



# U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS  
1139 LONGWORTH HOUSE OFFICE BUILDING  
Washington, DC 20515

May 16, 2024

The Honorable Julie Su  
Acting Secretary  
United States Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Acting Secretary Su:

Last year, the House, with bipartisan support, passed H.R. 1163, the *Protecting Taxpayers and Victims of Unemployment Fraud Act*, to recover fraudulent pandemic unemployment payments and improve program integrity in the unemployment insurance (UI) program. This was in response to a report by the Government Accountability Office (GAO) that estimated fraud totals from pandemic UI programs to be between \$100 billion and \$135 billion.<sup>1</sup> According to some estimates, California's Employment Development Department (EDD), while under your leadership, paid approximately \$30 billion to fraudsters, prisoners, scammers, and known international organized crime rings during the pandemic.<sup>2</sup>

Furthermore, as you know, in addition to the large amount of fraud that occurred at EDD, California remains one of only three states and territories (the others are New York and the U.S. Virgin Islands) that continue to maintain an outstanding federal UI loan. California received the largest such loan in US history, at one time totaling \$23.8 billion in August 2021.<sup>3</sup> With a current loan balance of approximately \$18.3 billion, California owes federal taxpayers nearly three times more than the State of New York at \$5.7 billion.<sup>4</sup>

For this reason, we were very alarmed about guidance from the Department of Labor (DOL) – issued by you in your role as now Acting Secretary of DOL – that would potentially “forgive”

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<sup>1</sup> GAO. “Unemployment Insurance. Estimated Amount of Fraud during Pandemic Likely Between \$100 Billion and \$135 Billion.” [www.gao.gov/assets/gao-23-106696.pdf](http://www.gao.gov/assets/gao-23-106696.pdf).

<sup>2</sup> Eric Westervelt, Pandemic-related fraud totaled billions. California is trying to get some of it back, NPR (Oct. 18, 2022), <https://www.npr.org/2022/10/18/1128561539/pandemic-fraud-billions-california>.

<sup>3</sup> Department of Treasury. “Advances to State Unemployment Funds (Social Security Act Title XII).”

<https://fiscaldata.treasury.gov/datasets/ssa-title-xii-advance-activities/advances-to-state-unemployment-funds-social-security-act-title-xii>.

<sup>4</sup> Ibid.

this \$30 billion in fraudulent benefit payments issued by EDD and other states<sup>5</sup> – suggesting a serious conflict of interest.

During your testimony before the House Committee on Education and the Workforce on May 1, 2024, you stated that it was “absolutely false” that this guidance (Unemployment Insurance Program Letter, UIPL 05-24) had anything to do with waiving fraudulent overpayments. However, this does not comport with recent statements included in the California State Controller’s Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022. In that report, on page 186, the Controller indicates that EDD:

“...issued a letter to DOL in February 2024 requesting that three groups of CARES Act UC claims be considered resolved and no further work would be done to these claims. EDD is waiting on final federal approval of EDD’s request as indicated in the February 2024 letter before the event can be recognized in the financial statements as a forgiveness of debt. Once federal approval is received approximately \$29.0 billion of potential federal liabilities will be removed from future financial statements in addition to a portion of the remaining \$26.0 billion in federal liabilities which would be subject to state finality laws.”<sup>6</sup>

**We write to request a copy of EDD’s February 2024 letter described above and all relevant associated correspondence between the Department and the State of California.**

In addition, we ask that DOL answer the questions below, and provide all responsive documents to the Committee, by **May 30, 2024**.

1. What, if any, evidence has EDD provided to DOL to show they made good faith efforts to claw back any of the billions in improper payments and fraudulent UI overpayments?
2. What evidence has EDD provided to demonstrate the claims impacted by the UIPL 05-24 waiver requests and state finality laws are not, in fact, fraudulent claims? Are organizations such as the DOL Office of Inspector General able to sample these groups of claims to ensure that there are not substantial amounts of fraudulent claims being prematurely closed or waived?
3. What was the driving need for the December 2023 guidance in UIPL 05-24? Did states, EDD or otherwise, request this guidance from DOL?

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<sup>5</sup> Department of Labor. “Unemployment Insurance Program Letter No. 05-24.”

<https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2024/UIPL%2005-24/UIPL%2005-24.pdf>.

<sup>6</sup> California State Controller. (2024, March 15). Annual Comprehensive Financial Report, pg. 186.

<https://www.sco.ca.gov/Files-AR/ACFR/acfi22web.pdf>

Letter to The Honorable Julie Su

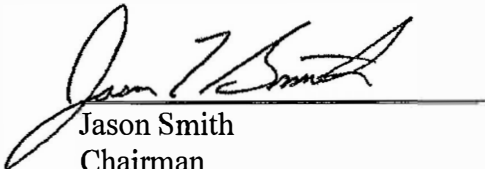
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4. If a state has groups of claims closed or waived under UIPL 05-24's provisions, how do these claims impact any future improper payment rate calculations for these programs?
5. Please provide a list of all states that have requested finality-related waiver authority, including descriptions of the groups of claims or monitoring findings they would like to have waived.
6. Have there been discussions internally or with the White House regarding forgiving California's federal UI loans incurred during the pandemic totaling \$18.3 billion as of May 16, 2024?

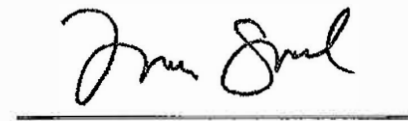
Thank you for your prompt attention to this important matter.

Sincerely,



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Jason Smith  
Chairman  
Committee on Ways and Means



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Michelle Steel  
Member of Congress