of our constituents with a lifeline during this crisis. While DOL has provided States with some assistance to help set up new systems and effectively administer benefits, more help to States is needed for training, technology, and other costs associated with the new Federal policies and high demand for benefits. Additionally, the COVID-19 pandemic has also cast a light on much needed technology upgrades for State unemployment systems.

What is DOL doing to help ensure States like Rhode Island continue to receive assistance that ensures benefits continue to be delivered in a timely manner?

Answer. The Department will continue to vigorously support States as they work to effectively distribute benefits provided under the CARES Act. The Department has provided technical assistance to States through guidance, Questions and Answers, webinars, and one-on-one interactions. The Department has also connected States with other resources, such as the Department-funded UI Integrity Center and UI Information Technology Support Center. Additionally, the Department's Chief Information Officer has offered direct IT assistance to States and facilitated connections with other IT resources, including the U.S. Digital Service.

The Department collaborated with the U.S. Digital Service and the UI Information Technology Support Center, which is operated by the NASWA in a partnership with, and funding from, the Department, to host a call with the States on July 7, 2020, that focused specifically on innovative State practices that improve workload management in order to enable timely benefit payments.

Further, I have communicated directly with Governor Raimondo on several occasions concerning UI, and my staff have also worked with the Governor's staff to assist the State.

Question. What are DOL's long-term plans to upgrade State unemployment systems?

Answer. The Department recognizes the need to modernize State UI IT systems. The COVID-19 pandemic has highlighted the unreliability of State UI IT systems—something the Department worked to educate Congress about during the drafting of the CARES Act. The UI program is structured as a Federal-State partnership based on Federal law but administered by States under State law. This structure makes the program unique among the country's benefit programs in that States have significant flexibility to establish eligibility provisions, benefit duration and levels, and taxing structures to pay for benefits.

While State flexibility is important, this structure and the variance in State laws and processes make it more difficult to develop efficient administrative processes and to implement technologies that will work across the 53 different States and territories operating UI programs.

The Department believes there is opportunity for modernization across States and would welcome the opportunity to work with Congress and States to that end.

Question. Will you commit to providing additional assistance to State unemployment systems for immediate and long-term needs?

Answer. The Department is available to work with Congress and States on strategies to ensure States have the tools, resources, and funding necessary to administer their UI programs.

Question. Has DOL identified and shared successful implementation and administration practices among States?

Answer. The Department provides funding for, and partners with, the UI Information Technology Support Center operated by NASWA. The Center provides information, technical assistance, products, and tools to States to support the modernization of their systems and development of technology solutions generally; it also shares best practices. In addition, the Department hosts a UI Community of Practice, a collaborative group designed to share best practices and resources to help States improve UI operations.

The Department also funds and partners with the NASWA UI Integrity Center, which provides a wide range of resources to help States improve program integrity and prevent and detect improper and fraudulent payments. Through the UI Integrity Center, States have shared best practices for processing the unprecedented number of claims received during the pandemic. These best practices have included the implementation of front-end portals for claimants and staff; the enhancement of infrastructure to increase online UI system capacity; backend systems to auto-file and process claims for benefits based on eligibility conditions; the implementation of a mobile-friendly site for initial applications, for employer submission for large layoffs, and for hosting a chat box for Frequently Asked Questions; the upgrade of existing systems, such as processors and content delivery systems; and the transition of existing systems to a cloud environment in order to enhance system capacity and improve claims processing.

Question. Rhode Island is one of several States which has been targeted by malicious actors for a massive unemployment fraud scheme.

What could DOL and States have done proactively to prevent the widespread fraud we have seen from organized crime rings?

Answer. The Department had been vigorously addressing fraud in the UI system prior to the COVID-19 pandemic. The incentive to fraudulently obtain benefits under CARES Act programs was significantly increased by two factors. First, the relative value of benefits received was greatly increased by the Federal Pandemic Unemployment Compensation benefits—the \$600 weekly plus-up. Second, the stat-

ute relies on self-attestation by PUA claimants regarding their unemployment status and the COVID-19 eligibility criteria, increasing the risk of fraud.

The Department funds and partners with the UI Integrity Center operated by the National Association of State Workforce Agencies. The Center provides technical assistance and tools to States to support UI program integrity and the prevention, detection, and recovery of UI improper and fraudulent payments. Among the tools and resources available to States are a robust suite of training modules for State staff on conducting fraud investigations and a UI Integrity Data Hub (IDH). These tools have been valuable for States during the COVID-19 pandemic.

The IDH is a multi-State data tool that allows participating UI agencies to cross-match UI claims against a database associated with potentially fraudulent claims or overpayments. The resources available through the IDH include: a suspicious actor repository to enable States to submit known fraud data elements that will enable the States to cross-match those elements to detect multi-State fraud; suspicious IP addresses; multi-State claims data; a fraud alert system that allows States to immediately share information through the secure IDH environment on newly identified fraud schemes/activities in their States (this capability allows States to receive and review information on these fraud schemes and to receive updates to improve awareness across the community); and in July 2020, it will include an identity verification solution for use by all States to determine identity when a claim is first filed.

The Integrity Center also hosts weekly calls to allow States to share their experiences with fraud activities and fraud prevention strategies.

Question. What is DOL doing to recover improper payments that were made as a result of the fraudulent schemes recently uncovered? Are States being provided with help to recover funds?

Answer. The Department issued guidance to States regarding UI program integrity requirements, including processes that assist in the recovery of overpayments. Additionally, States are working with the Department's Office of Inspector General, as well as local, State, and Federal law enforcement, as part of their recovery efforts.

The recovery practices States use for UI payments also apply to the CARES Act's UI programs. These practices include offsetting future benefits and intercepting Federal tax returns. States are also strongly encouraged, where allowed by law, to intercept State tax returns, garnish wages, and pursue civil actions and property liens.

In addition, the Department funds and partners with the UI Integrity Center, operated by NASWA. The Center provides technical assistance and tools to States to support UI program integrity and prevention, detection, and recovery of UI improper and fraudulent payments, as described above.

Question. Would improving Federal and State Government cybersecurity infrastructure have helped identify these bad actors ahead of time?

Answer. Improving Federal-State UI cybersecurity infrastructure is critical. Hackers and other sophisticated cyber actors can exploit information technology vulnerabilities to steal information and money, and to threaten, disrupt, and destroy the delivery of essential services. Stolen information from Federal and State systems, such as personally identifiable information, is often used by fraudsters in claiming UI and similar benefits. However, an improved cybersecurity infrastructure is not sufficient to guard against criminals' penetration of the UI system. Nor will it prevent a fraudulent claim from being filed or identify bad actors ahead of time. Identity verification and other sophisticated data analytics and cross-matching tools integrated into the benefits claim process, coupled with prompt investigation of suspicious cross-match hits, would help identify fraud early in the claims cycle and prevent the payment of fraudulent claims.

In its Fiscal Year 2021 budget request—as well as in prior budget requests—the Department has proposed a package of UI program integrity-related legislation to increase the tools and resources available to the Department and States to address improper payments and fraud, including a provision that would require States to use the IDH.

Question. To what degree did outdated State unemployment systems play in the fraudsters' ability to scam the programs?

Answer. States are heavily dependent on IT to carry out their UI operations. States with obsolete systems can struggle to make modifications, integrate modern tools, and improve data analytics capacity that would combat fraud. These challenges have increased the risk of improper payments and fraud and underscore the need for modernization of State UI IT infrastructure.

Question. The CARES Act provided temporary expansions to unemployment benefits including a \$600 weekly boost, 13 additional weeks of benefits, and the inclusion of workers who wouldn't normally be eligible for benefits, such as independent contractors. These benefits have helped many families pay their bills and keep a roof over their heads during this difficult time.

Do you agree that the expanded unemployment benefits have served an important role in helping families and the economy?

Answer. Congress passed the CARES Act as the U.S. economy was shutting down. The \$600 weekly payment was an important, extraordinary measure to support workers who in many instances were being prohibited from earning a living as a result of necessary public health measures put in place by States and locales. A study by the University of Chicago indicates that more than two-thirds of workers receiving benefits under the CARES Act have seen their wages replaced at rates above 100 percent, with some low-wage workers experiencing replacement rates above 200 percent (<https://bfi.uchicago.edu/workingpaper/2020-62/>). The Congressional Budget Office, in response to a query by Chairman Grassley, has reported that if the \$600 plus up were continued past July, five-sixths of the covered workers would receive higher payments through unemployment than by working, resulting in a more elevated unemployment rate than would occur otherwise. Given these circumstances, Congress's decision to sunset the \$600 plus-up at the end of the month was appropriate. Unemployment benefits will continue to be important after July, but as the economy reopens and jobs return, it will be appropriate to take a different approach than taken in March as the economy was closing. The Department is available to work with Congress to fashion the approach that best support workers and economic growth.

Question. What are the administration's unemployment projections for the months and years ahead? How did you arrive at those projections?

Answer. The Department does not project data on unemployment or the unemployment rate.

Question. What is DOL doing to prepare for a potential second wave of COVID-19 that could once again force business closures and spikes in the unemployment rate?

Answer. As States reopen their economies and workers return to their jobs, continual consideration should be given to policies that support workers on the job as well as those who have not yet been able to return to work. The Department is available to work with Congress on potential strategies to this end.

Workplace safety is a top priority for the Department. Since the beginning of the pandemic, OSHA has issued extensive guidance to enable workplaces to operate safely under the current circumstances. As of August 4th, OSHA has published 19 industry-specific guidance documents, general return to work guidance, and 12 industry specific alerts. OSHA has published two safety posters that have been translated into at least 14 languages. OSHA also has created and posted nine short, user-friendly videos highlighting safety tips. The video on respirator usage received more than 58,000 views.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

FINANCIAL BURDENS AND FRAUD

Question. Nevada currently has the country's highest unemployment rate, at nearly one-third of its workforce, and has a high percentage of gig workers and independent contractors. Many people who are not covered by UI in Nevada and other States have voiced grievances about long wait times, lack of transparency, and perpetual changes to the date of payment when filing claims with PUA. Costs to implement PUA and other new programs under the CARES Act have been particularly challenging for Nevada. Our State has had to stand up an entirely separate infrastructure to manage the work, including both staff and technology.

Given these new costs for Nevada and other States—on top of significant costs associated with processing record numbers of unemployment claims—is the Federal Government doing enough to ensure that all State costs are being covered and to ensure that States are not saddled with additional financial burdens? What more can the Department do?

Answer. The Department worked swiftly to distribute the \$1 billion in funds made available under FFCRA to support States administration of regular UI programs. This funding helped States manage the extraordinary workload caused by the pandemic by enabling them to ramp up staffing and call centers, and to improve technology systems.

The UI programs created by the CARES Act are fully federally funded. Congress appropriated “such sums as necessary” to support the implementation and administration of the CARES Act programs and all States are able to submit related implementation costs as Supplemental Budget Requests (SBRs) to the Department for review and approval. This SBR funding can include technology costs and other start-up support for PUA implementation. States will also receive ongoing administrative funding based on workload.

Question. Is the U.S. Department of Labor providing the guidance necessary to combat fraud occurring in the PUA program across multiple States and is increasing costs for States?

Answer. The Department has issued three fraud or program integrity-related Unemployment Insurance Program Letters (UIPLs) to States:

- UIPL 16–20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions.
- UIPL 16–20, Change 1, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Pandemic Unemployment Assistance (PUA) Program Reporting Instructions and Questions and Answers.
- UIPL 23–20, Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs.

In addition, most of the 19 COVID-related UIPLs issued between March 12th and June 15, 2020 include UI program integrity guidance.

The Department is vigorously working with States, the Department’s OIG, and law enforcement to combat the increase in fraud resulting, in part, from the added benefits provided under the CARES Act and the significant increase in volume of claims. As professional criminals and fraudsters have targeted State UI systems, the Department has required States to implement for the CARES Act programs the same mandatory program integrity tools used for the regular UI program.

MISCLASSIFIED WORKERS

Question. As you know, the misclassification of independent contractors does not end at “gig workers” alone. There are countless workers in Nevada—entertainers, stage crew, promoters, and more—who all make a place like Las Vegas the capital of entertainment for visitors from around the world. They have all of the schedules, duties, and obligations of a W–2 wage employee, but none of the critical protections necessary in the current economic climate. I have heard from countless Nevadans who hear that the tourism and entertainment economy will take the longest to recover and who worry about what they can do to provide for their families when the emergency aid goes away and the crisis still endures for them.

Do you agree that particular hardest hit industries or sectors of our economy like, those in Nevada, justify extending PUA? What would you recommend to Congress do to account for hardest hit industries and States?

Answer. Some industries and sectors have been hit harder than others by the economic downturn. As the economy reopens, the Department’s existing programs administered by the Employment and Training Administration will provide high-quality job training, employment, labor market information, and income maintenance services through State and local workforce development systems to all workers, including those in particularly hard-hit industries. The Department appreciates that certain industries and locales have been more seriously affected than others and is available to work with Congress on potential strategies.

Question. Would you seek to change the criteria for those who are deemed eligible for PUA change if the program is extended?

Answer. As the United States reopens and workers return to their jobs, policies that encourage workers to return to their jobs will be important, as will be continued support for those who have not yet been able to return to work. The Department is available to work with Congress on potential strategies to support workers.

Question. What will you do to address the long-term issues raised by misclassification of workers and ensure that those misclassified employees who remain out of work will still be able to provide for their families?

Answer. Employers must comply with all applicable laws and regulations regarding the classification of employees and other workers. The Department continues to provide compliance guidance to help ensure that workers are accurately classified, and brings enforcement actions where misclassification has resulted in a failure to pay federally mandated wages. At the same time, the Department recognizes that there are a variety of circumstances where workers are appropriately recognized as independent contractors. The Department recently updated its joint employer rule, and is currently examining the proper definition of independent contractor under the FLSA.

The Department's Wage and Hour Division (WHD) builds and maintains relationships with State and Federal agencies to foster communication and better serve the Nation's workers and businesses. WHD has memorandums of understanding (MOUs) with States concerning the various laws enforced by the Division, including laws concerning misclassification. WHD's relationships with State and Federal agencies allow for data sharing, referrals, coordinated enforcement, joint outreach, and compliance assistance while maximizing the Department's effectiveness in helping businesses and workers.

With respect to the UI program specifically, State UI agencies are responsible for determining if workers are classified correctly for purposes of eligibility for unemployment benefits. The tests used to determine if a worker is an employee or independent contractor vary according to State law.

CLASSIFICATION OF PUA WORKERS

Question. Many gig workers are misclassified as independent contractors under State and Federal laws. Many of these workers are receiving PUA benefits, and some are receiving UI benefits as employees under their State laws. Senator Brown and I, along with several of our Senate colleagues, wrote you a letter June 8, 2020 asking you to clarify that States are able to provide traditional UI or PUA benefits depending on their State classification of these workers, rather than presumptively rushing to judgement and providing PUA alone.

Is it the case that many "gig workers" should qualify for regular State UI where their States allow?

Should States be applying their own laws to determine whether those workers are eligible for State UI?

Answer. Whether "gig workers" are covered by a State's UI program depends on State law and the particular circumstances of the worker. State UI agencies are responsible for determining if workers are properly classified for purposes of eligibility for unemployment benefits. The tests used to determine if a worker is an employee or independent contractor vary according to State law. The particular circumstances of "gig workers" can also vary greatly from worker to worker. The Department will continue to work with the States to ensure that workers are accurately classified under each respective body of law.

In addition, the Department exercised its authority under the CARES Act to add a category of PUA eligibility for "gig workers" and other self-employed individuals. UI Program Letter 16-20—Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4628). If a "gig worker" is ineligible for regular UI benefits, PUA may be available so long as the individual meets the program requirements. PUA is available to individuals not eligible for regular UI benefits and who self-certify as being able and available for work, but unable to work because of the COVID-19 pandemic. Accordingly, a "gig worker" who is not eligible for regular UI benefits may be able to receive PUA benefits if she meets this eligibility requirement.

Question. Will the Department put out guidance making it clear that, even if workers are receiving PUA benefits, it has no bearing on any misclassification claim?

Answer. PUA benefits are available to individuals who are ineligible for regular UI benefits and are unemployed, have reduced employment, or are unable or unavailable to work due to the specific COVID19 reasons identified in the CARES Act and the Department's guidance. The classification of a worker as an independent contractor is only relevant to the extent that independent contractors are traditionally not eligible for UI benefits. However, classification of a worker by a State UI agency is a matter of State law and the particular circumstances of that worker.

Question. What should States do to get benefits into the hands of workers quickly, when a complete investigation is frustrated by app companies' failures to produce wage records?

Answer. Under the PUA program, if a claimant is unable to immediately produce documentation of his prior income, he is eligible to receive the minimum payment until documentation is produced that establishes a weekly PUA benefit amount exceeding the minimum. States have broad flexibility as to the types of documentation that can support of the claimant's weekly benefit amount. The failure of an app company or other contractor to respond within the allotted timeframe should not interfere with the eligibility determination.

REDUCING WAIT TIMES

Question. I have joined my colleagues in calling for more robust and targeted funding for the Department of Labor's programs and ask the Department do all it can to expedite providing meaningful tools and support to States to serve Americans in need. The number one issue I hear from my neighbors struggling back home is the length of time to sign up, receive payments, or reach anyone on the phone to seek relief.

Will you commit to preparing a plan to request and dedicate targeted funds for IT, training, and the staff support necessary to help meet the challenges of providing critical aid to those out of work when they need it most?

Answer. The Department moved expeditiously following the passage of FFCRA to distribute the \$1 billion in administrative funding made available to the States. These funds helped States ramp up their staffing and improve information technology systems to better handle the extraordinary increase in workload caused by the pandemic. In addition, the Department made funding quickly available to States through Supplemental Budget Requests to enable States to fund the technology needed to implement the CARES Act's UI programs.

The Department recognizes the need to modernize State UI IT systems.

The COVID-19 pandemic has highlighted the unreliability of State UI IT systems—something the Department worked to educate Congress about during the drafting of the CARES Act. The UI program is structured as a Federal-State partnership based on Federal law but administered by States under State law. This structure makes the program unique among the country's benefit programs in that States have significant flexibility to establish eligibility provisions, benefit duration and levels, and taxing structures to pay for benefits.

While State flexibility is important, this structure and the variance in State laws and processes make it more difficult to develop efficient administrative processes and to implement technologies that will work across the 53 different States and territories operating UI programs.

The Department believes there is opportunity for modernization across States and would welcome the opportunity to work with Congress and States to that end.

Question. Has a historic lack of support and funding for DOL worsened State agencies ability to adequately respond to this crisis? How can the Department bridge this gap?

Answer. The administrative funding model for the regular UI program creates a particular challenge for States because the disbursement of the additional funding needed to cover increases in workload arrives after the actual increase in work. States report workload and receive additional funding on a quarterly basis if their workload exceeds what was projected for base-level funding. Thus, low workloads result in low administrative funding, and due to the low unemployment rate prior to the COVID-19 pandemic, State staffing and funding levels were reduced, which

negatively affected the modernization of information technology systems and other infrastructure, such as call center operations. The Department is available to work with Congress to identify potential reforms.

SUPPLEMENTING STATE BUDGETS

Question. Many States, including Nevada, have had major holes blown in their State budgets in the process of reacting to the COVID-19 crisis. Nevada in particular, a State that heavily relies on gaming for tax revenue, saw a 99.6-percent decrease in gaming revenue in the month of April. Tax revenue helps pay the salaries of first responders, public servants, and health-care workers. There is currently debate if Federal funds should be used to supplement State budgets.

What will be the effect on unemployment nationally, if the Federal Government does not allow supplementation of State budgets with Federal funds?

Answer. The Department does not project data on unemployment or the unemployment rate.

COMBATING FRAUD

Question. The Department of Employment, Training, and Rehabilitation, which is tasked with administering unemployment in my State, has reported unprecedented amounts of fraudulent claims tying up and delaying the process of getting vital relief to those who legitimately need relief now.

What best practices have you seen implemented by States to better authenticate applicants and what solutions do you recommend to help verify the income of non-traditional W-2 wage earners income eligibility? How is the Department providing technical assistance to States?

Answer. The vast majority of States use the Social Security Administration Cross-match provided through the Department-funded ICON to conduct identity verification. Many States also cross-match with their departments of motor vehicles or State vital statistics records for identity verification. Prior to the COVID-19 pandemic, the Department funded the implementation of Identity Verification services through the UI Integrity Center's Integrity Data Hub. The testing of Identification Verification Services (IDV) services is underway, and the NASWA is soliciting States to serve as early adopters for use of this dataset.

To provide technical assistance to States, the Department funds and partners with the NASWA-operated UI Integrity Center, which offers States guidance and tools to support UI program integrity and prevention, detection, and recovery of improper or fraudulent UI payments.

Question. Would addressing the instances of misclassification of certain contractors and workers across the country would better track and get those eligible invested into the system, thus better protecting the Federal Government and States against fraud and abuse?

Answer. State UI agencies are responsible for determining if workers are misclassified for purposes of determining eligibility for unemployment benefits. State UI laws vary in the tests they use to determine if a worker is an employee or independent contractor, but their tests align with the common law test used by the Internal Revenue Service. The Department will continue to work with States to address this issue.

IMPACT ON DOMESTIC VIOLENCE SURVIVORS

Question. How is the Department working or could it work with States and other stakeholders to ensure survivors of domestic violence, sexual assault and trafficking, and stalking to be aware of their potential eligibility unemployment benefits?

Answer. Many State laws already have provisions that provide unemployment benefits for individuals who become unemployed as a result of domestic violence, sexual assault and trafficking, and stalking. On April 27, 2020, the Department issued guidance on Unemployment Insurance programs created by the CARES Act. UI Program Letter 14-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Summary of Key UI Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390). The guidance provides that if an individual is ineligible for regular unemployment compensation and is prevented from teleworking due to domestic violence, sexual violence, or stalking, the individual may be eligible for PUA. This determination, however, will depend on whether the individual is unemployed

because of one of the COVID-19-related reasons provided in the CARES Act and the Department's guidance. The Department continues to work with States to ensure awareness of these provisions.

PREPARED STATEMENT OF BETH TOWNSEND,
DIRECTOR, IOWA WORKFORCE DEVELOPMENT

Thank you, Chairman Grassley, for the opportunity to share with you a “boots on the ground” view of the impact of the COVID-19 pandemic on a State workforce agency, charged with implementing the unemployment programs created in the CARES Act as well as processing traditional unemployment claims caused by widespread layoffs due to the COVID-19 pandemic. I want to preface my remarks by stating that I am woefully inadequate to sufficiently describe the Herculean efforts of every member of Team IWD to accomplish everything they have over the last three months. They have been on the front line of Iowa's response to the pandemic assisting hundreds of thousands of their fellow citizens and have unfailingly demonstrated a truly inspiring level of dedication, professionalism, empathy and kindness for the people of Iowa who lost their jobs due to the pandemic. I am so very proud of their efforts and have witnessed firsthand the difference they are making in the lives of Iowans as they help them navigate the pandemic and the impact it has had on our lives.

To begin, it should be noted that Iowa has one of the more generous unemployment benefit programs in the country. We provide 26 weeks of benefits per year and our range of payments are from \$87 to \$591 per week, depending on wages and the number of dependents. The maximum rates by dependents are as follows: 0 dependents—up to \$481; 1 dependent—up to \$500; 2 dependents—up to \$518; 3 dependents—up to \$545; and 4 dependents—up to \$591.

Some Iowans could qualify for a maximum of 52 weeks of unemployment from the beginning of the pandemic based on the CARES Act provisions and the fact Iowa has triggered extended benefits for the first time since 1983.

To present the impact of the pandemic in its proper context, I want to first share some numbers from the week before the pandemic really hit Iowa. For the week ending March 14th we received 2,229 initial UI claims and 27,816 continuing weekly UI claims, which is consistent with our sustained low unemployment. We received an average of 800 calls per day, for a total of 4,155 received that week. We handled all but 13 calls for a call abandonment rate of 0.31 percent with an average wait time of 9 seconds. In the two weeks before the pandemic, we paid approximately \$12 million each week in unemployment benefits and paid a total of \$129 million in benefits year to date.

In response to community spread in the State, Governor Reynolds issued an executive order on March 17th that closed many of Iowa's businesses and overnight, tens of thousands of Iowans were laid off or unemployed. Immediately, the citizens of Iowa had questions and turned to IWD for information and support.

We immediately saw a significant increase in call volume, going from 800 calls a day to over 13,000 calls a day the week of March 20th, or over 16 times our normal level. Our daily claims numbers increased six fold from just over 2,000 to over 12,000 on March 17th.

On March 30th, the first business day after the CARES Act was signed into law, our call volume increased to 28,000 calls (35 times more). We also had our highest daily volume of claims received at over 16,000 (compared to an average of 400–500 per day pre-pandemic).

Iowa had the benefit of watching other states see marked increases in their claims numbers and customer assistance requests, so we had some lead time to prepare for the tidal wave we could see coming. I believe several things contributed significantly to the effectiveness of our response early on.

First, the management of our Trust Fund since the 2008 recession has provided Iowa with greater policymaking flexibility throughout the crisis. We used data and modeling from our Labor Market Information division to make strategic decisions including: not charging contributing or reimbursable employers with current unemployment tax charges; delaying many employees from filing claims in the first 2 weeks by requiring they use paid leave before filing unemployment claims, which was terminated after the passage of the CARES Act; and waiving work search requirements for claimants.

Second, we recognized there would be a need for strong, on-going and regularly updated communication with our stakeholders including claimants, employers, legislators, the Governor's team and other workforce partners. We wanted a dynamic web page that we could use to provide constant updates. The importance of this became even more apparent when we saw the dramatic increase in traffic on our website and with social media.

We created a specific COVID-19 tab on our website which is regularly updated. We utilized website banners, customer service line messages, news releases, social media and conducted webinars for claimants and employers in English and Spanish to keep customers informed. We made ourselves available for radio, TV, and news-print interviews. Recognizing that most people filing now have never filed unemployment claims, we created step-by-step videos for how to file UI claims, including how to use a new portal to upload documents. We set up an email box to reach individuals who could not get through on the phone lines and our team attempts to clean out this email box each day. We continue to update FAQs for common questions received from various stakeholders as well as posting updated OSHA guidelines. In short, we used every available method to communicate with Iowans, and we continue to do so.

Importantly, we have also worked hard to provide access to our services for non-English speaking claimants. This included posting important documents in nine different languages, which included the CARES Act information and FAQs. Our customer call center has access to a translation service to provide real time assistance to individuals when they call in. We have also worked closely with refugee agencies and faith based groups to provide assistance to non-English speaking claimants.

Beginning in mid-March, we redeployed almost our entire staff to work on unemployment claims and customer service. We conducted fast tracked training for over 200 agency employees to assist in handling customer service calls and emails and provided access to subject matter experts who could provide assistance on more complex issues. We hired and trained over 90 temporary employees to handle customer service calls. We recruited volunteers from other State agencies to be trained to work in our call center. To date, we have trained 53 employees from 6 agencies who worked full- and part-time in customer service, doing data entry, or helping with appeals. Our ability to quickly redirect and train our employees to support an "all hands" effort to process and pay UI claims was critical and cannot be overemphasized.

Additional critical decisions and efforts included the following. One of our IT staff created a portal that allowed us to track, in real time, the number of UI claims received. We instituted mandatory overtime, including weekends, for claims processing and answering customer service emails. Pursuant to Governor Reynold's executive order, we expanded the number of team members that are eligible for overtime compensation to include exempt employees who are getting paid straight time over 40 hours a week. The table below shows the amount of overtime worked by over 400 IWD staff members.

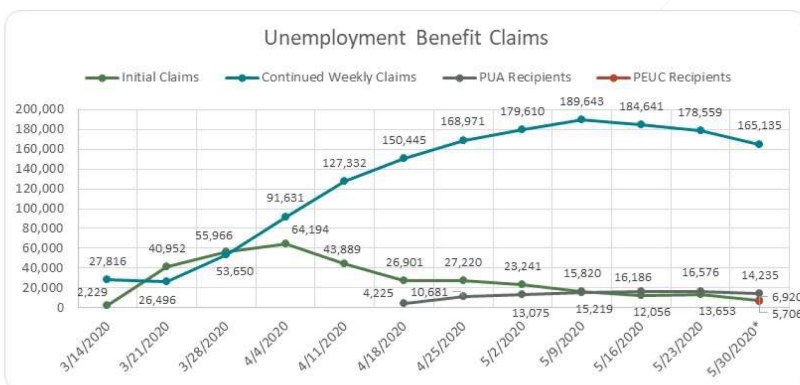
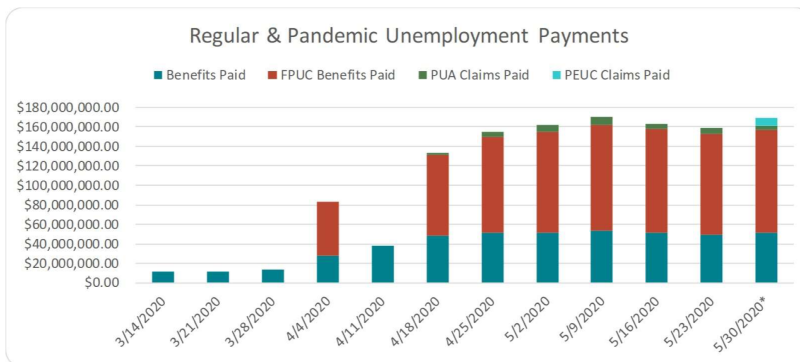
	Pay Period 3/6 thru 3/19		Pay Period 3/20 thru 4/2		Pay Period 4/3 thru 4/16		Pay Period 4/17 thru 4/30		Pay Period 5/1 thru 5/14		Pay Period 5/15 thru 5/28	
	Hours	Number of Employees	Hours	Number of Employees	Hours	Number of Employees	Hours	Number of Employees	Hours	Number of Employees	Hours	Number of Employees
FLSA Covered Employees	244.51	52	4,438.54	234	6,900.23	259	11,581.91	292	8,160.56	281	4,546.10	289
FLSA Exempt Employees	122.00	19	3,303.75	154	4,526.61	145	5,817.96	144	4,563.50	136	3,340.79	133

Given the nature of the pandemic, an early consideration was the health and safety of our workforce. In early March we identified workers to telework and acquired additional equipment to be able to support a move to teleworking by a majority of our staff. We surveyed staff to determine who could work from home, who had necessary internet at home and who needed additional equipment. The survey also included who could/would work from home, including whether school or daycare closures impacted that answer. Our IT team distributed and tested equipment from home to insure it would work as needed.

It is also important to note that, like many States, IWD uses a legacy system developed in 1972 to process all UI claims. Fortunately, we were able to make technological upgrades that expanded the hours of the mainframe system each day to allow staff the ability to work on claims for an additional 2 hours per day. These upgrades also increased the server capacity to process claims, increased the availability of our website and supported overnight and weekend batch processing to

issue payments faster to Iowans. Even before this pandemic, Iowa recognized the need to modernize its UI system, and we are in the process of doing so. This modernization is critical for the future and will be absolutely essential if we ever again face a situation similar to COVID-19. Despite operating a legacy system, Iowa has been able to successfully implement three unemployment benefit programs created by the CARES Act in just 8 weeks.

The following charts show the amount of UI benefits paid and claim numbers by program since March 16, 2020.



Week Ending	Initial Claims	Benefits Paid	Continued Weekly Claims	FPUC Recipients	FPUC Benefits Paid	PUA Recipients	PUA Claims Paid	PEUC Recipients	PEUC Claims Paid
3/14/2020	2,229	\$11,455,897.98	27,816						
3/21/2020	40,952	\$10,987,879.41	26,496						
3/28/2020	55,966	\$13,724,985.87	53,650						
4/4/2020	64,194	\$27,565,232.79	91,631	92,333	\$ 55,399,800				
4/11/2020	43,889	\$37,808,025.16	127,332						
4/18/2020	26,901	\$48,091,551.28	150,445	124,445	\$ 83,204,400	4,225	\$ 2,160,076		
4/25/2020	27,220	\$51,408,623.02	168,971	142,983	\$ 98,125,200	10,681	\$ 5,188,849		
5/2/2020	23,241	\$50,931,302.43	179,610	154,098	\$ 103,635,600	13,075	\$ 7,010,336		
5/9/2020	15,820	\$52,903,527.20	189,643	161,906	\$ 109,539,600	15,219	\$ 7,589,385		
5/16/2020	12,056	\$50,962,509.01	184,641	158,250	\$ 106,809,600	16,186	\$ 5,579,759		
5/23/2020	13,653	\$48,828,481.83	178,559	154,536	\$ 104,376,000	16,576	\$ 5,686,440		
5/30/2020*	6,920	\$51,043,465.89	165,135	142,753	\$ 105,700,800	14,235	\$ 4,606,876	5,706	\$ 7,546,816.98

Totals: **333,041** **\$455,711,481.87** **1,543,929** **1,131,304** **\$766,791,000.00** **90,197** **\$37,821,721.19** **5,706** **\$7,546,816.98**

*Preliminary

Now that the State has begun to reopen, we are asking where do we go from here and what does our agency look like? How do we help Iowans get back to work, how

do we help upskill Iowans who have lost their jobs permanently and how do we help employers find the necessary workforce?

As Iowa is reopening and employers are recalling workers, one thing has become abundantly clear. We need to incentivize people to return to work. When our generous State benefits are combined with the Federal Pandemic Unemployment Compensation (FPUC) benefit of \$600 per week, 79 percent of Iowans who have received unemployment since March 15th, have made more on unemployment than their average weekly wage. This is not because we have low wages in Iowa. In 2018, the median household income was almost \$60,000. It is instead, based primarily on where we are seeing the largest impact of the pandemic—our lowest paying industries such as the hospitality and retail industries.

Comparison of High Quarter Average Weekly Wage to Individual Claimant's Weekly Benefit Amount Weekly Benefit Amount Includes Regular UI Benefit Plus \$600 FPUC Payment New or Additional Regular UI Benefit Claims Filed March 15 to Date									
High Quarter Average Weekly Wage	Total Number of Claimants	Weekly Benefit Amount Exceeds Weekly Wage							
		Yes				No			
		Number of Claimants	Weekly Benefit	Weekly Wage	Difference	Number of Claimants	Weekly Benefit	Weekly Wage	Difference
120-200	12,503	12,503	\$ 695	\$ 166	\$ 529	0	0	0	0
201-400	43,837	43,837	\$ 775	\$ 303	\$ 472	0	0	0	0
401-600	47,919	47,919	\$ 891	\$ 501	\$ 390	0	0	0	0
601-800	45,419	45,419	\$ 1,007	\$ 698	\$ 309	0	0	0	0
801-1000	34,136	34,136	\$ 1,091	\$ 895	\$ 196	0	0	0	0
1001-1200	22,386	11,973	\$ 1,102	\$ 1,050	\$ 53	10,413	\$ 1,091	\$ 1,143	\$ (52)
1201-1500	19,186	0	0	0	0	19,186	\$ 1,099	\$ 1,335	\$ (236)
1501-2000	14,383	0	0	0	0	14,383	\$ 1,101	\$ 1,704	\$ (603)
2001-3000	6,228	0	0	0	0	6,228	\$ 1,104	\$ 2,344	\$ (1,240)
3001-5000	1,777	0	0	0	0	1,777	\$ 1,110	\$ 3,681	\$ (2,571)
OVER 5000	633	0	0	0	0	633	\$ 1,114	\$ 6,801	\$ (5,687)
Total	248,407	195,787	927	583	344	52,620	\$ 1,099	\$ 1,662	\$ (563)
Percent of Claimants	100%	79%				21%			

The average weekly wage was computed by dividing base period high quarter wages by 13.

6/05/2020

Not surprisingly, we have seen an increase in the number of employers notifying us that employees are refusing to return to work after being recalled. So far we have received over 3,000 such notifications. These reports all require a fact-finding interview to determine if the employee has a COVID-19 related reason for not returning which could include being in the high risk group, lack of child care or no access to transportation to get to work. While these individuals would most likely be determined not to be “able and available for work” and thus disqualified from regular unemployment benefits, they would nonetheless qualify for Pandemic Unemployment Assistance (PUA) claims. We are currently working on the process that would allow us to transition individuals to the PUA benefit program immediately after the fact-finding interview.

Iowa State law also provides that employees who believe their workplace to be unsafe, can quit their jobs and still receive unemployment benefits. In the pandemic, this might occur if the employer is not taking the necessary steps to protect the employee from the spread of the virus. From everything I have seen, employers are taking necessary steps to protect their employee and customers, to prevent exposure and the spread of the disease within the workplace, as to not do so would be counter-productive to trying to reopen their business. These cases, however, have to be reviewed on a case by case basis and we have strongly encouraged open communication as the first step in helping employers and employees determine when, how and who can be returned to work safely.

Throughout the pandemic we have worked closely with the Iowa Business Council, the Iowa Association of Business and Industry, State wide chamber alliances, economic developers and the Iowa Economic Development Authority (IEDA) to share information and gather input from our employers. We have distributed two surveys to Iowa's employers, more than 75,000, for IEDA to determine needs, challenges and areas where the State of Iowa can assist. Additionally, Governor Reynolds has been in constant contact with employers of all sizes and industries throughout the pandemic.

One program we have been utilizing and promoting is the Voluntary Shared Work (VSW) program, otherwise known as short-time compensation. The program is intended to provide an alternative for businesses who would otherwise be forced to

undergo layoffs due to slowdowns in business. VSW permits employers to reduce employees' weekly hours and partially replaces lost earnings with unemployment insurance benefits. In this way, employers are able to retain their employees and continue to function even while experiencing a decline in business and revenue. By avoiding layoffs, employees stay connected to their jobs and benefits while employers maintain their skilled workforce.

Employers submit a VSW plan to Iowa Workforce Development, outlining the number of weeks they wish to engage in a VSW plan, and the percentage of the reduction in hours for their employees. The employees then receive that percentage of regular UI benefits equal to their work hour reduction. After VSW plan approval, the employer submits the applications for the employees and a weekly list of all the employees in the program, and Iowa will issue payment to those employees. Employees are also eligible for the additional \$600 FPUC payment.

Prior to the pandemic, Iowa had fewer than 10 participating employers, comprising approximately 800 employees. As of June 5, 2020, Iowa has 183 participating employers and 8,465 employees. Typical participants include employers in the healthcare, retail and manufacturing sectors.

When talking with employers, across industries and around the State, the most consistent message we have received loud and clear is that extension of the FPUC benefits would have a significant and substantial adverse impact on our employers' abilities to find an available workforce. FPUC puts employers in a very difficult position of being asked by their employees to either delay recalling them or to recall them on a part time basis only so that claimants can continue to draw the additional benefits through the end of July. Allowing FPUC benefits to expire at the end of July, would provide incentive to individuals to return to work on a full time basis and an extension, we fear, would delay a robust reopening in the shortest time possible. Further, given the length of time and the amount of benefits we provide to Iowans, we know the short term impact of unemployment, especially as the class of individuals most affected by the pandemic, will be offset through programs like PUA, PEUC and extended benefits until at least the end of the calendar year.

As you know firsthand, Senator Grassley, Iowans are hard workers and we have traditionally had one of the highest labor participation rates in the country. In January and February 2020, our labor participation rate was 71 percent. Even when our unemployment rate hit 10.2 percent in April, the highest in recorded history, our labor participation rate was 69.2 percent. It is nonetheless difficult for our Iowa employers to compete with the amount of benefits currently being paid to individuals to stay home. And while there was a reason to have those benefits when the bill was passed because we needed to crush the curve, now is the time to get people back to work. Those who are still unable to go to work because of a medical condition, being in the high risk category, not having child care or transportation will continue to be eligible for our generous benefits through the PUA, PEUC and extended benefits.

In the alternative, if FPUC benefits are extended, I urge you to craft legislation that is not "one size fits all." I know \$600 a week in benefits in Iowa goes much further than it does in a major metropolitan area or coastal states where the cost of living is substantially higher. I have seen recommendations that would tie the availability of the benefits to a State's unemployment rate so that once a State falls below the rate, the benefits would end. Or consider a significantly reduced flat rate for a short period of time that would cover a transition period for the few months after July. These alternatives would provide a continued safety net in areas where recovery is slower and not be a drag on the available workforce in states that are reopening more quickly.

Something that has not been talked about is the consequence of the additional benefits to claimants if they decline to return to work. If it is determined they did not have a good reason to refuse to return to work and are not entitled to benefits after the date of the recall, they can accrue significant debt in the form of overpayments. Depending on the program they are being paid from, future unemployment benefits will be offset against the debt until it is repaid, meaning they may not qualify for benefits for what could be a substantial period of time. Iowa also participates in the Treasury Offset Program that collects State and Federal tax refunds toward overpayments. This could place individuals in a position where they have quit their jobs, lost their benefits and incurred a large debt to the State.

I would also ask you to consider the following recommendations when debating programs moving forward. First, limit the calculations a State must perform to pay

out Federal benefits. A flat rate, for all those eligible for a program, is absolutely essential to being able to implement the program quickly and efficiently. Regardless of the age of the UI system a State uses, these are all new programs that have to be developed, tested and implemented beginning with the application, review, approval and payment process. Thus, trying to implement a percentage of wages or maximum wage as a percentage of benefits received would require an individual review of each claim, thereby creating a labor intensive and lengthy process for each claim.

A benefit like a payroll tax holiday would be easier to implement, would benefit everyone in the workforce, including those already or who remained in the workforce, and would not run through the workforce systems.

If a new unemployment benefit program is created, please consider a prospective date of implementation. This would give the U.S. Department of Labor time to provide the necessary guidance to State workforce agencies and time to develop the program before it is deployed, as well as manage the expectations of people receiving the payments. Like most states, we started receiving calls on March 30th from claimants expecting payment of all three of the CARES Act benefit programs. We have to implement the programs one at a time, which began with FPUC, PUA and finally PEUC.

While it feels like we have been living in the pandemic for years instead of weeks, it has only been 9 weeks since the CARES Act was passed. While we were able to implement and pay three brand new benefit programs in 8 weeks, it was still a challenging and difficult process to manage the expectations of individuals eligible under various programs. Implementation is also driven by how long it takes USDOL to provide necessary guidance and they need an appropriate amount of time to be able to provide it. While I fully understand and empathize with individuals in need of benefits, it was nonetheless difficult to imagine for us to do things any faster than we did because we could not work more than the 60–70 hours a week my staff has been working since the middle of March. Additionally, my staff bore the brunt of Iowans anxieties, anger and frustrations when they were not paid in the time they needed or desired.

Fraud issues have also become a larger issue for State workforce agencies. We are seeing identity theft primarily. One of the issues that concerns us is the self-attestation that PUA permitted, which increases the likelihood for identity theft and fraud. For instance, I received an email last week from an officer in one of our larger employers who had been notified of an unemployment claim filed in his name. Fortunately, our identity verification processes caught it and no benefits had been paid. For the self-employed there is no currently no way to verify that they have not returned to work while receiving benefits beyond their self-attestation. We believe requiring eligible individuals to provide more proof in support of their claims would reduce the number of fraudulent claims. USDOL is also providing new and better guidance to address fraud in PUA claims as well will be helpful when implemented.

With regard to training workers whose jobs have been lost as a result of the pandemic, Iowa is well positioned. Over the past 3 years Iowa has developed and implemented Future Ready Iowa, a workforce training program with many different initiatives to increase the educational attainment of Iowans to 70 percent by 2025. Last year the legislature committed over \$20M in funds to support several different programs that would increase access to training programs at our local community colleges through programs like the Last Dollar Scholarship program that paid the difference between the student's non-repayable financial aid and the cost of tuition and fees in high demand occupations. The program has been an overwhelming success and our partners at the community colleges have worked hard to recruit Iowans into programs that will provide high paying jobs in career fields with projected growth. We believe we can use the infrastructure developed through Future Ready Iowa will assist us in moving people through training programs faster and aid our recovery efforts considerably.

Additionally, we recognize that the world we are re-entering is different from the one we left a few short months ago and we are adapting the way we deliver workforce services to ensure we can fulfill our mission of developing a future ready workforce in Iowa. IWD is adding additional virtual training opportunities and utilizing virtual job fair technology to maintain the health and safety of staff, job seekers and employers while providing the opportunities needed to get people back to work and for employers to find the workforce they need.

In closing, I recognize that Iowa is a smaller State that has not had as many challenges as other states in assisting those who have lost their jobs due to the pandemic. However, I also think Iowa is unique in that we are a State that knows the value and necessity of collaboration, that we are stronger together. From the beginning we have benefitted from the strong, steady and mature leadership Governor Reynolds has demonstrated on a daily basis. She has set an expectation that all State agencies would work together to solve problems and reduce barriers and that we would be transparent and available to all of our stakeholders as quickly as we could. We have also worked with all of Iowa's congressional delegations on an almost daily basis to address constituent concerns and to help answer questions for our elected representatives as they try to navigate the pandemic in the best way possible for all Iowans. I would like to publicly thank my team at Iowa Workforce Development for their hard work, professionalism, and dedication. Every day, they demonstrate what it is to have a servant's heart.

I hope the committee will also recognize that all State workforce agencies have worked hard to serve their citizens and implement the Federal legislation passed to provide necessary pandemic assistance. We have been called on to create and implement huge Federal programs through the unemployment system that are beyond what we have ever done before or that the systems were designed to do. I know from speaking with my peers across the country that the staff of our State workforce agencies have worked long days, long weeks and without breaks since the pandemic struck. They have sacrificed time with their families in order to be available to do the mountain of work that we have been required to do. I believe, like Iowa, they will continue to work hard when we move into the recovery phase, getting people back to work and helping employers find a skilled and available workforce.

I am humbled and proud to lead our Iowa team. Thank you again Senator Grassley and members of the Senate Finance Committee for the opportunity to share this information with you.

USEFUL LINKS

Iowa Workforce Development webpage: <https://www.iowaworkforcedevelopment.gov/>.

COVID-19 webpage: <https://www.iowaworkforcedevelopment.gov/COVID-19>.

Labor Market Information webpage: <https://www.iowaworkforcedevelopment.gov/labor-market-information-division>.

Future Ready Iowa: <https://www.futurereadyiowa.gov/>.

QUESTIONS SUBMITTED FOR THE RECORD TO BETH TOWNSEND

QUESTION SUBMITTED BY HON. JOHN THUNE

Question. Unemployment offices in States across the Nation continue to be overwhelmed with unemployment claims, even as the number of unemployment claims level off. In addition, States' unemployment systems are dated. These two factors likely make additional changes to unemployment programs potentially overly burdensome on unemployment agencies.

Can you speak to the general capacities of State unemployment systems and to what degree they may be able to accommodate further programmatic changes in terms of the administration of unemployment compensation?

Answer. Generally speaking, I agree that many State unemployment systems are dated and changes to these systems take time to implement. However, even modernized systems have had difficulty implementing the CARES Act which is indicative of the complexity of the changes necessary in order to implement programs that are beyond traditional unemployment programs. Each new program created by Congress increases the burden on an already stressed system and risks degrading overall reliability and the customer experience. We have been essentially layering one program on top of another and each new program creates a new layer. Obviously the more layers we add, the more it jeopardizes the overall performance of our UI processing system. Each new layer also requires additional testing to ensure that when the new program is implemented, it does not degrade or interrupt programs already implemented. Making changes to existing programs will be far easier to implement versus creating yet another, different program, that will take 1-2 months minimum to implement.

QUESTION SUBMITTED BY HON. PATRICK J. TOOMEY

Question. In Pennsylvania, the State unemployment agency has discussed the difficulties of administering the PUA system in particular. In addition to the initial lack of guidance, this program is particularly ripe for fraud, given that claimants can self-certify their own eligibility and that they don't have to provide up-front evidence of prior income.

Are the problems with administering PUA in particular due to primarily the inherent structure of the program (for example, the fact that it is self-certifying), or could they be largely resolved by a modernized IT system?

Answer. Both of those factors have contributed to the difficulties of administering the PUA program.

A modernized UI system would have enabled Iowa to administer PUA benefits more quickly. Even basic programmatic changes such as updating application questions and fields for the PUA program take longer to implement on a mainframe with COBOL code than on a modern system.

In addition to technology limitations, the structure of the PUA program does present inherent implementation challenges. For example, due to the amount of self-certification that the PUA program permits, Iowa was required to review each application individually. It was also very difficult to implement a process to make retroactive payments effective 2 months before the CARES Act was signed into law. It is also worth noting that because CARES Act payments must be processed through the same mechanism as State UI payments, there is always a risk that introducing a new program with different rules for issuing payments will affect all payrolls. As a result, the payroll process requires extensive testing. Unfortunately, issuing payments through a separate payroll process could require even more thorough testing with a longer implementation timeline.

I also agree that the initial lack of guidance created problems for Iowa's administration of the PUA program. U.S. Department of Labor (USDOL) made Iowa aware of additional PUA program requirements months after payments were first issued that then required changes to our system. This difficulty was compounded by the short deadlines imposed by the USDOL to implement these additional requirements under threat of program discontinuance placed significant strain on our business and technology teams, not to mention additional stress to a staff that had been working 70 hours a week without days off for several months.

 QUESTIONS SUBMITTED BY HON. TODD YOUNG

UI SYSTEMS

Question. Secretary Scalia spoke at length in his testimony about how “one of the greatest challenges in the UI system is the information technology infrastructure used by States to administer their programs”—which was primarily why the \$600 “plus-up” in the CARES Act was set at a flat rate. But, these system challenges aren't new—these same system issues occurred back during the Great Recession. You also describe the complexities with Iowa's legacy system in your testimony.

What system changes do you think would help States be better prepared for the longterm in case we ever face a situation similar to COVID-19 again?

Answer. At the outset, it is necessary to think of the “UI system” as more than simply technology. Without question, upgrading the technology from mainframe/COBOL to a more flexible architecture is critical. However, equally important are aspects of the UI system that involve business rules and processes, financial considerations, and communication to customers. With this in mind, the following changes could help States be better prepared in the long-term if we ever face a similar situation in the future:

- Require a UI System Review and Plan similar to the State Quality Service Plan (SQSP) that is submitted to USDOL. Such a plan should include the staffing plan; information technology changes and requirements; and templates for customer notifications.

Encourage States to change State laws and administrative codes to provide the Director (or equivalent) of the State UI Agency with greater authority and flexibility to implement changes when an emergency is declared by the President or Governor.

WORK SEARCH REQUIREMENT

Question. Most States, including Indiana, waived job search requirements in order to encourage people to stay home and prevent further spread of the virus. But, now as States start to reopen, employers are recalling their workers or hiring additional staff to get their businesses up and running—and are having difficulty doing so because of the additional UI plus-up.

At what point will be it reasonable for workers to be expected to search for work as a condition of receiving unemployment?

How will that happen?

Answer. Iowa has not determined when the work search requirement will be reinstated, but I expect it will be shortly after the end of July. We will provide Iowans more than 2 weeks' notice prior to the selected date that the work search requirement is being reinstated. Most businesses in Iowa have reopened their doors to bring people back to work. Additionally, the vast majority of job searches are conducted online, so the risk of COVID-19 exposure while conducting a job search is low and our offices remain closed to the public as we continue to need staff working with UI claims processing.

Iowa will continue to consider the following suitability factors when applying the work search requirement: comparable work to prior employment; comparable to work performed in similar positions in industry; pay and hours similar to prior employment; and worker safety.

Iowa will continue to consider Iowans for PUA if unable to work as a result of COVID-19.

\$600/UI SYSTEMS—FUTURE LEGISLATION

Question. Some recent proposals in the Senate have included triggers and other mechanisms to continue the \$600 plus-up post-July. Based off what was described in many of your testimonies about the complexities surrounding the rigidity and age of State UI systems.

Is it even possible for States to implement these types of proposals?

If so, how long would claimants have to wait until those States get those systems up and running?

Answer. This is not something that could be implemented quickly or easily. Iowa is resource constrained and implementing any new program by “retrofitting” it into the existing UI system will always present challenges. Iowa is pursuing modernization, but with a 2-year timeline, we cannot rely on modernization to address the existing crisis. In the current environment, any new program will require several weeks to several months to implement. On the spectrum of timeframes, Iowa could implement an across-the-board flat reduction in the amount of FPUC payments or a change to a flat percentage of existing benefits (*i.e.*, 50 percent of regular benefits is the new FPUC amount) very quickly; on the other hand, it would take many months—at best—for us and other State unemployment agencies to implement an entirely new return-to-work bonus program which is outside the scope of our experience. If such a plan were pursued, it would be vital to educate the public on the front end that these payments would not be available for several months (thus creating a gap between the end of the FPUC payments and when a new program can be implemented). The reality of this type of program would be that most people would go back to work full time because the FPUC benefits would end at the end of July and it will take several months before any additional benefits could be paid, resulting in individuals getting a lump sum retroactive payment covering the time between the end of June and the time they returned to work full time.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. Thank you for making very clear that Iowa would not be able to administer a wage replacement regime (in lieu of a flat additional payment) by the end of July, when the \$600 per week additional payment is scheduled to expire.

Please provide separate answers to each of the following questions.

Are you aware of any States that will be prepared to—instead of administering a flat additional benefit like the \$600—replace 100 percent of wages for all workers

who continue to be unemployed or remain on furlough, given the ongoing health risks, lack of child care, and lack of available jobs?

Answer. Individuals who are eligible for PUA will continue receiving those payments until the end of December. Iowa would be unable to implement 100-percent wage replacement as the new FPUC payment quickly or easily. If such a plan were pursued, it would be vital to educate the public on the front end that these payments would not be available for several months (thus creating a gap between the end of the FPUC payments at the end of July and when a new program can be implemented). The reality of this type of program would be that most people would go back to work full time because the FPUC benefits would end at the end of July and it will take several months before any additional FPUC benefits could be paid, resulting in individuals getting a lump sum retroactive payment covering the time between the end of June and the time they returned to work full time. For those unable to return to work because of medical, childcare or transportation issues, they would see several months with only PUA benefits available.

Question. How much money and time would it take for your State to build a system that could handle adjusting wage replacement rates, rather than adding a fixed payment like the \$600 top-up?

Answer. Our best estimate is that it would take a business and technology team 3–6 months to plan, develop, and test for full wage replacement, and would cost between \$150K–\$600K. This 3–6-month time frame begins from the point at which program requirements are received and no payments could be made before the end of that time frame for FPUC payments.

Question. In other words, if we extended a flat benefit beyond July to allow for additional time for States to upgrade their systems, how long should we extend that flat benefit to ensure that States have enough time to transition to a wage replacement regime?

Answer. As described above, a minimum of 3–6 months. Additionally, it is imperative that any program changes are not applied retroactively. In Iowa, retroactive changes to any payment requires manual adjustments to each claim and weekly payment to make up the difference. Another fact to keep in mind is that, in 3–6 months, we would expect the number of individuals needing or eligible for continued benefits would be minimal as we are hopeful that most companies and employers will have recalled their staff in that 3–6 month period and that there will be sufficient safety protocols in place to insure all but those in the high risk category could return to work.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

There's a lot for us to talk about today, and I want to start with Friday's jobs report. The President celebrated like it was the greatest victory since the end of World War II, but let's put this in perspective.

Speaking conservatively, more than 20 million Americans are still out of work today, and I bet you're not celebrating if you're among the many people who don't know how they're going to pay the rent or put food on the table this month. Watching the President celebrate victory in the middle of this jobs crisis is yet another sign that he doesn't understand what it's like for people born without a real estate portfolio.

First, let's recall exactly how the Senate got here, starting in March. The pandemic hit, the economy went into lockdown, and unemployment shot into the stratosphere. So when CARES Act negotiations began, Democrats demanded an expansion to unemployment benefits that would bring more workers into the system and fully replace people's lost wages.

Throughout the negotiations, Secretary Scalia said it couldn't be done because States run UI programs on Bronze-Age technology that can't crunch the numbers for individual workers. We said that doing nothing is unacceptable. When Secretary Scalia failed to offer a plan to get benefits out in a timely manner, Democrats proposed a flat-sum solution: \$600 per week across the board on top of traditional benefits, adding up to full wage replacement for the typical worker.

Now fast forward to today. Here's what our country's still dealing with. The pandemic is still killing thousands of Americans every week. The nearly 2 million new

unemployment claims filed last week triple the highest number of claims made in any week during the Great Recession.

It's a national scandal that African-Americans are not only dying of COVID-19 at much higher rates, they're also suffering vastly more economic pain than virtually anybody else. Black unemployment is disproportionately high. And because black people have been systematically excluded from opportunity and wealth in America, it's a lot less likely they have the financial resources to weather this storm. For the President to say that the recovery has arrived and everything is turning into sunshine will only perpetuate that economic injustice.

So bottom line, this crisis will go on a lot longer if the Trump administration and Senate Republicans start yanking out these key pillars of economic support like supercharged unemployment benefits. Main Street businesses nationwide are hanging on by a thread. Workers could lose their homes and fall through the cracks if the Senate does not help them.

Now I want to respond to a few arguments I've heard against supercharged unemployment benefits. First is the idea that Americans who've lost their jobs in the pandemic are going to be perfectly happy to sit around instead of going back to work. In my view, that is an insult to America's workers. It's also a misunderstanding of how the system functions.

Talk to the out-of-work Oregonians I've spoken with during this crisis, and you'll hear from people who want to get back to their jobs. They believe in the dignity of work. They want to earn their pay and support their families and return to the lives they had before. They know that they're more likely to get ahead if they're working and moving up the economic ladder than being on unemployment.

Second, members of this committee said it's somehow unhealthy for people to get unemployment benefits during this crisis. This is just fundamentally out of touch with the realities Americans are facing in this crisis. These benefits are what's saving millions of jobless people from hunger and homelessness in the middle of this pandemic. Forcing people back into contagious workplaces would also further spread the virus that has killed 110,000 Americans and turned nursing homes nationwide into scenes of tragedy.

Third, I've heard talk among Republican Senators of cutting the expanded benefits potentially by half. So let's get this straight. Between the CARES Act and Fed lending programs, big corporations are getting trillions of dollars in support to weather this crisis, but Congress is going to start pinching pennies when the little guy needs help? The system is already rigged to favor the powerful and wealthy. The Congress certainly should not stack the deck any further.

Our unemployment insurance system, created in the 1930s, should have been modernized long ago to cover the self-employed, gig workers, and freelancers. Long ago, benefits should have been tied to economic conditions on the ground.

I believe that Congress should also examine whether a Federal approach for administering unemployment benefits could do a better job than this quilt of 50 different State systems operating today. Nobody predicted the volume of claims they'd be hit with in this crisis, but whether it's due to neglect or political sabotage, too many of these State systems are failing the people who are in desperate need of help.

I'll close on one final thought. American workers are not to blame for the jobs crisis that this country still faces today. By now everybody here has seen images of cars stacked up for miles at food bank distribution centers around the country. Those are modern-day bread lines. With so many people out of work, America is on the precipice of an eviction tsunami, particularly in the black community.

Supercharging unemployment benefits—fully replacing people's lost wages and bringing gig workers and freelancers into the system—was the right thing to do. I know that's not just the opinion of the Democrats who got it done, because the President is absurdly taking credit for the expansion in misleading campaign ads on the airwaves right now.

Every Republican member of this committee voted to strip the expanded benefits and slow down their distribution, and at least a few of them turned around and sent out op-eds and press releases touting that same expansion. The Chutzpah Caucus at work.

So the Senate has a choice to make. It's about fairness for the tens of millions out of work. It's about fairness for African Americans who are disproportionately

suffering. It's about fairness for the blue-collar worker who looks around and sees a whole lot more support going to corporations than to workers.

The only fair choice to make is to extend supercharged unemployment benefits, and do it now.

COMMUNICATIONS

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS (AFL–CIO)
815 16th St., NW
Washington, DC 20006

The American Federation of Labor and Congress of Industrial Organizations (AFL–CIO) is a federation of 56 unions that represent 12.5 million workingmen and women. We strive to ensure that every person who works in this country receives decent pay, good benefits, safe working conditions, fair treatment, and full due process. Our members work in every economic sector and at all wage and skill levels. We represent workers in every state, the District of Columbia, Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

The global pandemic crisis has helped to expose the fundamental inequities of our society and the need to strengthen and modernize our 85-year-old unemployment compensation system. Incorporated in the Social Security Act of 1935 in response to lingering effects of the Great Depression, our unemployment insurance system was established when most workers could expect to maintain full time jobs and spend their entire career with a single employer. It was designed as a state and federal program that limited eligibility to workers in certain key sectors of the economy. Agricultural, domestic, government, and non-profit workers were among those excluded from coverage, as were the self-employed.

Today the nature of work has changed, as have the needs of today's workforce. Two income households are increasingly necessary, and the service sector of our economy has seen tremendous growth. Many more workers have multiple part-time jobs, and no stable wages from a single employer. Even before the global pandemic, there was an apparent need to reform our unemployment system in order to meet the challenges workers confront today.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was a necessary response to the unprecedented health and economic crises created by the corona pandemic and has helped to avert a complete economic collapse. However, the problems the CARES ACT addressed are far from over. COVID–19 deaths and hospitalizations continue to mount as states and localities reopen, and growing number of even asymptomatic people have had to self-quarantine after testing positive for the virus.

Key provisions of the CARES Act address the inadequacy of our antiquated unemployment system by providing for full federal funding of new programs and giving states additional administrative funds for programmatic operations. The Pandemic Unemployment Assistance (PUA) program established by the CARES ACT allows independent contractors, free-lancers, misclassified workers, part-time workers, the self-employed, and those with irregular work histories to access some unemployment benefits for the first time. Pandemic Unemployment Assistance also made those who have exhausted all other unemployment benefits, or are unable to work due to illness, quarantine or caregiving needs eligible for assistance. Although PUA benefits are far less than standard unemployment benefits, eleven million workers, or thirty percent of current benefit recipients, would otherwise receive absolutely no income support. This program is scheduled to expire December 31 2020, but we urge Congress to make this expansion of eligibility for unemployment insurance permanent.

The CARES Act created Pandemic Unemployment Compensation (PUC) a federally funded \$600 per week benefit that is set to expire July 31, 2020. These payments need to be extended, as they have helped workers make COBRA payments to maintain their health insurance, forestall eviction, keep food on the table, and postpone retirement account withdrawals. This \$600 PUC benefit makes a profound dif-

ference to the 61% percent of working adults who obtain health insurance through their jobs, and lose that insurance if and when they are unemployed. These supplemental funds not only support workers and their families, but also help to stimulate local communities where any remaining funds are likely to be spent. We urge Congress to extend these vital payments.

The CARES ACT also established an extra 13 weeks of state UI benefits for Pandemic Emergency Unemployment Compensation (PEUC). The additional 13 weeks become available only after a worker has exhausted all their regular state UI benefits and will be particularly important to workers in the eight states that provide fewer than 26 weeks of UI benefits. The provision of 13 PEUC weeks reflects an important recognition that it is virtually impossible to predict the duration of the coronavirus pandemic or the extent of this extraordinary economic downturn.

The continuation of PUA, PUC, and PEUC benefits will help support families and stabilizes an economy that has seen a sharp decline in many sectors. State and local governments that have had to provide more services to residents while deprived of their usual commercial tax base and have already begun to furlough workers. State and local governments lost 585,000 jobs in May, and over 900,000 jobs in April. The public sector job loss exceeds all the jobs lost in the entire US economy during the worst month of the Great Recession.

The overall unemployment rate in the construction sector is 12.7%. There are now more than one million-unemployed construction workers, and while employers' added 464,000 workers in May, that makes up only about half of the jobs lost in April. The 33,000 jobs lost from the highway, street, and bridge sector in April represent the biggest one month drop since 1990, when the Bureau of Labor Statistics began recording industry group data. Another 23,400 jobs lost in the oil and gas pipeline sector represent a 16% drop, with 50,000 fewer jobs now than last year. By the end of July another 2,871 layoffs are expected from Boeing, one company that has already shed 1,331 engineers and technicians through immediate "voluntary" layoffs.

Corporate layoffs and retail bankruptcies continue to be announced weekly, but for an individual worker the unemployment rate is 100 or zero. Congress must do all it can to restore our unemployment system in order to protect all workers who lose jobs through no fault of their own.

CENTER FOR FISCAL EQUITY
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Statement of Michael Bindner

Chairman Grassley and Ranking Member Wyden, thank you for the opportunity to address this issue. I have included attachments on long-term economic, social service and tax reforms that will be necessary to get people back to work once this crisis is over.

Earlier this year, I predicted a recession due to bubbles in Cryptocurrency and in mortgage-backed securities holding rental housing assets, which I communicated to the House Budget Committee in January. A world-wide pandemic was the furthest thing from my mind. I reiterated these points to the Senate Budget Committee as I was suffering from a bad cold. Five days later, that cold turned out to be SARS-CoV-2.

In general, the current economy is more medical furlough than recession. Increasing and adding benefits for many turns it into paid sick leave funded by government, which is entirely appropriate. It is also dangerous. The implementation of CARES, particularly the Unemployment Insurance relief, is fraught with problems.

The States have not been able to absorb the money. There are simply too many people in need of assistance. The lump sum payments, which were negotiated by Secretary of the Treasury, Steve Mnuchin, made sure that landlords who had leveraged their properties into mortgaged backed securities would get paid.

This is convenient for the Secretary, as he helped set up these securities to extract the equity from the limited liability companies that he and his partners own. Aaron Glantz, who documented the establishment of these firms and securities should be

called to testify before another round of stimulus checks are routed through renters to the Secretary and his partners.

The immediate danger, which no one is talking about (call me Cassandra) is that in short order, a large percentage of the unemployed are about to get large back payments from their state governments. This is occurring as some workers have recovered, but many in America's Heartland are about to need that paid sick leave as SARS-Cov2 reaches their states. Recent reports indicate that food prices are inflating as the economy continues to stagnate.

This is what is known as a perfect storm. Economic historians will likely call this period of time HYPERSTAGFLATION. Sadly, the genie cannot be put back in the bottle, although the best course for now is not to panic if (and when) the storm breaks.

Thank you again for the opportunity to add our comments to the debate. Please contact us if we can be of any assistance or contribute direct testimony.

Attachment—Addressing the Economic Impacts of COVID-19, House Budget Committee, June 3, 2020

This crisis shows some of the systemic weakness in the economy. Too many people are paid too little. This creates a second-tier economy of low wages and subpar products. More pay through a higher minimum will mean better products and more people working. If layoffs result from a higher wage, a paid training program (to meet opportunity costs of trainees) from ESL to Associates degrees will add to a push for higher wages. A higher minimum wage could also be used to recalculate benefits for retirees and the disabled. The increased economic activity and higher revenues would pay for themselves.

Low wages do not benefit shareholders, who receive a normal profit. Other workers benefit because their wages rise with the minimum. Only the CEO-Donor class are made worse off. Their wage theft is natural, given their low marginal tax rate in comparison to the time of Eisenhower and Kennedy (whose tax cuts only took effect in 1965), the differential between productivity and wages started about a year after the tax cuts took effect. The effect was multiplied in 1982.

Low family wages are also a problem exposed by the current medical furlough. The EITC and Child Tax Credit were enacted on a bipartisan basis, with Republicans in the lead. Sadly, benefits are inadequate and non-refundable. This could and should be fixed. Permanent tax reform with a Subtraction Value Added Tax levied on employers with a credit for a median income for each child of \$1,000 a month, with pay and with no income cap will solve this problem permanently and needs no pay-for to offset it.

Attachment—Why Federal Investments Matter: Human Services, January 2020

Our main tool in providing for human services is an employer-paid subtraction value-added tax. This levy would be used more to channel tax expenditures to employees rather than through categorical or block grants. The most important feature is an expanded refundable child tax credit, which would be distributed with pay and set to provide income at middle-class levels.

The S-VAT could be levied at both the state and federal levels with a common base and tax benefits differing between the states based on their cost of living (which would be paid with the state levy). The federal tax would be the floor of support so that no state could keep any part of its population poor, including migrants. It is time to end the race to the bottom and its associated war on the poor.

The S-VAT will also facilitate human capital expenditures, with credits to support tuition, wages and benefits for low-skill workers from ESL and remedial education to apprenticeship. These benefits can be used in cooperation with existing workforce investment boards, community colleges and economic development agencies.

Private education providers should also be included in the mix, including and especially the Catholic education system. Blaine Amendments need repeal, opposition to unions ended and a focus on non-college bound students encouraged.

Medicaid for senior citizens and the disabled is a huge contingent liability for some states. In his New Federalism proposals, President Reagan offered to assume these costs in exchange for state funding of all other federal support. The first half of this proposal should be implemented in the form of a new Medicare Part E with no requirement for local funding.

The remainder of health costs would be paid through employer subsidies to low-wage trainees, as described above through an S-VAT, with state goods and services taxes (invoice VAT) covering cash, food and health benefits for unattached non-workers until they can be placed in the appropriate employment or disability program (including substance abuse intervention).

Increasing the general wage level, through higher minimum wages, will remove workers from poverty. The concept of being a member of the working poor should be banished from the national conversation with an eventual \$20 minimum wage for both employment and training program participation, starting with \$15 immediately. This wage level should adjust for inflation automatically. The best support for state budgets is to make sure that everyone is trained up to their potential.

CENTER FOR PUBLIC JUSTICE

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June 9, 2020

The Honorable Charles Grassley
Chairman
U.S. Senate
Committee on Finance
135 Hart Senate Office Building
Washington, DC 20515

The Honorable Ron Wyden
Ranking Member
U.S. Senate
Committee on Finance
221 Dirksen Senate Office Building
Washington, DC 20515

RE: "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic," June 9, 2020

Dear Chairman Grassley, Ranking Member Wyden, and Members of the Committee:

The Center for Public Justice is an independent Christian policy research and civic education organization. We have been devoted to upholding family well-being since our founding over forty years ago. In the last three years, a prominent focus of our work has been researching the intersection of work and family life, and equipping faith-based employers on best practices for their organizational policies and practices accordingly. We are committed to promoting good work so that all families have the opportunity to flourish.

As COVID-19 forced quarantine measures earlier this year, the lives of American workers and families turned upside down. Across the nation, homes turned into schools, schools became food distribution sites, and work began to broadcast into living rooms via video calls. The already-thinning boundaries between the domestic and the public sphere have been radically changed by the COVID-19 crisis. As the demands on family and work have fluctuated in response to community health and safety, access to unemployment insurance has been an important safety net for families.

Our Christian tradition sees both family and work as two God-given areas of blessing and responsibility. But, the current public health and economic crises are hurting both.

Motivated by our faith values, we believe that this Congress ought to promote unemployment insurance programs and pandemic recovery that honors both the dignity of work and the dignity of all workers. To that end:

- Supplemental assistance, such as Pandemic Unemployment Compensation, should be continued, in some form, to uphold workers, their families, and enable safe returns to work.
- Work share programs could be vital tools for maintaining employer-worker relationships, and should be promoted and streamlined for easy implementation across the country.

- Public dollars should continue to be invested in modernizing and strengthening the systems administering unemployment insurance, so that they are accessible for all workers.
- To support religious communities, unemployment systems should continue to include workers not traditionally included.

Continue Supplemental Assistance with State Unemployment Programs

The supplemental assistance provided to workers who experienced work loss due to the coronavirus pandemic via federal Pandemic Unemployment Compensation has been important in sustaining families. State unemployment programs are designed to replenish a portion of workers' pay before job loss. Rather than force families to rely on a sliver of their prior income, PUC helped qualifying workers make ends meet. For example, a husband in Michigan shared with the Center that the financial support helped his family pay their bills. In Maryland, a father of a single mother shared his relief: "Praise God. She has a child. My daughter receiving UI took some of the financial pressure off my wife and I to support her through this time." Caroline in Iowa works in food service. Reflecting on her experience, she shared with the Center that the additional support through PUC was critical: "It helped me support myself through a long, extended period of unemployment." She is excited to get back to work now, but is thankful that she "didn't have to [do] a job during a time where I could've gotten sick through working."

The supplemental assistance is scheduled to stop at the end of July. While some workplaces are beginning to reopen, Michael Strain, a resident scholar and the director of economic policy studies at the American Enterprise Institute warns that "we're still going to be in a bad situation come August or September, even if we rapidly improve in June and July. . . . The economy six months from now is still going to be in very, very bad shape."¹ This acknowledgement is why Federal Reserve Chairman Jerome Powell recently advised Congress to extend the supplemental assistance "in some form."²

There is some understandable frustration around this program: Some unemployed workers are receiving more in unemployment assistance than the compensation their colleagues are receiving while working.³ But, our current moment calls for strong supports for both those employed and un- or under-employed. As long as the uncertainty of the coronavirus is a threat to community welfare, state unemployment insurance will not be enough alone to help workers stay home when necessary, or keep them afloat when work fluctuates. Without adequate income to sustain families through these periods of uncertainty, workers may not put public health first. "Those with direct COVID-19 exposure through their households continue to work similar hours to others, and those with recent fever symptoms or elevated risk for COVID complications are not reducing their work hours or taking additional precautions,"⁴ finds Abigail Wozniak, a labor economist at the Federal Reserve Bank of Minneapolis.

Additionally, many of the nonprofit faith-based and religious employers the Center equips are experiencing a different timeline than the one assumed in the CARES Act. In the first several months of the pandemic, these employers were serving their communities' immediate needs: organizing food pantries, navigating aid systems, and connecting service recipients with resources and support. In April, when some employers were looking towards what they needed to stay afloat, our organizations were still addressing urgent community needs. Now that communities are adjusting to a new normal, many of the faith-based organizations in our network have expressed concern for the future: The Paycheck Protection Program provided critical short-term support for some institutions, but the trajectory of their work is now uncertain. Organizations are grappling with how revenue and programming may be

¹James Pethokoukis and Michael R. Strain, "Recovering from the COVID-19 Recession: My Long-Read Q&A with Michael Strain," *AEIdeas* (blog), American Enterprise Institute, June 10, 2020, <https://www.aei.org/economics/recovering-from-the-covid-19-recession-my-long-read-qa-with-michael-strain/>.

²Sylvan Lane, "Power Urges Congress to Continue Boosted Jobless Benefits 'In Some Form,'" *The Hill*, June 17, 2020, <https://thehill.com/policy/finance/503232-powell-urges-congress-to-continue-boosted-jobless-benefits-in-some-form>.

³Peter Ganong, Pascal Noel, and Joseph Vavra, "US Unemployment Insurance Replacement Rates During the Pandemic," Becker Friedman Institute Working Paper No. 2020-62, (May 2020), https://bfi.uchicago.edu/wp-content/uploads/BFI_WP_202062-1.pdf.

⁴Abigail Wozniak, "Disparities and Mitigation Behavior during COVID-19," Opportunity and Inclusive Growth Institution, Federal Reserve Bank of Minneapolis, Institute Working Paper 32, (May 2020), <https://doi.org/10.21034/iwp.32>.

impacted in the weeks and months to come. For example, charitable contributions are predicted to decline as much as \$40 billion⁵ this year and next due to economic conditions. This uncertain future will likely result in work loss in the coming months. Without extending a version of PUC, these workers—who worked hard to serve their communities in the first months of the pandemic—will not have access to the relief that was available to their service recipients.

Over 150 economists recently signed on to a letter to Congress acknowledging that “full economic recovery will remain dependent on the public health situation.”⁶ In light of this uncertain reality, as well as what is known about the choices workers will make to ensure food for their families, we cannot allow PUC to expire at the end of July without another form of supplement in place. Congress should continue a level of support that (1) state systems can quickly administer, and (2) will provide practical support to workers and their families who may experience work loss in coming months.

Maintain Worker-Employer Relationships with Work Share

Work is inherently good and an important part of human flourishing; it provides opportunity for humans to cultivate talents, provide for family, and exercise responsibility. Work share programs (also known as short term compensation)⁷ could be a vital tool, especially in our current economy. As community economic and health conditions evolve, there will likely be slow restarts, and some stops and starts in the employment. Maintaining the worker-employer relationship within the changing environment is often in the best interest of both workers and employers. In areas that have experienced high, persistent rates of unemployment, staying connected to work can make a big difference to employers as well as workers and their family routines.

Work share programs enable this mutually beneficial relationship. In the 26 states that have operational work share programs, employers have access to an alternative to laying off members of their trained workforce. Instead of layoffs, employers can temporarily reduce workers’ hours. The employees impacted by reduced hours are allowed to collect part of their unemployment insurance (assuming they are eligible) to replace part of their lost wages. The program also requires employers to maintain worker health and retirement benefits as though worker hours were not reduced.⁸

A faith-based employment placement program recently shared with the Center that many of the families they serve are eager to get back to work. Many of these families are grateful for the enhanced unemployment insurance to which they had access while they were laid off. As workplaces reopen, they are doing so slowly, with stops and starts. In some cases, workers are called back with fewer hours than desired. Work share, which the Department of Labor has clarified can be used to rehire previously laid off employees also,⁹ could benefit both employers and workers. Unfortunately, few workers or employers are familiar with work-sharing.

In considering ways to facilitate safe returns to work, Congress should better promote work share programs to states and employers. As Congress discusses types of relief to include in the next relief bill, Congress should continue to incentivize states to set up work share programs as part of their unemployment insurance system. These incentives should continue to include funding and technical expertise in building and maintaining the program infrastructure. Finally, where possible, bureaucratic roadblocks should be minimized so that states can accelerate the implementation of these programs.

Invest in Making State Unemployment Insurance Systems Accessible

In the CARES Act, Congress committed to states funding to improve their unemployment insurance capacity. This was an important step in addressing the anti-

⁵ Jeremy Beer, “How Much Will Charitable Giving Decline? A New Survey Provides Us With a Starting Point,” *Philanthropy Daily*, April 13, 2020, <https://www.philanthropydaily.com/how-much-will-charitable-giving-decline/>.

⁶ Ben Bernanke, Heather Boushey, and Cecilia Rouse to Congress, June 16, 2020, https://docs.google.com/document/d/1MuJDXICTKduzKImGLAE6bKfMaNMnxMciBHYz3a5_XZg/preview?pru=AAABcuHr26c*33N3ASzrbnKgKN977ed6g.

⁷ U.S. Department of Labor, “Short-Term Compensation,” Office of Unemployment Insurance (fact sheet), n.d., https://oui.doleta.gov/unemploy/docs/stc_fact_sheet.pdf.

⁸ Jane Oates, “Unemployment Insurance Program Letter No. 22-12,” Employment and Training Administration Advisory System, U.S. Department of Labor, June 18, 2012, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_22_12.pdf.

⁹ John Pallasch, “Unemployment Insurance Program Letter No. 21-20,” Employment and Training Administration Advisory System, U.S. Department of Labor, May 3, 2020, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_21-20.pdf.

quoted systems, but the work is not yet done. Unemployment insurance is an important safety net, with or without a pandemic impacting economic activity and human flourishing. Sadly, even as states have worked to increase their capacity to respond to this crisis, access to this important program remains challenging. One pastor shared with the Center that older workers in their congregation are struggling to navigate the state's unemployment insurance website. A faith-based nonprofit working with refugees and immigrants shared with the Center that workers still learning English are struggling to understand the application requirements.

Unemployment insurance is a system we have underinvested in and failed to maintain well, even in spite of the inevitability of occasional economic downturns. Congress should continue to enable states to strengthen their systems now, and think long-term about what it will take to upgrade and maintain them, so that unemployment insurance systems work well for all workers.

Support Religious Communities, Include Non-Traditional Workers

Many of those who lead and support religious communities do so in non-traditional employment roles. Administrative assistants in church offices, child care workers at centers run in houses of worship, pastors, contractors sharing expertise are all common examples of those workers who are generally ineligible for assistance during seasons of hardship from work loss. Yet, they are among the many Americans whose work contributes to the vitality of our communities.

Religious organizations and congregations administer vital social services to their local community. They run food pantries, care for the elderly, and facilitate parenting classes. Religious organizations and congregations also contribute to the provision of counseling services, organizing neighborhood associations, and facilitating civic engagement. In addition to their important role in addressing community needs, Ram Cnaan, an international expert in the areas of faith-based social care and policy, has demonstrated that congregations also contribute to the local economy.¹⁰ Given this level of community impact, it is clear that the flourishing of non-traditional workers is wrapped up with the flourishing of all of our families and institutions. As Congress considers the future for unemployment insurance, our system should continue to include workers who are not traditionally included, but whose work is no less valuable.

As Christians, our faith calls us to exercise our political authority. The purpose of government is to advance flourishing. Advancing flourishing in the midst of a pandemic may seem to be an impossible task, but federal and state governments are positioned to offer crucial support to employers, as well as to workers and their families. In order to eventually return to a vibrant, pluralist economy of workplaces, workers will need the flexibility and support to move in and out of the physical workplace while maintaining relationships with work when possible. Our desire to see our nation—and all families that make up our nation—flourish moves us to support these principled requests.

If you would like to discuss this further, please contact Rachel Anderson, Director of Families Valued—an initiative of the Center for Public Justice, at Rachel.Anderson@CPJustice.org. Thank you for your leadership and support for our nation's families and workplaces.

Sincerely,

Rachel Anderson
Director, Families Valued
Resident Fellow, Center for Public Justice

Stephanie Summers
CEO, Center for Public Justice

¹⁰Ram A. Cnaan and Seongho An, "Even Priceless Has to Have a Number: Congregational Halo Effect," *Journal of Management, Spirituality and Religion* 15, (November 2017): 64–81, <https://doi.org/10.1080/14766086.2017.1394214>.

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Hon. Chuck Grassley
 Chairman
 U.S. Senate
 Committee on Finance
 219 Dirksen Senate Office Building
 Washington, DC 20510

Hon. Ron Wyden
 Ranking Member
 U.S. Senate
 Committee on Finance
 219 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Grassley and Ranking Member Wyden:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) write in response to your recent hearing, Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic, to raise issues of concern for people with disabilities related to Unemployment Insurance (UI). CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

People with disabilities live in poverty at more than twice the rate of people without disabilities; while people with disabilities make up approximately 12 percent of the U.S. working-age population, they account for more than half of those living in long-term poverty. More than 65 percent of the 17.9 million working-age adults with disabilities participate in at least one safety net or income support program.¹ People with disabilities also disproportionately hold low-wage (in 2013, 61.2% of working-age adults with disabilities had incomes below 200% of the federal poverty line compared to 28.8% of working-age adults without disabilities)² and part time jobs (32% of people with disabilities versus 17% for people without disabilities worked part time in 2019).³ Many people with disabilities have functional or service limitations that prevent substantial work and receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI). The SSDI and SSI programs include work incentives such as Ticket to Work; while some people are able to use these to transition to full-time employment, many others can only sustain more limited hours.

Because so many workers with disabilities are part time workers, they often are not eligible for unemployment insurance. However, the newly passed Pandemic Unemployment Assistance (PUA) program and the increased benefits of Pandemic Unemployment Compensation (PUC) program extends unemployment insurance to more part time workers and thus will cover many more workers with disabilities. Given the increased costs due to the pandemic for people with disabilities who may have to self-isolate for longer due to pre-existing conditions to protect themselves, this improvement to the unemployment system is important and long needed. All people with disabilities, even those with substantial function or service limitations who rely on SSDI or SSI, should be able to claim the UI benefits that they earned.

In order to ensure that these UI programs work for all people with disabilities, we urge the Committee to include a disregard in future UI legislation to prevent unintended impacts on eligibility for other means-tested programs, including the Supplemental Nutrition Assistance Program (SNAP) and Supplemental Security Income (SSI). The UI provisions included in the CARES Act excluded the additional PUC funding from being considered for Medicaid eligibility, a crucial protection in this public health emergency, but did not protect families who rely on SNAP or SSI.

SNAP provides millions of people with disabilities and their families with crucial food assistance. Compared to people without disabilities, people with disabilities and their families are significantly more likely to experience hunger and food insecurity.

¹National Council on Disability, 2017 Progress Report (2017), https://ncd.gov/sites/default/files/NCD_A%20Progress%20Report_508.pdf.

²Center for American Progress, A Fair Shot for Workers with Disabilities (2015), <https://www.americanprogress.org/issues/poverty/reports/2015/01/28/105520/a-fair-shot-for-workers-with-disabilities/>.

³Department of Labor, Bureau of Labor Statistics, Persons with a Disability: Labor Force Characteristics Summary (2020), <https://www.bls.gov/news.release/disabl.nr0.htm>.

ity.⁴ With 95% of Americans under some form of a stay at home order and massive job loss,⁵ SNAP and other means tested benefits have become all the more crucial for people with disabilities and their families. In addition, children with disabilities receiving SSI may face a reduction in benefits due to their parents' claims of unemployment, due to deeming rules that do not count unemployment the same as wages. This unfairly punishes children with disabilities and their families for circumstances outside of their control. Unemployment benefits may also complicate Medicaid eligibility for workers with disabilities who are attempting to work via SSI's work incentive programs, despite Congress' decision to disregard PUC compensation for the purposes of Medicaid and CHIP.

As Congress has done before in emergencies and disasters, it makes sense to exempt this emergency unemployment from all means-tested programs. We urge you to do as the House did in their recently passed legislation, the HEROES Act (H.R. 6800) and include a disregard to ensure that low-income workers with disabilities and low-income families with children with disabilities, and others will not have to choose between their Medicaid, SSI, SNAP, and UI in this time of crisis.

We look forward to working with the Senate on this important issue. Please do not hesitate to contact Bethany Lilly (lilly@thearc.org) with any questions or to arrange a meeting.

Sincerely,

Association of People Supporting Employment First (APSE)
Autism Society of America
Autistic Self Advocacy Network
Center for Public Representation
Community Legal Services of Philadelphia
Council of State Administrators of Vocational Rehabilitation (CSAVR)
Easterseals
Epilepsy Foundation
The Jewish Federations of North America
Justice in Aging
National Alliance on Mental Illness
National Committee to Preserve Social Security and Medicare
National Disability Institute
National Disability Rights Network (NDRN)
National Down Syndrome Congress
National Organization of Social Security Claimants' Representatives (NOSSCR)
Paralyzed Veterans of America
RespectAbility
The Arc of the United States

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June 24, 2020

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

SUBJECT: Statement for the Record for “Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic”—Expanding Access to Income and Earnings Data for Research Activities

Dear Chairman Grassley, Ranking Member Wyden, and Members of the Committee:

⁴ Carlson, Steven, Keith-Jennings, Brynne, and Chaudhry, Raheem (2017). SNAP Provides Needed Food Assistance to Millions of People with Disabilities. Washington, DC: Center on Budget and Policy Priorities, <https://www.cbpp.org/research/food-assistance/snap-provides-needed-food-assistance-to-millions-of-people-with-disabilities>.

⁵ Mervosh, S., Lu, D., and Swales, V. (2020, March 24). See Which States and Cities Have Told Residents to Stay at Home. Retrieved from <https://www.nytimes.com/interactive/2020/us/coronavirus-stay-at-home-order.html>.

On behalf of the more than 50 members of the Data Coalition, I write to encourage you to expand access to income and earnings data for targeted research activities. With improved access to a single data source, researchers and policymakers will be better positioned to evaluate the impact of CARES Act spending on unemployment, the Paycheck Protection program, and other policy interventions designed to help workers and businesses during this pandemic. In the years to come, our country will need reliable evidence to understand these interventions and to hold the programs accountable for achieving the intended goals. We call on Congress to ensure the necessary data are available to support analysis for decision-makers and the American people on these critical policy choices.

In late-2017 a bipartisan commission created by Congress and the President offered 22 clear recommendations about how to improve the country's data infrastructure to support evidence-based policymaking. While the comprehensive strategy from the U.S. Commission on Evidence-Based Policymaking was designed to work as an entire ecosystem, to date, Congress has only taken action on half of those recommendations. The coronavirus pandemic necessitates action on the remaining unanimous recommendations from the Evidence Commission to ensure elected leaders have critical information to understand not just the full impact of the virus long-term on our economy and population, but also to study and learn from the policies being implemented by the CARES Act to attempt to mitigate the pandemic's effects.

The Evidence Commission recognized a dear need for improved access to income and earnings data. This can immediately be accomplished, by the government by improving data quality for the National Directory of New Hires and expanding access to include agencies using the strong privacy framework of the Confidential Information Protection and Statistical Efficiency Act of 2018 (CIPSEA). **With minor adjustments to federal law, approved researchers could have vastly improved, yet still restricted and privacy-protected, access to existing data on wages and earnings.** The Office of Child Support Enforcement at the Department of Health and Human Services operates the National Directory of New Hires, created in the 1996 welfare reforms. This system relies on state-provided data. Enhancements to data access for research purposes within the CIPSEA privacy-framework paired with improvements to data quality, including increasing the periodicity of reporting and doubling the duration of data retention will vastly improve existing research capabilities. Notably, proposals to expand access to this system have previously been offered by the Barack Obama and Donald Trump administrations in annual budget proposals to Congress.

By making these improvements, researchers can help evaluate data and build evidence in order to inform good policy decisions. We strongly encourage Congress to consider and advance improvements to this infrastructure. Thank you for your consideration. I would be pleased to discuss the request further with you or staff at any time.

Respectfully,

Nicholas R. Hart, Ph.D.
CEO, Data Coalition

LETTER SUBMITTED BY KELLEY DUKAT

June 16, 2020

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

RE: "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic," Tuesday, June 9, 2020

Dear Honorable Members of the Senate Committee on Finance, I am writing you today on behalf of hybrid workers across California and the United States and in response to the hearings that I watched last week. While I understand the main issue at stake in the hearing last week was whether to continue the \$600 per week until December or riot, I was completely disheartened to not hear one Senator mention the issue which has been plaguing me since my claim was filed.

Mixed-income ("hybrid") workers across this country NEED your immediate help! Congress and the President passed the CARES Act and (though likely unintention-

ally) are causing hundreds of thousands (if not millions) of mixed-income American workers to not receive the full amount of financial assistance Congress intended for ALL Americans to receive at this difficult time during a pandemic and widespread unemployment.

I am truly a mixed income worker, who has both income from W-2 employment (about 15 to 20% of my income) but who mostly identifies as a self-employed 1099 worker as an event planner and rideshare driver. I would definitely call myself a “gig economy” worker. I get to set my own schedule and accept work from multiple entities as I please.

My W-2 income in 2019 came from side jobs as vent staff at conventions, customer service temp jobs and working in guest services/customer service for the San Diego Padres—as a fun job. I also worked a seasonal job (and do work again—see later) for the Navy as a team member at the Naval Exchange Service Command.

As the situation was unfolding with the pandemic, I also received a job offer and had been fingerprinted to join the team for U.S. Census Bureau. I had completed my Orientation and Uniform fitting for the Padres and was excited to start my new role—we had training scheduled for the Guest Experience team as well. Lastly, I knew both of the event staff companies I worked for on the side as well (in the “gig” economy) would be full of work in the coming months given that San Diego is a huge convention city.

Then in mid-March, the world as I knew it, shut down. Our training for the Padres and the Census were shut down until further notice. All conventions were canceling. And with everyone sheltering in place at home and no convention or tourism there also weren’t going to be Uber passengers, and it wouldn’t be safe to drive anyway. This was unfortunate too as I had a new car to use—and need to pay for.

I had been on unemployment before after more than one layoff, so I knew and understood the process of filing the regular way. Congress was thankfully acting quickly on how to respond and I heard about the self-employed workers being included for the first time. So I was excited and thankful to wait and see how that turned out. I waited to file until after the CARES Act passed, but we had no direction or guidance and attempts to reach EDD in California are completely useless and futile. Since I had federal income, the antiquated computer systems that EDD used would not allow for me to file online. I had to use a paper form, which meant I didn’t do income by quarters, but just told. You list all of you “employers.”

As I have never filed as a self-employed worker before and didn’t fully understand the paper form or process, I put my clients or sources of 1099 income as “employers” even though my employer is me. However, I wanted to get the application in because I needed the money and because I knew it would take 3 weeks for processing. We had no direction or guidance or info on when the system for PUA would be added on, I faxed the form on April 1, 2020.

For weeks, I heard nothing. When you can’t file online, you don’t get the “confirmation” number that you get when you do file online. You have no idea where it’s sitting. I knew that likely most of the EDD reps weren’t in a group office so I had no idea if anyone had even seen this. You can’t contact EDD, I would call several hundred times per day to no avail. It’s one of the most inept operations I have ever had the displeasure to work with.

Finally I was given an email address for EDD, and I sent an inquiry to it and I eventually received an email back where the rep apologized for not hearing back and since he was working from home, he couldn’t say whether or not they received the fax, but he said he would forward the claim form via PDF which I sent to him to make sure it got filed properly.

I don’t recall exactly when I heard or learned about the hybrid issue; I believe it came through social media before I received my small award level, but I feared what was coming. I wanted to apply for PUA on April 28th, but California and the department said that would not be allowed or futile because I had W-2 income or “wages” in the system.

PUA in California started at \$167 per week, but now has increased up to \$450/week for those who earned \$18K+ in 1099 income, which includes me. If the EDD could consider my 2019 1099 income, I would receive close to the maximum of \$450 per week just from my 1099 earnings; with both 1099 and W-2 earnings combined I would receive the CA UI maximum of \$450/week.

Honorable Members of this Committee, this is NOT what Congress intended. In fact, Congressman Adam Schiff said so himself in a Town Hall with the SAG Aftra Union in May. I present the following YouTube video featuring a Town Hall with Congressman Adam Schiff where he states the following “it was our intention they would have the full benefits of their full income.” This is stated about the 10 minute mark here: https://youtu.be/_GIT76iYNC8.

In fact, Congresspeople Adam Schiff and Judy Chu (and signed by an additional 20 Congresspeople) sent a letter on May 8th to Speaker Pelosi and Leader McCarthy highlighting this very issue and urging her to include provisions “to consider language to ensure that independent workers with mixed sources of income are able to access the same relief to make up for lost work that the CARES Act provides to those with more traditional employment arrangements.” Sadly, these provisions were NOT included in Speaker Pelosi’s HEROES Act a few days later. The full letter is attached below.

How did this problem even happen?

Because whoever drafted the PUA did so using the text and framework provided for by the Disaster Unemployment Assistance (DUA) from the 1970s as you can see from this portion of the CARES Act:

(h) RELATIONSHIP BETWEEN PANDEMIC UNEMPLOYMENT ASSISTANCE AND DISASTER UNEMPLOYMENT ASSISTANCE.—Except as otherwise provided in this section or to the extent there is a conflict between this section and section 625 of title 20, Code of Federal Regulations, such section 625 shall apply to this section as if:

- (1) The term “COVID–19 public health emergency” were substituted for the term “major disaster” each place it appears in such section 625; and
- (2) The term “pandemic” were substituted for the term “disaster” each place it appears in such section 625.

The problem is that when the DUA as created in the 1970s, there were no (or an insignificant number of) mixed-income workers . . . everyone was either 100% W–2 or 100% 1099/self-employed. That isn’t the case in 2020, and Congress did a huge disservice to American mixed-income workers by simply doing a “Copy-Paste” approach to drafting the language of the PUA. The fact that there was no oversight, no public comment period, no Congressperson (or staff member) that realized this problem before the CARES Act was signed into law is unfortunately a whole different story. Sadly, what’s done is done.

But now, Members of this Committee, it’s time to correct this error. And, as I mentioned before, the hundreds of thousands (if not millions) of mixed-income American workers NEED your help to fix this problem FAST. Because of this error, we are individually losing out on THOUSANDS OF DOLLARS Congress intended us to receive—money many of us NEED to survive to pay for life’s bare essentials.

In addition, I urge this Committee to consider including a provision—if only temporarily for 12–24 months that would waive excessive earnings so as not to penalize the American worker who might receive a small amount of income one week which could eliminate that worker’s weekly UI/PUA benefit PLUS the additional \$600 FPUC for that week. I understand these hearings last week focused mostly on this additional \$600 per week, and I understand both sides of the concerns here—hard to get people back to work when they make more on unemployment and those who really need that lifeline. Right now I consider myself to need that lifeline since my work involves crowds and group events—something which may not come back for 6 months to a year or more, however, I would be happy with.

In other words (and in my specific case), I took a new job with a previous W–2 employer and now because of that week, I need to claim/certify it with the CA EDD and I not only lose the \$93 in UI this week, but also the additional \$600 FPUC. I don’t know how, in any world, one can deem that scenario as fair, since I can fully prove income I had been earning.

Since I was offered and took a job at a different Navy Exchange store, I had no idea that I would be “punished” in this manner when I did. I have been forced to receive 0 because only a small portion of my income is being counted and therefore, I would still receive the \$600 benefits you intended if my entire income or at least the majority of my income is being counted.

At the end of the day, I want to get back to work, whether as an event planner, a guest services representative or any other of the wonderful gigs I call for work.

I don't want to stay unemployed, but while I am forced to because of the pandemic, I expect to receive the amount of financial help Congress intended me to receive. And this should be made RETROACTIVE to the date of my claim, which was also done erroneously by EDD. You can fix this with additional guidance/legislation.

So how to fix this problem?

Whether you amend the CARES Act (such as what you did with the PPP) or include new language, provisions and guidelines in the HEROES Act, the two options that come to mind are:

- (1) Allow States to let the applicant choose if they want their W-2 income to be used for UI or their 1099 income. In my case, I would be given a choice to either receive \$93/week from UI or the \$399 to \$450/week from PUA.
- (2) However, Option 1 above doesn't take into account the full income of the individual either. They still could lose out considerably if their income is evenly split between W-2 and 1099. Perhaps an individual's 1099 income can be funded by the PUA while the States can also provide funding for the W-2 portion of their income . . . obviously, only ONE \$600 FPUC would be included, but at least the money the Federal Government earmarked for 1099 workers (PUA) would then still get to the 1099 worker. a. Example: Let's say my 2019 total income is \$45,000, with \$40,000 in 1099 and \$5,000 in W-2. The State pays the normal UI for W-2 income at \$100/week and then the federal government via PUA would pay, for example, \$300/week additional for a total of \$400/week UI (plus the weekly \$600 FPUC) based on \$45,000 in total earnings.
- (3) Mandate that the states use their own leeway/flexibility as written into the law to alter or adjust their state UI code to include someone's full income and have the federal government then fund the difference. I don't have a preference as to which program my claim is under (UI or PUA) but I do want my entire income included in my benefits amount. This could be done through guidance issued to the states through the Department of Labor or through separate legislation such as was enacted to adjust the rules and provisions for the PPP program.

This is your opportunity to truly help so many people in dire need,

I urge you to enact the best and most expedient course of action in these matters to help all of the American mixed income workers who, TO THIS DAY, have received little to no financial assistance since the pandemic hit and states went into lockdown. The amount I no longer receive (due to excessive earnings) was not adequate to even purchase groceries in the state I live in. and while the \$600 per week is helpful, for someone like me, I now get nothing.

As far as the \$600 per week in FPUC, I heard both sides of the debate and I understand both sides. For me, without the hybrid worker situation being resolved, I don't receive the \$600 per week to make up for lost work anyway. In some ways I don't feel I have an opinion in the fight as I miss out either way. However, I have already lost out on thousands of dollars I need to survive because of the hybrid situation, and once you resolve that, that \$600 per week will likely be a lifeline for me. Since I have already returned partially to some work, the \$450 return to work bonus will likely be useful to me as well—if you were to go along that route. I understand that it has been and will be difficult for employers to get someone to go back to work if they make more on unemployment, I also think it's a lifeline for many who are behind on payments and could allow them to get back on their feet and help the economy. So I believe that I do lean toward the argument that you should extend the payments, however, you could make a provision based on income levels and/or whether someone has returned to work.

Please solve the hybrid issue most urgently and paramountly before thousands of us become homeless and please don't allow those of us who have returned to work to be punished for this work.

Sincerely,

Kelly Dukat

CC: Office of Kamala Harris, and Office of Dianne Feinstein

Supporting Documents/Resources:

California Hybrid Income Taskforce Facebook page: <https://www.facebook.com/groups/hybridincometaskforce>.

Petition on Hybrid Issue: <https://www.change.org/p/unemployment-relief-for-independent-workers-with-mixed-income-types>.

Letter from Schiff, Chu: (attached).

My Interview with NBC San Diego in regard to this issue: <https://www.nbcsandiego.com/news/local/hybrid-workers-struggle-with-financial-assistance/2316394/>.

Rolling Stone Interview: <https://www.rollingstone.com/music/music-features/musicians-struggle-to-get-pandemic-assistance-993437/>.

Variety Magazine: <https://variety.com/2020/film/news/entertainment-industry-groups-reform-pandemic-unemployment-assistance-program-1234602395/>

Schiff, Chu Seek Unemployment Relief For Independent Workers With Mixed Income Types

Workers With Both Independent and Traditional Employment Currently Ineligible for Federal Pandemic Unemployment Assistance

Washington, DC—Rep. Adam Schiff (D-Burbank) and Rep. Judy Chu (D-Pasadena) sent a letter to House Speaker Nancy Pelosi and Minority Leader Kevin McCarthy last week urging that future coronavirus response legislation ensure that independent workers with multiple types of income are able to access the same unemployment assistance that the CARES Act provides to those with more traditional employment arrangements.

“Due to the sporadic and unpredictable nature of work in film, television, theater, and music, many professionals in the entertainment industries earn a living through a combination of traditional (W-2) and independent (*e.g.*, 1099) employment,” the Members wrote in their letter. “As a result, even if they have lost a substantial source of income due to coronavirus-related disruption of their independent work, these workers are ineligible for Pandemic Unemployment Assistance.”

While some workers may qualify for regular unemployment compensation if they have also lost their W-2 work, this can significantly under-measure their true earnings. And those whose W-2 income has continued but only represents a small portion of their earnings—for example, a worker who receives residual income from a previous project—are left with greatly reduced income yet are ineligible for any unemployment assistance.

The full list of signers includes: Adam B. Schiff (D-CA), Judy Chu (D-CA), Earl Blumenauer (D-OR), Brendan F. Boyle (D-PA), Julia Brownley (D-CA), Tony Cardenas (D-CA), David N. Cicilline (D-RI), Yvette D. Clarke (D-NY), Jim Cooper (D-TN), J. Luis Correa (D-CA), Theodore E. Deutch (D-FL), John Garamendi (D-CA), Jimmy Gomez (D-CA), Alan S. Lowenthal (D-CA), Stephen F. Lynch (D-MA), Carolyn B. Maloney (D-NY), Jerrold Nadler (D-NY), Grace F. Napolitano (D-CA), Chellie Pingree (D-ME), Janice D. Schakowsky (D-IL), Brad Sherman (D-CA), and Debbie Wasserman Schultz (D-FL).

In March, Rep. Schiff and Members of Congress from Los Angeles and other entertainment hot-zones around the country sent a letter to the Speaker and Minority Leader requesting that emergency unemployment benefits be made available to freelancers, contractors, and other independent workers who have lost income as a result of the pandemic. The CARES Act included the new Pandemic Unemployment Assistance (PUA) program, extending benefits to independent workers who do not fully qualify for regular unemployment.

Read the full letter below:

May 8, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

Thank you for your efforts to pass the CARES Act in March, legislation that provides a crucial foundation for our response to the coronavirus crisis and that is providing desperately needed relief to millions of Americans and small businesses.

During consideration of the CARES Act, we wrote to you to request that emergency unemployment benefits be made available to freelancers, Contractors, and other independent workers who have lost income as a result of the pandemic. We are very appreciative that the CARES Act included the new Pandemic Unemployment Assistance (PUA) program, extending benefits to independent workers who lack the resources of a large employer but do not fully qualify for regular unemployment.

However, while PUA has begun providing support to many previously ineligible workers, as currently constructed many independent workers with multiple sources of income are excluded from fully qualifying for its expanded benefits. This includes workers with mixed employment types and multiple sources of income who have lost income but are not fully covered by either regular unemployment or PUA.

In particular, due to the sporadic and unpredictable nature of work in film, television, theater, and music, many professionals in the entertainment industries earn a living through a combination of traditional (W-2) and independent (*e.g.*, 1099) employment. As a result, even if they have lost a substantial source of income due to coronavirus-related disruption of their independent work, these workers are ineligible for PUA. Some of these workers may qualify for regular unemployment compensation if they have also lost their W-2 work, but this can significantly under-measure their true earnings. And those whose W-2 income has continued but only represents a small portion of their earnings—for example, a worker who receives residual income from a previous project—are left with greatly reduced income yet are ineligible for any unemployment assistance.

As you consider additional legislation to respond to COVID-19, we urge you to consider language to ensure that independent workers with mixed sources of income are able to access the same relief to make up for lost work that the CARES Act provides to those with more traditional employment arrangements. Thank you for your consideration and your leadership through these difficult times.

Sincerely,

CC: The Honorable Richard Neal
Chairman, Committee on Ways and Means
The Honorable Kevin Brady
Ranking Member, Committee on Ways and Means

LETTER SUBMITTED BY TERRY DUMAS

June 18, 2020

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

RE: Unemployment for gig workers and independent contractors—HYBRID WORKERS

Dear Committee Members, I am writing to bring your attention to a major problem with the CARES Act. I live in Massachusetts and I'm contacting you because I know that you are considering additional measures to help unemployed workers due to the COVID-19 crisis. I am an independent contractor and run a consulting business from my home. I haven't worked since March 10, 2020 due to COVID-19. Unfortunately for me, I am what's called a "hybrid" worker who received both a W-2 and 1099s from various clients in 2019. The W-2 work was for two quarters and was only one-third of my annual income. Due to this W-2, I am ineligible for Pandemic Unemployment Assistance (PUA), which means that my true earnings from 2019 are significantly under-measured since my 1099 income cannot be considered in my unemployment claim. The bottom line is that workers with mixed employment types and multiple sources of income who have lost income are not fully covered by either regular unemployment or PUA.

As you consider additional legislation to respond to COVID-19, I urge you to consider language to ensure that independent workers with mixed sources of income

are able to access the same relief to make up for lost work that the CARES Act provides to those with more traditional employment arrangements.

This is a national issue. I researched the “hybrid” worker unemployment problem on-line and found the attached chart prepared by a group in California:

The UI vs. PUA Problem

Type of Worker	Historical W-2 Income	Historical 1099 Income	Total	Eligibility	Benefit Amount
W-2 Only	\$80,000	–	\$80,000	UI	450
1099 Only	–	\$80,000	\$80,000	PUA	450
W-2/1099 Hybrid	\$5,000	\$75,000	\$80,000	UI	52

As you can see, “hybrid” workers are at a significant disadvantage compared to traditional workers. Please support modifications to the program to allow individuals to show their mixed sources of revenue (both W-2 and 1099) for a full and fair accounting of their annual income.

Many gig workers and independent contractors have received minimal help through the Cares Act. I urge you to work with your colleagues to get legislation in place to make the necessary changes.

Thank you for your consideration.

Sincerely,

Terry Dumas

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U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

Re: “Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic”

**Statement of Luz Arevalo, Brian Flynn, Monica Halas,
Hannah Tanabe, and Elizabeth Whiteway
Employment Law Unit**

Thank you for the opportunity to submit a written statement on behalf of Greater Boston Legal Services (GBLS) and the clients we serve. We are attorneys at GBLS, who have and continue to represent hundreds of clients on unemployment insurance (UI) issues.

We are writing today, on behalf of our unemployed individual clients and client community-based organizations, to urge this Committee not to allow the federal UI benefit provisions of the CARES Act to expire, and, in light of the uncertain health and economic conditions of the coming months, to tie their reauthorization and extension to economic triggers, not future dates certain.

GBLS is the largest provider of legal aid services in Massachusetts. We have assisted clients with unemployment insurance claims for decades. In the last few months, we have seen an unprecedented demand for assistance accessing the UI system, and have helped over fifteen hundred of Massachusetts’ most vulnerable workers with their claims in that time. The availability of the CARES Act’s federal UI benefits has been and continues to be a vital lifeline for our clients. Expanded UI benefits have allowed our clients to put food on the table, care for sick family members, and keep current on their rent. Allowing expanded benefits to expire prematurely would have disastrous consequences for the well-being of these workers,

of their families, and of the public at large. Just a few examples of GBLS clients who have benefited from the, CARES Act's UI benefits include:

- Lilly, a survivor of domestic violence and single mother of two young children. Lilly is originally from Cambodia, and her primary language is Khmer. Most recently, she worked as a personal care attendant, but was laid off by the family that employed her on March 7, 2020 due to COVID-19. Because of her limited English proficiency, Lilly experienced significant difficulty completing her UI application. She could not afford diapers and formula for her infant while waiting to be approved for UI benefits. Two months later, on May 7, Lilly was approved for PUA and PUC. She is concerned she will not be able to find childcare for her two young children during the pandemic, and does not know how she will continue to provide for them if PUC is allowed to expire at the end of July.
- Victoria, a single mother at high risk to contract COVID-19. PUC benefits have provided Victoria and her family stability during uncertain times, allowing them to keep up on rent, car payments, and utility bills without fear of running out of money for medicine and food during the pandemic.
- David, a 27 year-old restaurant worker who has been trying for years to rebuild his life after experiencing child abuse. After the restaurant he worked at closed due to the pandemic, PUC benefits allowed David to keep up on rent and make payments towards a used car so that he could make deliveries as an essential worker.
- Michelle, a 62 year-old, self-employed licensed hairdresser who could not work due to COVID-19. Before the PUC and PUA were implemented, she managed to pay her March rent and was left with nothing else. Federal UI benefits have allowed her to continue paying for rent and for food. Without these benefits, she would be homeless.
- Hilaria and Gerardo, both of whom lost their jobs. Gerardo, a stone-cutter, contracted COVID-19, remaining in the hospital for three weeks. While his job paid for four weeks of sick-time, it then ended all pay. Gerardo's intubation cost him a vocal cord and the ability to eat from the mouth, requiring occupational therapy. Hilaria's unemployment has allowed her to provide and care for Gerardo and their three children.
- Regina, who lost her job and would have been homeless without federal PUC benefits. She is uncertain when she will be able to secure work in the future, and she hopes and prays for an extension of PUC benefits. She does not know how long she will be able to survive without these extended benefits.

During these past months, more than 40 million workers have filed UI claims. Because COVID-19 has disproportionately affected low-wage, vulnerable workers, millions of these claimants likely face circumstances just like GBLS' clients, and are relying on expanded UI benefits for their survival. Due to this unprecedented demand and the technical difficulty of implementing these new programs, payment of benefits has been delayed for many workers.¹ Thankfully, the situation has improved, and state agencies have been able to begin working through backlogs of claims and disbursing payment to a greater percentage of claimants.² At a time when most American households cannot withstand a single missed paycheck,³ however, workers reliant on unemployment insurance because of COVID-19 need time to recover from these delayed payments. For instance, other pieces of emergency legislation, such as eviction and foreclosure moratoria, will expire just as the CARES Act's Pandemic Unemployment Compensation ("PUC") provisions are set to expire at the end of July.⁴ Allowing expanded UI benefits to expire at this time will lead

¹ Anya van Wagtenonk, "Study: 71 Percent of Jobless Americans Did Not Receive Their March Unemployment Benefits." *Vox* (April 25, 2020). <https://www.vox.com/covid-19-coronavirus-economy-recession-stock-market/2020/4/25/21236595/unemployment-benefits-71-percent-didnt-recieve-coronavirus-layoffs>.

² Andrew Stettner and Amanda Novello, "Unemployment Payouts Accelerated During April and May—But Are Still Too Slow." *The Century Foundation* (June 2, 2020). <https://tcf.org/content/commentary/unemployment-payouts-accelerated-april-may-still-slow/>.

³ Annie Nova, "A \$1,000 Emergency Would Push Many Americans Into Debt." *CNBC* (January 23, 2019). <https://www.cnbc.com/2019/01/23/most-americans-dont-have-the-savings-to-cover-a-1000-emergency.html>.

⁴ Massachusetts Bill H. 4647, for example, which halted foreclosures and evictions in Massachusetts is set to expire on August 18, 2020.

to devastating consequences for working families, as well as for the economy as a whole.

The Committee should also consider that the health and economic effects of COVID-19 have disproportionately harmed black workers and communities. A recent study found that as of April, less than half of the adult black population was employed, with more than one in six black workers losing their jobs between February and April.⁵ At the same time, black workers are more likely to be among the essential workers on the front-line of the pandemic, thus facing a greater risk of exposure and illness, and the need to remain quarantined.⁶ As a result, allowing expanded UI benefits to expire will exacerbate the existing income and wealth disparities between black and white households.⁷

Even as cities and state begin to reopen, millions of workers likely will not be able to find work quickly. As universities announce plans to conduct (at the least) their fall semesters “remotely,” thousands of low-wage custodial and dining workers in Boston and Cambridge alone are likely to be or remain furloughed or laid-off.⁸ The economic impact will ripple to nearby businesses which depend on student populations for demand. Many workers will inevitably contract COVID-19 as it continues to spread through the remainder of this year and beyond, and will be unable to safely return to work while recovering. Parents facing canceled summer programs and the possibility of limited in-person schooling in the fall will have to prioritize childcare over returning to work.

The Committee will likely hear arguments that the CARES Act’s UI provisions disincentivize workers from returning to work.⁹ These concerns are baseless. State unemployment insurance laws and the CARES Act provisions require workers to remain “able and available” to return to suitable work, including if they are recalled to jobs to which it is safe to return. The Pandemic Unemployment Assistance (“PUA”) provisions of the CARES Act make exceptions to this able and available requirement where workers experience symptoms of or are diagnosed with COVID-19, must self-quarantine based on medical advice, must care for family or household members diagnosed with COVID-19, or must provide childcare due to COVID-19-related closures, all situations where it would be unsafe or untenable to return to work through no fault of the worker.¹⁰ Eliminating or reducing expanded benefits, including PUC payments, would force workers who are already sick or at heightened risk of becoming sick back to work against medical advice and before it is safe to do so-for themselves, their coworkers, and the public at large- because they cannot make ends meet otherwise. We urge this Committee to deliberate based on reality, rather than hollow stereotypes.

For all these reasons, and on behalf of unemployed workers, we respectfully request that this Committee extend the CARES Act’s UI provisions, which are vital to the well-being of workers, their families, and the public. Thank you.

Respectfully submitted,

⁵ See Elise Gould and Valerie Wilson, “Black Workers Face Two of the Most Lethal Preexisting Conditions for Coronavirus—Racism and Economic Inequality.” Economic Policy Institute (June 1, 2020). <https://www.epi.org/publication/black-workers-covid/>.

⁶ See Jeanna Smialek and Jim Tankersley, “Black Workers, Already Lagging, Face Big Economic Risks.” *New York Times* (June 1, 2020). <https://www.nytimes.com/2020/06/01/business/economy/black-workers-inequality-economic-risks.html>.

⁷ In 2017, for example, *The Boston Globe* reported on a study conducted by the Federal Reserve Bank of Boston, Duke University, and the New School which found that the median net worth of black households in the Greater Boston Region was just \$8, compared to \$247,500 for white households. See Akilah Johnson, “That Was No Typo: The Median Net Worth of Black Bostonians Really is \$8.” *The Boston Globe* (December 11, 2017). <https://www.bostonglobe.com/metro/2017/12/11/that-was-typo-the-median-net-worth-black-bostonians-really/ze5kxCljJelx24M3pugFFN/story.html>.

⁸ Deirdre Fernandes, “Six Harvard Graduate Schools Will Hold Only Online Classes This Fall.” *The Boston Globe* (June 3, 2020). <https://www.bostonglobe.com/2020/06/03/metro/harvards-education-school-will-go-fully-online/>. As of this writing Harvard College and other universities are yet to announce their plans for the fall semester.

⁹ See Jeff Stein, Heather Long, and Josh Dawsey, “Labor Secretary Eugene Scalia Faces Blowback as He Curtails Scope of Worker Relief in Unemployment Crisis.” *The Washington Post* (Apr. 10, 2020). <https://www.washingtonpost.com/business/2020/04/10/labor-secretary-eugene-scalia-faces-blowback-he-curtails-scope-worker-relief-unemployment-crisis/> (noting that Secretary Scalia “expressed concerns about unemployment insurance being too generous”); see also, Carl Hulse, “Jobless Aid Fuels Partisan Divide Over Next Pandemic Rescue Package.” *The New York Times* (May 28, 2020) (quoting Senator Lindsey Graham as promising that expanded unemployment insurance would be “extended over our dead bodies”).

¹⁰ See H.R. 748 § 2102(a)(3)(A).

Luz Arevalo
 Brian Flynn
 Monica Halas
 Hannah Tanabe
 Elizabeth Whiteway
 Employment Law Unit
 On the testimony: Jason Salgado HLS'21

LETTER SUBMITTED BY BEN HERMES

June 14, 2020

U.S. Senate
 Committee on Finance
 Dirksen Senate Office Bldg.
 Washington, DC 20510-6200

RE: “Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic”
Date: Tuesday, June 9, 2020

Dear Honorable Members of the Senate Committee on Finance, mixed-income (“hybrid”) workers across this country NEED your **immediate** help! Congress and the President passed the CARES Act and (though likely unintentionally) are causing hundreds of thousands (if not millions) of mixed-income American workers to not receive the full amount of financial assistance **Congress intended for ALL Americans** to receive at this difficult time during a pandemic and widespread unemployment.

I am a 1099 independent contractor that works for a digital marketing company in Los Angeles, but I am also a very part time actor.

I haven’t worked a single hour of W-2 employment in almost THREE YEARS (my last W-2 day of work was on July 11, 2017 as an actor on “The Young and The Restless” soap opera).

After spending weeks learning about the CARES Act and PUA, trying to reach the CA EDD unsuccessfully after close to 3,000 attempts, and attending SAG-AFTRA webinars about UI and the CARES Act, when PUA finally became available here in CA on April 28th, I applied.

However, the CA EDD sent a normal UI acceptance letter on Monday, May 4th indicating that my very low W-2 acting residual earnings from 2019 (**residual earnings for days I physically worked 3-15 years ago**) were solely going to be used to calculate my UI weekly benefit instead of qualifying me for PUA—the program for which I waited and applied—and that I would be receiving \$112/week (as opposed to the initial \$167/week all PUA applicants receive . . . although PUA in CA has now increased up to \$450/week for those who earned \$18K+ in 1099 income.) If the EDD could consider my 2019 1099 income, I would receive \$385/week just from my 1099 earnings; with both 1099 and W-2 earnings combined I would receive the CA UI maximum of \$450/week. Important to note: I have zero control over the amounts of these random acting residuals and when these residuals arrive.

After 3,000 attempts, I finally spoke to a CA EDD representative on May 7th, and when I told her that I believed I should be PUA, she told me I couldn’t qualify for PUA because of my W-2 earnings. I explained that those “earnings” were from physical work performed 3-15 years ago, but she said her hands were tied, the CA EDD was just following the guidelines given to the states by the Department of Labor based on the language in the CARES Act, and that, as it’s written, I don’t qualify for PUA.

Honorable Members of this Committee, **this is NOT what Congress intended.**

In fact, Congresspeople Adam Schiff and Judy Chu (and signed by an additional 20 Congresspeople) sent a letter on May 8th to Speaker Pelosi and Leader McCarthy highlighting this very issue and urging her to include provisions “to consider language to ensure that independent workers with mixed sources of income are able to access the same relief to make up for lost work that the CARES Act provides to those with more traditional employment arrangements.” Sadly, these provisions were NOT included in Speaker Pelosi’s HEROES Act a few days later.

The full letter is attached below. How did this problem even happen?

Because whoever drafted the PUA did so using the text and framework provided for by the Disaster Unemployment Assistance (DUA) from the 1970s as you can see from this portion of the CARES Act:

(h) RELATIONSHIP BETWEEN PANDEMIC UNEMPLOYMENT ASSISTANCE AND DISASTER UNEMPLOYMENT ASSISTANCE.—Except as otherwise provided in this section or to the extent there is a conflict between this section and section 625 of title 20, Code of Federal Regulations, such section 625 shall apply to this section as if—

(1) the term “COVID–19 public health emergency” were substituted for the term “major disaster” each place it appears in such section 625; and

(2) the term “pandemic” were substituted for the term “disaster” each place it appears in such section 625.

The problem is that when the DUA was created in the 1970s, there were no (or an insignificant number of) mixed-income workers . . . **everyone** was either 100% W–2 or 100% 1099/self-employed. That isn’t the case in 2020, and Congress did a huge disservice to American mixed-income workers by simply doing a “Copy-Paste” approach to drafting the language of the PUA. The fact that there was no oversight, no public comment period, no Congressperson (or staff member) that realized this problem **before** the CARES Act was signed into law is unfortunately a whole different story. Sadly, what’s done is done.

But now, Members of this Committee, **it’s time to correct this error**. And, as I mentioned before, the hundreds of thousands (if not *millions*) of mixed-income American workers **NEED** your help to fix this problem **FAST**. Because of this error, we are individually losing out on **THOUSANDS OF DOLLARS** Congress intended us to receive—money many of us **NEED** to survive to pay for life’s bare essentials.

In addition, I urge this Committee to consider including a provision—if only temporarily for 12–24 months—that would waive excessive earnings so as not to penalize the American worker who might receive a small amount of income one week which could eliminate that worker’s weekly UI/PUA benefit **PLUS** the additional \$600 FPUC for that week. In other words (and in my specific case), if I currently receive a random acting residual of \$150 this week, I need to claim/certify it with the CA EDD and I not only lose the \$112 in UI this week, but also the additional \$600 FPUC. I don’t know how, in any world, one can deem that scenario as fair, especially when I have no control over the amount of the residual or when it arrives.

At the end of the day, I **want** to get back to work, whether as an actor or as a digital marketing executive. I **don’t want to stay unemployed**, but while I am forced to because of the pandemic, I expect to receive the amount of financial help Congress intended me to receive.

So how to fix this problem?

Whether you amend the CARES Act or include new language, provisions and guidelines in the HEROES Act, the two options that come to mind are:

- (1) Allow States to **let the applicant choose** if they want their W–2 income to be used for UI or their 1099 income. In my case, I would be given a choice to either receive \$112/week from UI or \$385/week from PUA.
- (2) However, Option 1 above doesn’t take into account the **full income** of the individual either. They still could lose out considerably if their income is evenly split between W–2 and 1099. Perhaps an individual’s 1099 income can be funded by the PUA while the States can also provide funding for the W–2 portion of their income . . . obviously, only **ONE** \$600 FPUC would be included, but at least the money the federal government earmarked for 1099 workers (PUA) would then still get to the 1099 worker.
 - a. Example: Let’s say my 2019 total income is \$45,000, with \$40,000 in 1099 and \$5,000 in W–2. The State pays the normal UI for W–2 income at \$100/week and then the federal government via PUA would pay, for example, \$300/week additional for a total of \$400/week UI (**plus** the weekly \$600 FPUC) based on \$45,000 in total earnings.

This is your opportunity to truly help so many people in dire need.

I urge you to enact the best and most expedient course of action in these matters to help all of the American mixed-income workers who, **TO THIS DAY**, have re-

ceived little to no financial assistance since the pandemic hit and states went into lockdown.

Kind regards,

Ben Hermes

cc: Senator Diane Feinstein

cc: Senator Kamala Harris

Congress of the United States
Washington, DC 20515

May 8, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

Thank you for your efforts to pass the CARES Act in March, legislation that provides a crucial foundation for our response to the coronavirus crisis and that is providing desperately needed relief to millions of Americans and small businesses.

During consideration of the CARES Act, we wrote to you to request that emergency unemployment benefits be made available to freelancers, contractors, and other independent workers who have lost income as a result of the pandemic. We are very appreciative that the CARES Act included the new Pandemic Unemployment Assistance (PUA) program, extending benefits to independent workers who lack the resources of a large employer but do not fully qualify for regular unemployment.

However, while PUA has begun providing support too many previously ineligible workers, as currently constructed many independent workers with multiple sources of income are excluded from fully qualifying for its expanded benefits. This includes workers with mixed employment types and multiple sources of income who have lost income but are not fully covered by either regular unemployment or PUA.

In particular, due to the sporadic and unpredictable nature of work in film, television, theater, and music, many professionals in the entertainment industries earn a living through a combination of traditional (W-2) and independent (*e.g.*, 1099) employment. As a result, even if they have lost a substantial source of income due to coronavirus-related disruption of their independent work, these workers are ineligible for PUA. Some of these workers may qualify for regular unemployment compensation if they have also lost their W-2 work, but this can significantly undermeasure their true earnings. And those whose W-2 income has continued but only represents a small portion of their earnings—for example, a worker who receives residual income from a previous project—are left with greatly reduced income yet are ineligible for any unemployment assistance.

As you consider additional legislation to respond to COVID-19, we urge you to consider language to ensure that independent workers with mixed sources of income are able to access the same relief to make up for lost work that the CARES Act provides to those with more traditional employment arrangements.

Thank you for your consideration and your leadership through these difficult times.

Sincerely,

Adam B. Schiff
MEMBER OF CONGRESS

Earl Blumenauer
MEMBER OF CONGRESS

Brendan F. Boyle
MEMBER OF CONGRESS

Julia Brownley
MEMBER OF CONGRESS

Judy Chu
MEMBER OF CONGRESS

Jimmy Gomez
MEMBER OF CONGRESS

Alan S. Lowenthal
MEMBER OF CONGRESS

Stephen F. Lynch
MEMBER OF CONGRESS

Tony Cárdenas
MEMBER OF CONGRESS

David N. Cicilline
MEMBER OF CONGRESS

Yvette D. Clarke
MEMBER OF CONGRESS

Jim Cooper
MEMBER OF CONGRESS

J. Luis Correa
MEMBER OF CONGRESS

Theodore E. Deutch
MEMBER OF CONGRESS

John Garamendi
MEMBER OF CONGRESS

Carolyn B. Maloney
MEMBER OF CONGRESS

Jerrold Nadler
MEMBER OF CONGRESS

Grace F. Napolitano
MEMBER OF CONGRESS

Chellie Pingree
MEMBER OF CONGRESS

Janice D. Schakowsky
MEMBER OF CONGRESS

Brad Sherman
MEMBER OF CONGRESS

Debbie Wasserman Schultz
MEMBER OF CONGRESS

CC: The Honorable Richard Neal
Chairman, Committee on Ways and Means

The Honorable Kevin Brady
Ranking Member, Committee on Ways and Means

IOWA COALITION AGAINST SEXUAL ASSAULT

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March 11, 2020

Hon. Charles E. Grassley
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Senator Joni Ernst
730 Hart Senate Office Building
Washington, DC 20510

Dear Senators Grassley and Ernst, The Iowa Coalition Against Sexual Assault ("IowaCASA") is a statewide nonprofit organization with more than 35 years of experience advocating on behalf of victim service programs and survivors of sexual harassment, abuse, and assault. As you know, we are hoping to get work on the Violence Against Women Act wrapped up soon. In addition to the provisions we've already discussed with your staffs, we wanted to voice our strong support for the unemployment insurance language in section 703 of H.R. 1585, the Violence Against Women Reauthorization Act of 2019. We sincerely thank you for your efforts on this critical issue and we encourage the Senate to include these provisions in its version of this legislation.

We believe this provision, which allows access to unemployment insurance, contributes to the economic stability of survivors of sexual violence and domestic abuse who face the greatest jeopardy. Victims of sexual violence and domestic abuse often face risk of losing their jobs for a myriad of reasons. Victims of stalking are regularly dismissed from their jobs. We hear stories from survivors of violence who lose their jobs for taking time off to recover emotionally and physically from the trauma they've endured. We think that it's crucially important that, in the rare instances where survivors need to leave their jobs because of sexual and/or domestic violence, they have access to unemployment insurance. This allows them to maintain their economic stability while in a critical transition period. Without necessary access to unemployment insurance, survivors could be forced to stay in a dangerous situation longer than they wish to, and longer than is safe for themselves and their family members.

Enacting this provision would ensure survivors and victims can access valuable benefits that would prevent sexual violence and domestic abuse in the long run. Women

and children are left most vulnerable in the midst of financial, employment, and housing instability—all of which can increase the risk for sexual violence victimization.¹ This commonsense provision would help provide much-needed economic security to these families.

We hope you will consider supporting this provision, and we look forward to continuing to work together to move this policy initiative forward. Please don't hesitate to reach out to us with any questions or concerns you may have.

Sincerely,

Elizabeth Barnhill
Executive Director
Iowa Coalition Against Sexual Assault
director@iowacasa.org

cc: Senator Ron Wyden, Ranking Member—Finance Committee
Senator Lindsay Graham, Chair—Senate Judiciary Committee
Senator Dianne Feinstein, Ranking Member—Senate Judiciary Committee

LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS

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June 23, 2020

The Honorable Chuck Grassley
Chairman
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

RE: Statement for the Record, U.S. Senate Finance Committee Hearing on “Unemployment Insurance during COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic,” June 9, 2020

Dear Chair Grassley and Ranking Member Wyden:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the rights of all persons in the United States, I thank you for the opportunity to submit our views on the importance of reauthorizing and extending the Pandemic Unemployment Compensation (PUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) programs contained in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. We ask that this statement be entered into the record of the U.S. Senate Finance Committee hearing entitled “Unemployment Insurance during COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic,” held on June 9, 2020.

As the COVID-19 crisis continues to rage in the United States, it is of paramount importance that Congress attend first and foremost to the health and safety of the country and continue to provide critical and necessary relief and aid to everyone, particularly to the communities hit hardest by the pandemic. The United States now leads the world both in the number of confirmed COVID-19 cases and COVID-19 deaths, and at the same time, millions of people have lost their jobs because of the virus, causing substantial financial insecurity. We appreciate the work that Congress has done to reduce the devastating impact of COVID-19 on the health and economic security of people in America; but our fight against this virus is far from

¹ Basile, K.C., DeGue, S., Jones, K., Freire, K., Dills, J., Smith, S.G., Raiford, J.L. (2016). STOP SV: A Technical Package to Prevent Sexual Violence. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

over, and the road to recovery remains precarious for the most vulnerable in this country.

Although everyone has been impacted by the COVID-19 pandemic, not everyone has been impacted the same. Longstanding inequities and systemic racism have not only resulted in Black and Brown communities facing increased risk of COVID-19 illness and death,¹ but also in Black and Brown workers suffering alarming rates of unemployment due to the pandemic.² Working people of color are disproportionately represented in lower-wage jobs that must be done outside the home, which has placed them at greater risk of joblessness during the pandemic than higher-income White workers who are more likely to hold the kinds of office jobs that have been able to transition to remote work.³ Low-wage industries such as hospitality and retail that rely heavily on the labor of people of color have experienced the highest rates of unemployment.⁴ In particular, women of color comprise a disproportionate share of jobs in the hardest hit industries, compounding the economic insecurity many families of color experience.⁵

For these and other vulnerable communities, the process of economic recovery may be slow as communities of color continue to face alarmingly high unemployment rates. After losing more than 22 million jobs between February and April, the economy added 2.5 million jobs in May.⁶ This bump in employment, however, does not tell the complete story. Total job losses since February is still around 20 million, and the unemployment rate is still higher than the highest level of unemployment reached during the Great Recession. Moreover, the gains that were experienced were not felt equally. Though the reported unemployment numbers improved slightly overall, the unemployment rate for Black workers increased in May, and unemployment rates for Black (16.8 percent), Hispanic (17.6 percent), and Asian (15 percent) workers remained higher than the national average.⁷ This trend is further pronounced across gender lines. The unemployment rate for White men in May was two percentage points below the national unemployment rate, reported at 11.3 percent.⁸ Meanwhile, the unemployment rates for Black and Hispanic women were a striking 17.5 percent and 19.5 percent respectively, and the unemployment rate for White women was at 13.6 percent.⁹

The CARES Act, though not complete, has provided a necessary lifeline to millions of people who have found themselves out of work during this pandemic. The PUA, PUC, and PEUC have been particularly impactful for working people on the economic margins, low-wage workers who do not have the savings or access to resources that can help sustain them through a crisis. This is especially true for many working people of color who—because of years of discrimination in employment, education, housing, and lending—suffer from racial wealth gaps that make it more difficult to withstand sudden job loss. With fewer resources to draw on, nearly half of Black and Latino families, for example, report increased food insecurity or the in-

¹ See “The COVID Racial Data Tracker,” *The Atlantic*, available at <https://covidtracking.com/race> (last visited June 23, 2020).

² See Patricia Cohen and Ben Casselmen, “Minority Workers Who Lagged in a Boom Are Hit Hard in a Bust,” *New York Times* (June 6, 2020), <https://www.nytimes.com/2020/06/06/business/economy/jobs-report-minorities.html>.

³ Elise Gould and Heidi Shierholz, “Not Everybody Can Work from Home,” Economic Policy Institute (March 19, 2020), <https://www.epi.org/blog/black-and-hispanic-workers-are-much-less-likely-to-be-able-to-work-from-home/>.

⁴ Chad Stone, “People Already Facing Opportunity Barriers Hit Hardest by Massive April Job Losses,” Center on Budget and Policy Priorities (May 12, 2020), <https://www.cbpp.org/blog/people-already-facing-opportunity-barriers-hit-hardest-by-massive-april-job-losses>.

⁵ See Jasmine Tucker and Julie Vogtman, “When Hard Work Is Not Enough: Women in Low-Paid Jobs,” National Women’s Law Center (April 2020), <https://nwlc.org/resources/when-hard-work-is-not-enough-women-in-low-paid-jobs/>.

⁶ Elise Gould, “While Welcome Gains, Job Losses Since February Still Total 19.6 Million,” Economic Policy Institute (June 5, 2020), <https://www.epi.org/press/while-welcome-gains-job-losses-since-february-still-total-19-6-million-now-is-not-the-time-to-stop-providing-relief/>.

⁷ Bureau of Labor Statistics, Department of Labor, “The Employment Situation—May 2020” (June 5, 2020), <https://www.bls.gov/news.release/pdf/empst.pdf>.

⁸ Cohen and Casselmen, *supra* note 2. As many as 4.9 million people may have been misclassified as employed rather than unemployed in the May jobs report making the actual unemployment rate much higher than what was reported by BLS. See Chad Stone, “CARES Act Measures Strengthening Unemployment Insurance Should Continue While Need Remains,” Center on Budget and Policy Priorities (June 9, 2020), <https://www.cbpp.org/research/federal-budget/cares-act-measures-strengthening-unemployment-insurance-should-continue>.

⁹ Cohen and Casselmen, *supra* note 8.

ability to fully pay their mortgage, rent, or utilities as a result of coronavirus—almost double the percentage reported by White families.¹⁰

Yet, PUC is set to end in about a month, on July 31st, leaving our most vulnerable working people without a critical supplement to unemployment insurance (UI)—one that has allowed many families to make ends meet. PUC helps ensure that working families can remain whole during this pandemic. Regular state UI benefits generally replace less than half of the average unemployed worker's earnings. The average weekly benefit amount varies by state, but the average benefit nationwide was only \$378 in March, with some working people receiving much less.¹¹ In Louisiana, for example, the average benefit was only \$211 per week.¹² During this particular economic crisis, when businesses are shuttered, when there may be no jobs to return to, and the duration of the crisis is determined largely by the virus itself, state benefit amounts without PUC are insufficient for the average worker. Allowing PUC to expire will not end the recession or make jobs return; it will only increase financial hardships, and the people who will feel these hardships most acutely are people of color who have already been systemically economically disadvantaged and who are particularly vulnerable to COVID-19.

PEUC, which provides federal funding for an additional 13 weeks of state UI benefits, is set to expire on December 31st despite no indication that the need will dissipate. During the week ending on May 30th, over 1 million individuals claimed PEUC benefits,¹³ and these benefits are particularly important for communities of color. Specifically, extending the duration of UI benefits through PEUC is critical for Black workers who have been disadvantaged in the job market and as a result have historically experienced longer periods of unemployment as compared to White workers.¹⁴ Failure to extend benefits would only exacerbate the harm caused by prior policy choices that have made Black communities more vulnerable to unemployment in the first place.

Similarly, PUA, which provides relief to working people who have exhausted their state UI benefits or who have been left out of regular state UI entirely—independent contractors, freelancers, self-employed workers, workers seeking part-time work, and those who do not have a long-enough work history to qualify for state benefits—is set to expire on December 31st. Though slow to start, PUA has provided real relief during this crisis to millions of people. Over 9 million individuals claimed PUA benefits during the week ending May 30th.¹⁵ Without PUA, not one of these individuals would qualify for any other form of unemployment assistance. And the need continues: over 1.45 million people filed new PUA claims just in the first two weeks of June.¹⁶ To allow PUA to expire under these circumstances is to allow economic ruin for millions of Americans.

As this dual public health and economic crisis goes on, we know that many people will not be able to return to work quickly. For communities hard hit by coronavirus, family members may still need to provide care for someone diagnosed with COVID-19. Employers may have gone out of business or may be slow to reopen at full capacity. Still, many childcare facilities may remain closed, making employment outside of the home impossible for some. Even pre-pandemic, lack of affordable childcare presented significant challenges for Black and Latino mothers who are more likely to be the sole or primary breadwinners for their families and who disproportionately occupy low-wage jobs with inconsistent, or nonstandard schedules, making childcare a struggle.¹⁷ Whatever the reason, these individuals and their families will continue to need support from PUA, PUC, and PEUC during this economic crisis. These programs must be reauthorized and extended.

¹⁰ Steven Brown, "How COVID-19 Is Affecting Black and Latino Families' Employment and Financial Well-Being," Urban Institute (May 6, 2020), <https://www.urban.org/urban-wire/how-covid-19-affecting-black-and-latino-families-employment-and-financial-well-being>.

¹¹ Stone, *supra* note 8.

¹² *Id.*

¹³ Department of Labor, News Release, "Unemployment Insurance Weekly Claims" (June 18, 2020), available at <https://www.dol.gov/ui/data.pdf> (last visited June 23, 2020).

¹⁴ See Christian E. Weller, "African Americans Face Systematic Obstacles to Getting Good Jobs," Center for American Progress (December 5, 2019), <https://www.americanprogress.org/issues/economy/reports/2019/12/05/478150/african-americans-face-systematic-obstacles-getting-good-jobs/>.

¹⁵ Department of Labor, *supra* note 13.

¹⁶ *Id.*

¹⁷ Leila Schochet, Center for American Progress, "The Child Care Crisis Is Keeping Women Out of the Workforce" (March 28, 2019), <https://www.americanprogress.org/issues/early-childhood/reports/2019/03/28/467488/child-care-crisis-keeping-women-workforce/>.

Importantly, to meet the need, these benefits should not be tethered to an arbitrary deadline but must be tied to specific economic triggers to ensure that these critical measures stay in place until the labor market recovers. It is unlikely that our nation's economic recovery will be quick or that it will be experienced equally. Given the uncertainty around when this crisis will end, and the magnitude of the need, Congress must ensure that relief measures do not expire too soon or become unnecessarily politicized, which would only add to the hardship being faced by vulnerable communities because of this pandemic.

The pandemic has exposed and exacerbated persistent disparities in our UI system. As we emerge from this crisis, we also ask that the Committee consider long-term structural reforms to strengthen the ability of UI to deliver meaningful assistance to vulnerable families and individuals and act as a stimulus for the economy. Many of our coalition members have identified key components of effective long-term reform,¹⁸ including mandating a minimum of 26 weeks of UI in all states, requiring states to replace a higher share of people's lost income, ensuring that UI is available to part-time workers in every state, making work-sharing available in every state, and fixing extended benefits triggers on economic indicators so additional weeks of benefits are turned on automatically based on increases in the unemployment rate.

We thank you again for the opportunity to express our views. We urge this Committee to support reauthorization and extension of the PUC, PEUC, and PUA to meet the need created by the current economic crisis. Specifically, such an extension should be tied to the labor market to ensure that relief is available for as long as the economic conditions warrant, particularly given the growing uncertainty regarding the extent and duration of the downturn. We also ask that the Committee consider structural reforms designed to strengthen UI for everyone. Please contact Gaylynn Burroughs, Senior Policy Counsel, at burroughs@civilrights.org with any questions.

Sincerely,

Vanita Gupta
President and CEO

LEGAL AID AT WORK
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June 23, 2020

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

Re: Legal Aid at Work's Statement for the Record for the Hearing on "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic," Tuesday, June 9, 2020

Dear Senate Committee on Finance:

Legal Aid at Work ("LAAW") is pleased to offer the following letter about the implementation of the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act.

LAAW is a California-based nonprofit legal services organization. For over 100 years, we have served low-income, working families, and worked to enforce and strengthen workers' rights. Through our free clinics and helplines, direct representation, and policy advocacy, we enforce compliance with, and seek to expand, existing workplace protections. The CARES Act is near and dear to our organizational heart. The populations we serve face income inequality, vast differences between the cost of living and their salaries, and uncertainty in the midst of a global pandemic. Low-income workers bear the biggest economic burden as a result of state shutdowns, and it is the government's responsibility to take care of our most vulnerable citizens.

¹⁸National Women's Law Center et al., "Fixing Unemployment Insurance in Response to COVID-19" (March 2020), <https://nwlc-ciaw49tixgw5lbbab.stackpathdns.com/wp-content/uploads/2020/03/NWLC-et-al.-UI-COVID-Factsheet-20200323.pdf>.

As a workers' rights organization in California, LAAW has seen first-hand the direct and powerful impact the programs created under the CARES Act have had on low-wage workers. LAAW operates twelve Workers' Rights Clinics across California and an additional five subject-matter specific helplines. Through these clinics and helplines, we have heard from thousands of workers who are unemployed due to COVID-19 and are unsure when they will be able to return to work. Specifically, since March 16, 2020, our Workers Rights Clinics have conducted approximately 750 intakes. To put that in perspective, in the year prior, we conducted only 285 intakes in that same time frame. The key problem discussed, overwhelmingly, was Unemployment Insurance benefits. These numbers only represent the intakes our law clerks and attorneys performed after assessing for eligibility for our program; in fact, we had over 1,600 phone calls to our Workers' Rights Clinic in that same time period. Additionally, for our newly launched clinic designed specifically to help workers file for Pandemic Unemployment Assistance (PUA), there were over 300 requests for appointments in the first few weeks alone.

Because many of our clients live paycheck to paycheck in jobs that have been disproportionately affected by the pandemic, such as domestic labor and restaurant staff, the vital assistance of the programs created by the CARES Act cannot be overstated. Specifically, the additional money provided to workers under Pandemic Unemployment Compensation (PUC), is a lifeline for these workers. The average Unemployment Insurance benefit amount in California is \$321 per week (roughly \$1,400 per month).¹ When compared to the cost of living in California, it is clear that this amount is not sufficient to support a worker and their family. The median monthly rent of a two bedroom apartment in March 2019 in San Francisco was \$2,474, in San Diego \$2,030, and in Los Angeles \$1,752.² It is clearly impossible for families to survive on Unemployment Insurance benefits alone without the additional \$600 from the federal government. Indeed, for many of them, the \$600 per week is the difference between starving and putting food on the table, homelessness and making rent, affording healthcare and dying of preventable diseases.

In addition to skyrocketing unemployment rates, even workers who are still employed are now struggling to work and provide care for children and family members whose school or place of care is now unavailable. Many of these workers must turn to Unemployment Insurance benefits as there is no other care option, and they are unable to perform work right now. One of our clients, "Tamara," works as a security guard and is a single mother to a three-year-old. Her daycare suddenly informed her on a Wednesday that they would no longer be taking care of children because of COVID. She called her job to inform them that she may not be able to work that Thursday or Friday. The supervisor she spoke with gave her backlash, saying that Tamara was going to have to take sick time, get written up, or possibly get fired.

As Tamara's story shows, it is essential that any future legislation continues to ensure parents can continue to receive Unemployment Insurance if they are unable to work because of the need to care for their children and ensures workers like Tamara will not lose their job in these situations. However, any proposal must go beyond just children and include all family members for whom the worker is providing care. Individuals in communities of color are especially impacted by family caregiving protections, because they are more likely to be caregivers and also workers. Approximately 68% of Latinx caregivers are also in the workforce, as well as 67% of Asian caregivers, 60% of Black caregivers, and 56% of white caregivers.³

Although the new programs under CARES may have had a bumpy implementation, now implemented, they are a lifeline for the over 325,000 Californians who filed new Unemployment Insurance claims in April 2020 alone.⁴ This is especially significant considering that April 2019 saw only around 44,000 new unemployment claims. The most recent data indicate that over 2.4 million Californian jobs were lost from March to April, far exceeding the previous month-to-month high of 132,800 jobs lost

¹Employment Development Department, Quick Statistics, https://www.edd.ca.gov/About/EDD/Quick_Statistics.htm (last visited June 23, 2020).

²Nick Wallace, What Is the True Cost of Living in San Francisco?, Smart Asset (March 4, 2020), <https://smartasset.com/mortgage/what-is-the-cost-of-living-in-san-francisco>.

³NAC and AARP Public Policy Institute, 2015 Report: Caregiving in the U.S. 61, AARP (June 2015), <https://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>

⁴Loree Levy and Aubrey Henry, California Unemployment Rate Rose to Record 15.5 Percent in April, Employment Development Department (May 22, 2020), <https://www.edd.ca.gov/Newsroom/unemployment-may-2020.htm>.

during the Great Recession from December 2008 to January 2009.⁵ Removing these protections now that workers are just starting to reap their benefits and before the end of this pandemic is even known would be irresponsible and devastating to workers and our overall economic recovery.

Rather, these programs must be extended and there must be further investment in effective implementation. Our own work in California implementing the first-in-the-nation Paid Family Leave program can be instructive. As we learned, it is critical that implementing agencies like the Department of Labor partner with grassroots organizations, communities of color, and immigrant communities to ensure effective outreach and equitable implementation. If these communities are not aware of the programs, they will not be able to benefit from them.

Based on the above, we urge that Congress take action to reauthorize PUC and provide an appropriate extension of PUA and PEUC based on economic triggers, rather than specific dates, to ensure these essential financial supports do not end prematurely. This is essential to ensure that workers and our economy survive this pandemic. It is vital that we fight both the spread of COVID-19 and the effects of preventable, poverty-related dangers.

Very truly yours,

Jenna Gerry
Senior Staff Attorney
Work and Family Team
Legal Aid at Work

Simone Lieban Levine
Law Clerk
Work and Family Team
Legal Aid at Work

LUTHERAN SERVICES IN AMERICA
100 Maryland Avenue, NE, Suite 500
Washington DC 20002
202-499-5832

Statement of Charlotte Haberaecker, President and CEO

On behalf of the one in 50 Americans who rely on the 300 Lutheran health and human services providers throughout the United States that comprise Lutheran Services in America, thank you for considering our statement at this important time. With our active presence in over 1,400 communities in 45 states as seen on this map, our work is critically important in improving the lives of America's most vulnerable people, ranging from seniors, veterans, and people with disabilities to children, youth and families, and the homeless.

The COVID-19 pandemic dramatically affects *all* of the people we serve and services we provide. Our 300 health and human service organizations are on the front lines caring for people while taking extraordinary steps to protect their staff and people served. Yet they increasingly struggle with equipment shortages, especially personal protective equipment; severe workforce shortages necessitating hazard pay; declining revenue; and the need to reduce or eliminate needed services. These severe challenges are occurring while our organizations simultaneously face limited cash reserves, decreasing revenue and already-tight margins.

Our work is deeply embedded in communities across the country where we have provided services for over 150 years. Yet our work-which comprises a significant part of the health and human services delivery system-cannot continue without specific measures taken soon to support nonprofit health and human service organizations. Without needed resources to support our work during this time of crisis, we will be unable to meet the increasing needs of individuals and communities at their most vulnerable time. **One specific resource that is direly needed is an increase in the federal unemployment insurance reimbursement for self-funded nonprofits (also known as "reimbursing employers") to 100% of costs.**

⁵ Loree Levy and Aubrey Henry, California Unemployment Lowers Slightly to 16.3 Percent in May, Employment Development Department (June 19, 2020), <https://www.edd.ca.gov/news-room/unemployment-june-2020.htm>.

Since 1972 when nonprofit organizations were required to provide unemployment benefits to their employees for the first time, 501(c)(3) charitable nonprofits were given the option to opt out of the State Unemployment Tax system and have been permitted by Congress to self-insure claims for unemployment benefits by paying back the state unemployment trust fund for benefits paid to their former employees. These “reimbursing employers” include nonprofits, state and local governments, and federally recognized Indian Tribes that follow the law by electing to make payments in lieu of contributions to state unemployment trust funds.

As currently enacted into law, Section 2103 of the CARES Act provides that the federal government will cover 50 percent of the cost of claims charged to these reimbursing employers. This will subject self-funded nonprofits throughout the country to crippling payments to their state unemployment systems later this year, while other employers will likely experience little or no additional costs resulting from mass COVID-19-related layoffs. **The impacts will be real. Many nonprofits will be hit with a bill for reimbursement to states at a time when the demand for services is highest.**

Seventy-five percent of payroll costs in the nonprofit sector are paid out by “reimbursing employers.” Together, these organizations provide much of the infrastructure that we rely on to serve people in all our communities. **Addressing this issue by providing 100% reimbursement for these nonprofits will help ensure that they will be able to better direct their limited resources to serving vulnerable people through the care and services they provide every day.**

PHILADELPHIA UNEMPLOYMENT PROJECT
112 N. Broad St., 11th Floor
Philadelphia, PA 19102
267-976-4706

Statement of John Dodds, Director

The Philadelphia Unemployment Project has been around since 1975 and we have never seen anything like this. Massive increases in unemployment like we have experienced over only a couple of months are unprecedented.

The current unemployment rate in the nation of 13.3% is far higher than at any time since the Great Depression, other than April. Pennsylvania's unemployment rate is 15.1% in the latest count and Black unemployment nationally rose again to 16.8% in May. The Bureau of Labor Statistics has indicated that the national number for May is an undercount and could actually be 16.3%. In the week the BLS did the unemployment survey for May there were 29,965,415 people collecting unemployment benefits but the BLS said that only 20,935,000 were unemployed.

“The unemployment rate itself is significantly going to understate the drop in economic activity,” indicated Stephanie Aaronson, the director of economic studies at the Brookings Institution. In other words, despite President Trump's victory lap, unemployment remains totally out of hand.

As the collapse of the economy took place the Congress passed the CARES Act to try to avert an economic catastrophe. Included in the Act was an extension of unemployment benefits to 39 weeks and a \$600/weekly supplement to worker's unemployment checks. The CARES Act provided \$887 Billion for small and large businesses and \$260 Billion for 40 million workers thrown out of their jobs. While the business funds have been extended for longer periods and much is still unspent, the \$600 supplement is due to expire after only 4 months, long before most workers will be able to return to their jobs. Remember, workers whose employer calls them back must return to work unless they have good cause or they will lose their unemployment checks. The House has passed legislation to continue the supplement another six months, however President Trump and Leader McConnell are opposed to continuing the program, as tens of millions remain out of work.

Consumer spending amounts to 70% of the US economy. Providing the \$600 supplement gave a great boost to laid-off workers who were able to maintain their living standards despite the pandemic and some lower paid workers have gotten more than that when working. 40% of low wage workers lost a job in March according to the Federal Reserve, as lower paid employees have been hardest hit by the pandemic. The supplement has helped keep the economy from totally imploding and using the unemployment system to get stimulus funds to those in need is a common sense means of inserting stimulus, targeted to those in need and keeping the econ-

omy from going under. (Although the PA unemployment service has been far from efficient, leaving many thousands of PA workers waiting for their unemployment checks for as long as 10 to 12 weeks, but that's a story for another day.)

On top of the stimulus provided to the broader economy by the \$600 supplement, there is the situation for so many families who need that money to survive. Enough statistics have been provided. I now want to provide testimony from some of Philadelphia's unemployed on the importance of the supplement.

"I am currently receiving these benefits. I am in the live event and theatre production sector, and our industry has no way of coming back to work right now . . . and will not until there is an effective treatment or cure for COVID-19."—James Jackson

"I am still in dire need of mine I will be homeless if/lose mine."—Ash H.

"I am a single mother of two young children and an independent contractor and has been out of work since March due to the pandemic. I have been collecting the PUA benefits plus the \$600 stimulus for 12 weeks now and without it my family and I would have nothing! I would not be able to pay any of my bills, have food in my home, diapers and many other essential things my youngest child needs. Without the extra \$600 stimulus I still would not be able to live off of the \$195 a week especially because the dependent allowance is only \$8.00. Please do not stop the \$600 stimulus prematurely because without it many families including mine would lose everything!"—Alyssa Paul

"I receive this and yes it's not the time to cut it off. This is how I pay my rent and bills. I only receive \$175 a week. That's not even enough at the end of the month to pay my rent and bills if they cut it off."—Ty Clark

"I'm in desperate need of my continued \$600/week pandemic payments as I'm not working and haven't been called back to work. I'm the only person in my household who's able to provide for our family. I'm a father of 3 kids who need to eat and have running utilities. This will be a major setback if my benefits are discontinued! I'm not a lazy person. I'm someone who wishes to return to work soon but if this shall happen myself and my family will be homeless worst then before the pandemic if this should happen!"—Marcellus Swann

"I get the \$600. Without it my unemployment is only \$95 a week."—Kris Hagan

"I really need this assistance because it helps to cover my bills as well as taking care of my child. I currently had to reapply for benefits and not sure if I will get unemployment or get a small amount of weekly benefits, so this PUA will help to cover my bills until I find a job or get called back to work."—Lewanna Golding, Long-term substitute teacher

To protect these families and continue a solid stimulus to the economy we need to maintain this supplement to the benefits of laid off Americans.

LETTER SUBMITTED BY MICHELLE PHILLIPS

June 17, 2020

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

Dear Senate Committee on Finance,

I am writing to you in hopes for change regarding W-2/1099 Hybrids not eligible for PUA until UI claims are exhausted. I am a self-employed massage therapist with a \$1,748 UI starting claim balance from a 2019 on-call position that I worked a few days at (\$4,000.) My primary income was from my mobile/brick and mortar massage business (\$36,000). In March I officially closed my business due to COVID-19 with the intention of doing mobile massage only once massage is approved in California. I have paid into unemployment for 20 years and went independent 2 years ago to accommodate a full time school schedule. As of June 19th, massage will reopen in California but in-home massage is not approved.

In March I filed for UI and was approved for \$81/week for approximately 22 weeks, the time it will take to exhaust the \$1,748 starting claim balance. My primary self-employment income of \$36,000 is not being acknowledged. As low as my

balance is, I don't understand why EDD chose to spread my income over so many weeks. Why couldn't they pay out a more reasonable \$167 or \$300 weekly payment over less weeks (*i.e.*, $\$1,748/6 \text{ weeks} = \291 weekly)? I would then be able to file for PUA which would be based off my primary source of \$36,000 self-employment income. I submitted an EDD Appeal on June 16th and attended the June 17th Zoom California EDD Appeal Court Hearing.

The additional \$600 weekly has been my saving grace. When it expires end of July, I'll have 5 weeks left of my UI claim at \$81/week before I can apply for PUA. Who knows how long that will take before I receive a payment? I'm hoping to be in my new career field of ultrasound by then but I hear many hospitals are on a hiring freeze and testing centers have limited availability in scheduling licensing exams. At that point in time, mobile massage may or may not be approved to return to and I don't know if my clients (some immune compromised) will even allow it.

The CARES Act is excluding us hybrids who have very little W-2 income and majority 1099. I don't believe this was the intention. Here are my solutions that I'd appreciate being taken into consideration:

- (1) As previously stated, weekly unemployment should be increased to a reasonable number Spread over less weeks. Allowing the claimant to be eligible to file for PUA sooner, where the Majority of their income was acquired.
- (2) If PUA is federal and UI is state, the claimant should be able to file for both simultaneously as the claimant claims and pays taxes to both. UI would pay based of the W-2 income and PUA would be based off the 1099 income.
- (3) If a claimant has predominantly been a W-2 employee in the past and has paid into unemployment for years, then they should be eligible for the maximum UI.
- (4) If a claim balance is low, EDD should just send the balance via check or direct deposit. It would conserve EDD resources so that they may focus on larger claims/issues.
- (5) The \$600 weekly extension should continue for those who are unable to return to their work (such as mobile massage therapists) and to those whose income is significantly less after they've returned to work (*i.e.*, 50% less up to \$1,000 weekly income, paystub required to submit). Extend the additional \$600/weekly for 3 months or until the end of 2020.

I believe I should have retroactive pay of \$300-\$369 per week from when I filed my claim mid-March based off my total income and years paid into UI. PUA would have approved me for much more than UI. I am a US Citizen, I pay taxes on time every year, a business owner, and full time student (having to pay my school loan while still attending the last 2 years). Thank you for your consideration and please acknowledge us hybrids who have not been getting the financial support we deserve.

Sincerely,

Michelle Phillips

CC: Office of Kamala Harris and Office of Diane Feinstein

LETTER SUBMITTED BY ROBIN ROGERS

June 10, 2020

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

Hello, I am primarily an independent contractor from San Diego and I work as a "Brand Ambassador." My job entails doing educational product sampling events and in-store demos within the health and wellness industry. One of the most challenging aspects of this type of position is to schedule enough hours to earn a living. Consequently, it is often necessary to piece together a decent amount of hours by working for different companies. In 2019 and up until March 17th when all my "gigs" were canceled due to COVID-19, I worked for four separate companies and I was paid by only one as a W-2 employee. I was an independent contractor for the other three, which accounted for 85% of my income. I earned about 27K from 1099 income in 2019 and I am currently only receiving \$114 per week in UI benefits. I should be receiving a substantially higher benefit amount, if my total income is taken into consideration.

Unfortunately, the CARES Act (and its interpretations) is preventing me and all mixed-income earners from receiving the full amount of PUA Congress intended us to get, because of very little W-2 income. There are many of us “creative types” in California. Would you PLEASE help us get what we are entitled to?

Thank you kindly,

Robin Rogers

LETTER SUBMITTED BY CHEYENNE SALÉS

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg
Washington, DC 20510-6200

I respectfully request that our elected officials recognize and prioritize the significant financial impact of including a small amendment to the CARES Act with regard to unemployment. The world's focus shifts away from the daily struggles many face with the elimination of work in industries that will not recover in the foreseeable future and many sole proprietors/small business owners won't recover at all. A known but unresolved issue that will address the unemployment systems criteria for implementing the Pandemic Unemployment Assistance (PUA) program is needed now.

Specifically, I refer to “Hybrid” workers, taxpayers that have multiple jobs as independent contractors that form a significant portion of the work force in this country. We pay taxes on income derived from both 1099/W-2, typically very low W-2 earnings as this often is from part-time “supplemental” work. Pre-pandemic the W-2 income was the ONLY eligible option to collect unemployment insurance and for hybrid workers this has not changed!!

Consider the Meeting and Events/Hospitality Industry that operate large corporate, healthcare and sporting events. This industry will be slow to recover amidst health concerns over air travel, financial costs to bring groups to hotels that share large scale meeting rooms, buffet style meals and other activities. This requires the logistics of professionals much like those in the entertainment industry who work tirelessly behind the scenes to make it all happen.

In the case of hundreds of thousands of independent contractors throughout the country we are falling through a crack by being asked to survive on amounts starting as low as \$40 in California (in my particular case \$86/week) because the ONLY income allowed in the current unemployment calculations is from a small but qualifying PART-TIME job. The minimum amount for PUA in California is \$167 (50% of the average UI claim for each respective State in 2019) The reality for many is part time jobs are one of the first to reopen and by working 1 day a week they are disqualified from ANY of the federal funds that were supposed to be a lifeline. As futile as it feels to write this knowing that without many elected politicians being willing to fight this fight on our behalf many continue to suffer in silence. While other groups with lobbyists, lawyers or other organizations working on their behalf jump to the front of the focus.

At every update by Labor Secretary Julie Su and many other local politicians they simply say that the State of California does not have the authority to make these changes. They must come from the Federal Government so we continue to be at the mercy of our elected officials to make change. There are literally millions contributing to social media platforms, desperate for solutions and help as far too many across this nation say they are aware of the issue but do nothing more. There are many executive orders for other groups that have been resolved on a state level that I question if the reason this change is not being addressed runs deeper.

A simple fix . . . allow ALL income no matter how it is taxed to be considered when evaluating a person's qualifications for the CARES Act assistance currently being managed by existing, antiquated and seriously underperforming unemployment systems.

Thank you for your time,

Cheyenne Salés

TEXAS COUNCIL ON FAMILY VIOLENCE

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tcfv.org

June 23, 2020

Hon. Charles E. Grassley,
 Chairman
 U.S. Senate
 Committee on Finance
 219 Dirksen Senate Office Building
 Washington, DC 20510

Hon. Ron Wyden
 Ranking Member
 U.S. Senate
 Committee on Finance
 219 Dirksen Senate Office Building
 Washington, DC 20510

Hon. John Cornyn
 U.S. Senate
 Committee on Finance
 219 Dirksen Senate Office Building
 Washington, DC 20510

Re: Submission for Hearing Record

Dear Chairman Grassley, Ranking Member Wyden, and Senator Cornyn:

I write regarding the hearing held by the Senate Finance Committee earlier this month: “Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic.”

With over 1,300 members, the Texas Council on Family Violence is the statewide coalition of family violence service providers and allied programs working to promote safe and healthy relationships by supporting service providers, facilitating strategic prevention efforts, and creating opportunities for freedom from family violence. While promoting safe and healthy relationships, TCFV advocates for the well-being and security of all Texans, those from historically marginalized populations and those facing barriers to safety such as poverty, homelessness and housing instability—often prompted or exacerbated by job loss.

The Texas State Legislature initially created access to unemployment insurance for survivors of family violence and stalking in 2003. Texas has since expanded upon this access for survivors and included access to UI for victims of sexual violence. While the original provisions and earlier expansions were hard fought and took several Legislative Sessions to accomplish, the last expansion of access to survivors of sexual assault in 2013 passed without controversy. The Texas Workforce Commission has reported relatively low numbers of utilization of UI by survivors applying under this provision.

With respect to receipt of unemployment benefits by survivors during the pandemic, we are heartened that Congress has provided this access to survivors nationwide. The stay at home orders, some of which are only now being lifted, mean that some survivors (unless they were “essential workers”) have been forced to co-locate around the clock with abusive intimate partners, and that some will have to leave their jobs and their homes in order to secure safety for themselves and their family members. Pandemic Unemployment Assistance (PUA) has proven incredibly helpful to some survivor workers who would not have qualified under the requirements of the regular unemployment insurance program, primarily because they have not worked long enough. As is the case for most states during the pandemic, however, the unprecedented number of unemployment applications has meant a very long wait for benefits approval for most, including survivor workers- especially those who were turned down for regular unemployment insurance, but later found eligible for PUA.

Last week, TCFV served as faculty for an Office on Violence against Women (OVW) supported webinar for lawyers and advocates on COVID-19 and unemployment insurance access for survivors of domestic and sexual violence. Nearly 400 lawyers and advocates signed up to attend (with Texans comprising 10% of those interested), which testifies to both the interest in this subject area and the need for the Congress to do more.

In closing, we understand that the Senate is likely to take up the issue of extending unemployment insurance in the next several months. Should you have the opportunity to strengthen survivors’ access to unemployment insurance benefits including provisions that would include survivors on the “good cause” lists in *all* states, ex-

tending PUA for those not eligible for general unemployment, and providing needed training to states' labor department staff, we strongly encourage you to do so.

We would be pleased to respond to any questions, and request that this letter be placed in the hearing record.

Thank you,

Linda X. Phan
Director of Public Policy
Texas Council on Family Violence

cc:

Hon. Lindsey Graham
Chairman
U.S. Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Hon. Dianne Feinstein
Ranking Member
U.S. Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
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