

S. HRG. 111-1030

**REDUCING OVERPAYMENTS AND INCREASING
QUALITY IN THE UNEMPLOYMENT SYSTEM**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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MAY 25, 2010
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REDUCING OVERPAYMENTS AND INCREASING QUALITY IN THE UNEMPLOYMENT SYSTEM

TUESDAY, MAY 25, 2010

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

The hearing was convened, pursuant to notice, at 10:08 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Grassley and Bunning.

Also present: Democratic Staff: Bill Dauster, Deputy Staff Director and General Counsel; Diedra Henry-Spires, Professional Staff; John Angell, Senior Advisor; Christopher Law, Investigator; and Randy Aussenberg, Detailee. Republican Staff: Steve Robinson, Chief Social Security Advisor.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The committee will come to order.

Duke Ellington said, "A problem is a chance for you to do your best."

Inaccurate payments are a problem for the Nation's safety net programs. This problem gives us a chance to do our best and to correct the overpayments. We have a chance to redouble our efforts to make government work more efficiently.

Making the government work more efficiently is the smartest and fairest way to reduce the budget deficit. Increasing efficiency does not cut benefits for people who need them, and increasing efficiency does not raise taxes on anyone.

We can increase efficiency by targeting benefits to the people who really need them, and we can increase efficiency by making sure that the taxes that are already owed are, in fact, paid.

We have already made some progress this year. The new health care reform law did much to curb fraud, waste, and abuse in health programs. As part of health care reform, Congress enacted almost two dozen new tools to fight fraud.

The new law requires that all providers and suppliers are screened before they get billing privileges for Medicare or Medicaid. The new law suspends payments to providers who are under investigation for fraud.

The new law expands the Recovery Audit Contractor program. The program has been a success in traditional Medicare. The new law expands it to Medicaid, Medicare Advantage, and the Medicare drug benefit. And the new law expands the health care fraud and

abuse control program. This program funds Federal offices that combat fraud on a daily basis.

Several Senators on the committee helped to sharpen our focus on health care reform. I drafted most of the fraud provisions in the Senate-passed health care bill together with my very good friend, Chuck Grassley. Senator Grassley has long fought zealously against waste, fraud, and abuse.

Senators Carper and Cornyn have also helped to lead the attack on health care fraud and inefficiency.

Following our efforts to reduce fraud and inefficiency in health care, the Finance Committee turns next to increasing efficiency in the unemployment insurance program, the Social Security Administration, and the Internal Revenue Service.

Today we focus on the unemployment insurance program. Unemployment insurance is a lifeline for more than 5 million Americans. When workers are laid off through no fault of their own, unemployment insurance is a bridge to their next job.

Unemployment insurance helps people put food on the table, keep a roof overhead, and put gas in the tank while they search for work.

The unemployment insurance program also helps the economy. It helps to dampen swings in economic activity. In a recession, unemployment insurance spending rises. This additional spending provides a boost to a sagging economy.

Households receiving unemployment benefits spend them right away. That spurs demands for goods and services. It boosts production, and that leads businesses to hire more workers.

With the Great Recession, in just over a year, claims for unemployment insurance benefits have doubled. Outlays for the program are now 4 times what they were in 2007, and people are receiving benefits longer. On average, unemployed workers are receiving unemployment insurance benefits 4 weeks longer than they did in 2007.

Because the program is now more important than ever, we must ensure that it is run as efficiently as possible. With the flood of unemployment claims have come instances of fraud, error, and inefficiency. This leads to overpayments of benefits.

The Department of Labor estimates that last year, overpayments in the unemployment insurance program totaled \$11.5 billion.

The leading cause of overpayments is claimants who have returned to work, but continue to claim benefits. The second-largest cause of overpayments is errors in verifying that unemployed workers are, in fact, eligible for unemployment insurance benefits.

The third-largest cause is workers who continue to receive benefits, despite not fulfilling the program's requirements. This could include conducting an active work search or registering with the State employment service.

Plainly, we need to improve the unemployment insurance program. We need to trim the fraud and error in the system. We must assure that benefits are targeted to those who deserve them.

Last week, the Obama administration announced a proposal to address these issues. The proposal seeks to rein in overpayments by making the unemployment insurance program more efficient. Today, we will walk through that proposal.

Under the proposal, States could use a portion of the money that they recover from overpayments to strengthen their program integrity activities. States would also be required to impose financial penalties on people who defraud the program.

Under the proposal, employers would be required to report the start dates of new employees. That will help to identify beneficiaries who have returned to work in a different State, but continue to receive unemployment benefits.

The administration's proposal is just one solution. States and private industry have also devised systems that reduce overpayments. They also have ideas on how to streamline unemployment insurance.

I look forward to learning more about these proposals today.

So let us recognize the problem that we have. Let us grab the chance to do our best. And let us redouble our efforts to make this work more efficiently.

Senator Grassley?

**OPENING STATEMENT OF HON. CHUCK GRASSLEY,
A U.S. SENATOR FROM IOWA**

Senator GRASSLEY. Thank you, Mr. Chairman.

I think people know that our Nation's unemployment insurance, on a regular basis, is designed to automatically respond to the ups and downs in our economy.

As the unemployment rates have risen across the Nation in the past 2 years, unemployment benefits have increased accordingly. Congress has magnified that automatic response by providing additional benefits beyond those normally available.

The sum of this assistance is substantial. Total unemployment benefits are projected to be \$157 billion this year, and that would be up from \$43 billion just 2 years ago.

Unfortunately, with increased benefits come increased opportunities for honest mistakes and outright fraud. The Improper Payments Information Act of 2002 requires Federal agencies to identify improper payments.

According to the latest estimate from the Department of Labor, 10 percent of the regular State unemployment benefits were paid in error in fiscal year 2009. That represents more than \$7 billion in improper payments.

The most common improper payment is due to individuals working and collecting unemployment benefits simultaneously. While such activity is generally legal, workers must accurately report their earnings, and their benefits are subject to offset.

Other reasons for improper payment include work separation issues, refusal to accept suitable work, alien status, identity theft, and failure to register or comply with State requirements.

The purpose of today's hearing is to examine these errors and identify ways to reduce and eliminate them. Hopefully, we can improve the unemployment program at the same time that we save taxpayers money.

Mr. Chairman, I was trying to recall when I've dealt with unemployment compensation in my lifetime. I suppose I have been unemployed 5 times, a couple times by my own desire to improve myself; twice when I was a part-time worker at a factory. I was not

eligible for unemployment compensation. And then once, when a factory shut down, I was eligible for unemployment benefits and did collect.

It is not a very ideal place to be. People want to work, and we want to make sure that our unemployment compensation laws do not discourage people from working.

The CHAIRMAN. Thank you, Senator. And I appreciate you sharing your personal experience. Thank you.

Well, I would like to turn to our witnesses. First, we will hear from Jane Oates, Assistant Secretary for Employment and Training at the Department of Labor.

Ms. Oates, it is a pleasure to welcome you back. I was saddened not to see Jerry Hildebrand sitting behind you. His passing is a great loss. He provided tremendous advice and information honestly and accurately to all of us who asked; he was a tremendous public servant. We wanted you to know personally, and his family to know that we are thinking of him and very saddened that he is no longer with us.

Ms. OATES. We cannot thank you enough for that. My career spans from the 1970s. A loss of that magnitude is just hard to get over.

The whole career staff is remarkable, but Jerry was the high-water mark. He is sorely missed every day, particularly by me when we were prepping for this hearing.

The CHAIRMAN. Well, he was a tremendous man.

Ms. OATES. Thank you so much, Senator. And we will make sure his wife and daughter get your—

The CHAIRMAN. We just want you to know how much he meant to all of us.

Ms. OATES. Thank you very much.

The CHAIRMAN. You are very welcome.

Our next witness is Ms. Gassman. Roberta Gassman is the Secretary of the Wisconsin Department of Workforce Development.

Welcome, Ms. Gassman.

Third, we will hear from Mike Cullen, managing director of On Point Technology in Colorado Springs, CO.

So, Ms. Oates, why don't you begin?

As a reminder to all of you, your formal statements will be automatically included in the record, and I would ask each of you to speak about 5 minutes.

STATEMENT OF JANE OATES, M.Ed., ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING, DEPARTMENT OF LABOR, WASHINGTON, DC

Ms. OATES. Thank you, Senator, for this opportunity. Ranking Member, Senator Grassley, and Senator Bunning, thanks so much for this opportunity.

Obviously, reducing improper payments in the UI program is a top priority for the Department of Labor.

I am pleased to report that the UI program does have a long-standing commitment to this financial integrity aspect of the UI program. We employ highly sophisticated sampling and audit methods; tools to prevent, detect, and recover improper benefit payments; and we use audits and other forensic processes to ensure

employers are not inappropriately avoiding taxation through worker misclassification or other means.

To give you a sense of the level of improper payments in the UI program, preliminary numbers for last year, which are still being validated, show the annual UI overpayment rate is 8.9 percent. We are optimistic that that is going to continue, and it will be a reduction from the previous year.

From our root cause analysis, we know that about half of those overpayments, 4.8 percent overall, is controllable. Less than 25 percent of the UI overpayments, in our estimation, are due to fraud, which represents only about 2 percent of all UI benefits paid.

The two biggest reasons for improper payments, and Senator Grassley brought these up, as did you, Mr. Chairman, are individuals continuing to claim benefits after they have returned to work, and having insufficient information from the prior employers on the reasons individuals became unemployed.

While the UI program has a robust integrity effort, it cannot rest on its laurels. We fully recognize the need to continue to improve our performance and to meet the expectations the President has expressed in his executive order on improper payments.

The President's fiscal year 2011 budget contains two key initiatives focused on integrity: funding to support worker misclassification and the legislative proposal designed to enhance UI integrity across the board.

We are extremely pleased that the Unemployment Compensation Program Integrity Act of 2010 or, as we call it, the Integrity Act, was sent to you, and thank you for mentioning that, earlier this month.

Here are some of its key provisions. It provides new dedicated resources by permitting States to use up to 5 percent of recovered overpayments and delinquent contributions for State integrity activities, ensuring that integrity activities are a priority.

It requires a penalty of at least 15 percent on outstanding fraudulent benefit overpayments, similar to the penalty employers face for delinquent tax payments. States may use these funds for integrity activities or for the payment of benefits.

Most States have these provisions in their State laws but allow the funds to be used for other purposes, frequently purposes that are not related to UI at all.

Thirdly, it requires that employers' accounts be charged if an overpayment is the employer's fault due to failure to respond in a timely or adequate way to the State's request for information.

Fourth, it expands the ability to offset Federal income tax refunds under the Treasury offset program, which is now limited to cases of fraud, to permit recovery of overpayments that are the individual's fault, continuing to claim benefits after returning to work.

Lastly, it improves the usefulness of the national directory of new hires for overpayment detection by requiring employers to report the date the individual starts work, the first day of earnings. This is one additional data element, and it will vastly improve the ability of States to more readily identify overpayments. And we hope it will reduce the workload for States that now must independently verify all the start-date data.

We believe the Integrity Act provides a balanced approach with a huge benefit. Not only will UI integrity improve, it will save money. Estimated PAYGO savings are \$734 million over 5 years and \$1.6 billion over 10.

Though not reflected in these estimates, the Integrity Act would also produce budgetary savings in the form of further reductions in improper UI payments and increased State unemployment tax collections.

Before closing, I would like to mention several other integrity activities we are working on with the States. The Department is working with a group of States to pilot the State Information Data Exchange System. SIDES, as we call it, is designed to help employers provide required information to States more quickly by providing a secure, electronic data exchange between States and employers.

We are working with the Department of the Treasury to aggressively implement the use of the Federal offset program for UI debts, which will position States to easily implement the expanded provisions of the Integrity Act, if passed.

In addition, States have been provided software and implementation funds to improve their ability to detect employers who pay less than their fair share by dumping some of their State unemployment tax liability, commonly referred to as SUTA dumping.

Finally, with Congress's support, we continue to provide States with additional dedicated resources to improve UI integrity. We provided \$3.5 million to States in fiscal year 2009 and will award an additional \$10 million this year.

In conclusion, I look forward to working with this committee as you consider ways to enhance Federal and State efforts to reduce improper payments. And I will be glad to take your questions.

Thank you very much, Senator.

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

The CHAIRMAN. Thank you, Ms. Oates, very much. I appreciate that.

Ms. Gassman?

**STATEMENT OF ROBERTA GASSMAN, M.S.S.W., SECRETARY,
WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT,
MADISON, WI**

Ms. GASSMAN. Thank you, Chairman Baucus, Ranking Member Grassley, and Senator Bunning. I am Roberta Gassman, and I serve as the Secretary of the Wisconsin Department of Workforce Development.

I have been honored to work with Governor Jim Doyle since he took office in 2003.

A special thank you to your committee for all you are doing for our country during these very challenging times.

We in Wisconsin have a very proud tradition of protecting workers, to keep our families and our State strong. Wisconsin was the first State to create an unemployment insurance program right in the depth of the 1930s.

Today, our Nation finds itself emerging from the worst economic downturn since that Great Depression. Unemployment insurance,

including extensions passed by Congress and President Obama, have been a lifeline for unemployed workers.

The challenge for States today is to meet the needs of the unemployed while getting checks to those eligible quickly and efficiently. We must also be vigilant about program integrity and protecting employer and public dollars.

Reducing overpayments, whether inadvertent or intentional, is critical. This helps claimants, because for them, paying back unintentional overpayments can be a very tough financial burden.

It helps employers by protecting them from inappropriate charges. It also reduces the overall expenditures of Federal funds for extended benefits. This is because States really are the collection agencies for overpayments of federally funded extension benefits.

In Wisconsin, we have taken many steps to reduce overpayments, and we have almost doubled the amount of recovered overpayments since 2007. We have significantly increased our staff dedicated to detection, investigation, and collection of overpayments and tax delinquencies.

We use a variety of methods to detect the accuracy of UI payments and collect overpayments. These include interagency and Federal cross-match data exchanges, tips from the public, claimant interviews, self-reporting, liens on private property, and an automated tax intercept system that facilitates recovering overpayments from State income tax refunds.

Today, States are also increasing our emphasis on preventing overpayments. Wisconsin leads, and the Assistant Secretary mentioned this, a multistate effort called SIDES, the State Information Data Exchange System. SIDES is web-based, and it helps States collect information from large multistate employers to increase timeliness and accuracy. This will also go a long way toward preventing overpayments.

Colorado, Georgia, New Jersey, Ohio, and Utah are participating with us in SIDES, and 14 other States are joining us, including a number represented on this committee: Iowa, Oregon, Texas, Arizona, Kansas, New York, and Michigan.

Also, Governor Doyle has just signed legislation that expands our capability to enforce our States' laws related to proper classification of employees. We support the President's proposal to provide Federal tools to reduce misclassification of workers as independent contractors.

The steps that States have taken to reduce overpayments and promote program integrity have been very important. Additional steps at the Federal level would help.

We strongly endorse the new program integrity legislation proposed by the administration, as it would reduce erroneous payments and increase collections.

Looking forward, States are poised for job growth as we emerge from this profound national recession. Just last week, we learned, in Wisconsin, that we gained more jobs this past April than in any other month over the last 14 years.

Despite that progress, many Americans remain out of work and on UI. That is why we are working hard every day to meet our customer needs.

We appreciate that UI is a Federal-State partnership. It could not be more important than now. We look forward to working with you to keep America strong.

Thank you, again, so much for inviting me, and I look forward to answering any questions you may have.

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

The CHAIRMAN. Thank you, Ms. Gassman.

It is interesting to me over and over again how Wisconsin seems to be a State that is a little bit ahead of the game.

Ms. GASSMAN. Well, we are very proud of our history and our traditions, and we are working hard to keep them going.

The CHAIRMAN. We certainly need more new ideas, and, again, Wisconsin leads the way in many areas.

Ms. GASSMAN. Thank you so much.

The CHAIRMAN. Thank you very much.

Mr. Cullen?

**STATEMENT OF MIKE CULLEN, MANAGING DIRECTOR,
ON POINT TECHNOLOGY, COLORADO SPRINGS, CO**

Mr. CULLEN. Thank you, Chairman Baucus, Ranking Member Grassley, Senator Bunning. Thank you for the opportunity to testify this morning.

I am Mike Cullen, managing director at On Point Technology. On Point Technology's entire focus is unemployment insurance, and, as a company, we take pride in our employees' experience and expertise in this area.

Prior to joining On Point, I spent 14 years with the Colorado Department of Labor and Employment, serving the last 6 years as the unemployment insurance program director for Colorado.

For over 20 years, On Point solutions have enabled 15 States to find and collect improperly paid benefits and helped them return hundreds of millions of dollars to their State trust funds.

The unemployment insurance system faces its greatest set of challenges in a generation. The recession's impact on State and Federal UI trust funds is clear and it is stark. To date, 35 State trust funds have been forced to borrow a combined \$38 billion, and many of these programs still face insolvency.

This problem is not exclusive to the States. Due to extended demand, Federal UI accounts have had to borrow an additional \$37 billion from the United States Treasury to support the numerous Federal unemployment insurance programs.

To ensure the solvency of UI funds, States are being forced to take drastic action. In 2010, employers in 24 States saw UI tax increases. In Florida, payroll taxes jumped from \$8.40 per employee to \$100 per employee, a huge increase for any small business looking to hire new staff. If the trend continues, tens of thousands of employers in 28 States will face tax increases in 2011.

The improper payment of benefits has exacerbated the challenges State UI programs face. In 2010, the United States Department of Labor determined this overpayment rate to be 9.6 percent.

From December 2007 through today, more than \$230 billion in unemployment benefits have been paid, over \$22 billion of which was paid improperly. Moreover, the administration projects an ad-

ditional \$453 billion of UI paid over the next 5 years. Unless immediate action is taken, \$44 billion of that will be paid improperly.

Since 1992, Federal administrative funding for the UI program has remained static. State agencies have been required to cut service levels or compete for other State dollars to administer their programs.

As a result, today UI automated support systems in those States, at an average, are 24 years old. With an investment in technology, we can both improve States' capacity to process benefits, while dramatically enhancing the integrity of these payments.

I have seen States work feverishly hard only to tread water or drown in unemployment insurance paperwork. These problems are avoidable through an automation of processes, the same type of modernization in which the private sector has invested for decades.

Currently, most States have some automated processes to detect overpayments, such as the national directory of new hires, but the primary tool remains the 35-year-old cross-match system that is highly inefficient.

After the detection of the overpayment, the processing typically leads to a classical paper jam. Adapting existing technology to eliminate paper processing can dramatically increase productivity.

States should store information in a web-accessible system to enable automated reports, letters, and interfaces, thereby ensuring consistency, enhancing efficiency, and increasing productivity.

Many States adjudicate every overpayment manually based on State statutes and UI case law. We have worked with State adjudication experts to translate State law and precedence into business rules in order to issue automated determinations. Using these techniques, States can see 70 percent of overpayment decisions simplified and automated.

Organized fraud exists. In June 2005, the U.S. Department of Labor's Office of the Inspector General testified before Congress about a single organized fraud ring that stole 15,000 identities and committed \$58 million of unemployment insurance fraud.

This type of illegal activity can be detected by employing automated software to search disparate databases for known patterns of fraud. Moreover, the use of updateable audits of known fraudulent patterns enables information-sharing between States, drastically reducing the spread of some of these schemes.

We believe there are several ways that Congress can invest a comparably small amount, yet yield substantial results to both the U.S. Treasury and State UI trust funds.

Congress should provide dedicated administrative funding for software to support effective integrity activities with each UI extension and through the annual appropriations process. Purposing 10 percent of the administrative funds for integrity technology to protect dollars from fraud and abuse could return significant multiples on that investment in the first year of implementation alone.

Based on our experience, investments in software for State integrity programs can easily return \$10 each year for each dollar spent in the first year.

Along with the Department of Labor and States, we support the idea of adding the first day of work to the National Directory of New Hires. This would help State agencies reduce the span and

scope of the investigative cycle and make the NDNH an even more effective tool for identifying overpayments.

In concert with the Department of Labor and States, we encourage Congress to consider a long-term legislative solution to the unemployment insurance integrity problem. In this context, we believe the proposed Unemployment Compensation Integrity Act is a much-needed first step towards a thoughtful legislative resolution.

Our unemployment insurance system is a vital lifeline for millions of Americans, and we must act to preserve the integrity of this system to ensure its continued viability for those in need.

Fortunately, we can strengthen the UI trust fund to help ease the tax burdens employers are now facing. A modest investment in integrity technology will yield significant savings for the government, our employers, and our taxpayers.

Thank you for the opportunity to testify. I am available for any questions that you might have.

The CHAIRMAN. Thank you, Mr. Cullen.

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

The CHAIRMAN. I would like to begin with you, Ms. Oates. Just explain what in the current law is the major impediment to either the Department or States being more efficient in detecting overpayments and collecting overpayments?

Ms. OATES. I think you have heard all three, and it is pretty universal. If we could get that first date of hire mandated, that would drastically help all of us get at what we think is the most common cause, which is poor education in terms of people.

I think law-abiding citizens make the mistake of collecting their unemployment until they get their first paycheck, not stopping the collection the first day of work.

So that would be the single biggest help to us, I think, in getting things done. There are so many other things. Getting some continuity across the board so that States understand how each other works; SIDES. When Roberta talked about the SIDES process, not only has the process been great, but the ability of States to talk to each other—and I think you can see that with eight other States joining into the process this year.

The CHAIRMAN. On the first date of a new hire, what would happen? What would be the thought here? What would be required?

Ms. OATES. Well, the data that is included in our current data collection. So it is not collected like that right now in the database of new hires. So it would be the date of first hire.

The CHAIRMAN. So what would the data be?

Ms. OATES. The first day you go to work. See, Senator, think, when I started at the assistant secretary, my first day of work was 2 weeks prior to my first paycheck.

So, literally, now, somebody in my position could have thought, “Oh, I think I can still collect. I am unemployed, and I think I can still collect until I get my next check.” It is not that illogical. It does happen to be illegal.

So, therefore, I think if we—and I think people in Montana, just like people in Virginia, where I live, people make that mistake, because they do not think they are double-dipping. They did not get a check from their employer yet.

So I think if we make that clear and we make it very easy for States to check that data, we would be able to cut improper payments immediately.

The CHAIRMAN. What is it about the SIDES system that makes it successful at reducing improper payments?

Ms. GASSMAN. I am glad to speak, Senator, to the power of that, and I would be interested to hear from the Assistant Secretary as well.

Right now, the process is a paper process. From the time when someone files, the issues and information are passed via letters. If we would have the SIDES system in place, which would be web-based, the information would move in a much more timely way, and it would be much more accurate.

So there is great power in us being able to have the data. It is online. It moves electronically. It moves between us and employers, and it moves across States and we can check the validity of it.

So the timeliness and the accuracy are key. One State, Utah, which is actually represented on this committee, has been the first to actually come online and get the system set up in terms of having the IT, the technology capacity.

We, in Wisconsin, and the other States have not yet gone online with the new system. We will be. We are getting ready to do that shortly.

The workload of all of us during the Great Recession and the IT demands on our agencies to meet the responsibilities of the extensions, which we have been glad to meet, have led us to not yet have the capacity to get all the IT improvements in.

But SIDES, this interstate information system, will allow us to move much more quickly and efficiently and will eliminate many inaccuracies.

The CHAIRMAN. Was there some provider that set this up? Are there any interoperability problems with implementing the system? Is it one system? Is it one software? What exactly is SIDES? Is it a collection?

Ms. GASSMAN. I will answer briefly and then maybe Mr. Cullen—

The CHAIRMAN. Mr. Cullen?

Ms. GASSMAN. I will just say that there are—Utah has used a provider and they have a small program that is set up at this point with one provider. So there are different approaches, then, for getting this set up in more States.

The CHAIRMAN. Mr. Cullen?

Mr. CULLEN. Thank you, Mr. Chairman.

I was in Colorado when Colorado did their work on SIDES. SIDES was funded by the U.S. Department of Labor through a grant process. There were six initial States.

Yes, the Information Technology Support Center, on behalf of the Department of Labor, put together the core of the SIDES project, and then each individual State had a State grant which allowed them to take their back-end systems and essentially make modifications necessary to hook it to SIDES.

From a private employer's perspective, they did work on their end in order to hook into this central hub of SIDES. So that exchange passes through an item that was built on behalf of—

The CHAIRMAN. My time has expired. But I would just like to ask each of the three of you. The estimate I have seen of overpayments is roughly \$11 billion. I do not know if that is accurate or not.

Can you provide, with the help of this Act, the resources that you are requesting and maybe with SIDES, a very rough estimate as to how much you could reduce that \$11 billion in overpayments, by how many billion dollars?

Very quickly, because my time is up. Your best guess.

Ms. OATES. I would say we could reduce it by 25 percent in the first 2 years of implementation.

The CHAIRMAN. Ms. Gassman?

Ms. GASSMAN. I would want to check with staff as to the actual percent. So I would be glad to get back to the committee on that. We know it would be helpful.

The CHAIRMAN. Mr. Cullen?

Mr. CULLEN. I think it is going to reduce it perhaps \$1 billion, but I also think that the money that is provided to the States can increase that based on how they use it.

The CHAIRMAN. By a greater amount. Thank you.

Senator Grassley?

Senator GRASSLEY. For Ms. Oates and Ms. Gassman, your testimony seems to suggest the single-biggest cause of overpayment is due to individuals working and collecting unemployment benefits at the same time. But there seems to be some discrepancy about how much of a problem it really is.

Ms. Oates, your testimony was 30 percent. Ms. Gassman said about 50 percent. Would you both elaborate on your numbers?

Ms. OATES. We are getting our numbers nationally. Roberta's numbers might be specific to Wisconsin; I do not know. But those are our best national estimates, again, using our modeling and sampling technology that we use for other things, Senator.

Ms. GASSMAN. I am glad to say, Senator—and that is an excellent question—that is our biggest category, when people are working and earning money, but also collecting benefits.

Now, some of that involves—some overpayments involve fraud and some do not, and I will speak to that briefly. There might be a situation where an overpayment has been made, because someone first filed for unemployment, and the employer challenged the claim.

In our process, we found, even though the employer challenged, based on the facts, through our adjudication of the case, we found that the employee was eligible. The employer then appeals and upon going up to appeal with one of our administrative law judges, while we have been paying benefits, we or the ALJ, the administrative law judge, finds that, no, the employer is correct, benefits should not have been paid.

That is an overpayment. So that is one kind of overpayment, and it counts as an overpayment. We then go back and communicate that we must collect the dollars that have been paid. It counts as an overpayment. It is not fraudulent, but there was an overpayment.

There are times when someone gets benefits, then gets a job. We give people a grace period of about one time or up to \$1,000 if we see that they have been on benefits, there has not been an appeal,

and we see that not only have they been on benefits, but they have been working. We determine that by doing our cross-checking.

We communicate with them. We send them a letter. We tell them, "You cannot be employed and earning money and get benefits at the same time," and we go after them, we pursue them, we get that money back. We put that into collections, and we get the money back.

If it happens a second time and there is a pattern, that counts for us in the fraud category, not the overpayment non-fraud category. That is overpayment and fraud. We can assess penalties or fines for that, and, depending on how many weeks that would go on and how serious it would get, our actions would also move up in steps.

But to your question, yes, most overpayments are happening when people are working and getting benefits. Sometimes it happens through fraud, as we perceive it, and sometimes not.

Senator GRASSLEY. A question for Ms. Oates. In 2004, Congress authorized the State workforce agencies to use a national directory for new hires, and this was to identify improper payments.

The national directory includes new hire information from every State, as well as Federal and military new hires, new hires from multistate employers that report to a single State.

According to the Department of Labor 2009 performance accountability report, as of July 1, 2009, most States were using either the national directory or a State directory, and four States were using neither.

Could you please tell us how many States and territories, DC, Puerto Rico, Virgin Islands, are currently using the national directory of new hires to verify all these beneficiaries, and when do you expect 100-percent participation?

Ms. OATES. Senator, I just looked back to my staff. I do not have that answer for you, but I will get it for you by the close of today.

I know we are working with—so I will not wait for the answer—with the chair's permission, I will not. Since that is a question that was asked orally that I do not have the information for, I would like to, through the chair and ranking member, get that answer to Senator Grassley, if I may, by the close of business today.

Senator GRASSLEY. Then, also, when would you expect 100-percent participation?

Ms. OATES. Well, I think, Senator, we are trying a number of different efforts—we talked about SIDES at great length—to get States to work with each other, as well as working with us.

We are, in all of our discussions with the National Association of State Workforce Agencies (NASWA), encouraging that. It might be something that, as we have discussions with you on the Integrity Act, we want to mandate.

Right now, we cajole, we suggest, we strongly recommend, but we do not mandate the use of the directory.

Ms. GASSMAN. Senator, I will just share with you that we in Wisconsin do use the national directory. We use as many tools as we can. My written testimony lists all of them, and I mentioned some of them today.

I will also say that for us, in our State, the tool that provides very valuable information for us is, as employers give us their

quarterly reports of who is working for them, we can match then who is working, what have they earned, and we can cross-match that with people who are filing for benefits and telling us that they are not working, and then we can check the information that way, and our detection staff work with that data aggressively.

Senator GRASSLEY. Thank you.

The CHAIRMAN. Thank you very much.

Senator Bunning?

Senator BUNNING. Thank you, Mr. Chairman.

Ms. Oates, is it the administration's position that Congress should not pay for the extension of unemployment benefits?

Ms. OATES. No, Senator. I do not think that is—

Senator BUNNING. No?

Ms. OATES [continuing]. That is the administration's position, no.

Senator BUNNING. All right. It is ironic that the reason Congress cannot pass benefit extension quickly is that Congress keeps calling it emergency spending and refuses to pay for it.

The quickest way to get the benefits out to the people would be to pay for them. A Payfor bill could pass the Senate 100–0. This continued practice of adding billions to the deficit with each extension is what has caused the benefit extension to expire over and over again.

Would the President veto an unemployment extension benefit that was offset and did not add to the deficit?

Ms. OATES. Senator, I do not feel equipped to speak directly for the President, but I have to tell you that I cannot imagine that he would be opposed to the—

Senator BUNNING. The Payfors.

Ms. OATES [continuing]. The Congress paying for this. Historically, just to go back to the last several times—

Senator BUNNING. I am going to.

Ms. OATES [continuing]. It was not paid for. Yes, Senator, go ahead.

Senator BUNNING. Last October, the President signed an unemployment benefit extension that was fully paid for and passed the Senate 98–0. If a weak economy is justification for not paying for the extensions, is the economy in worse shape now than it was in October of 2009, when Congress passed and paid for the extension, and would the administration have preferred that the last October extension add to the deficit instead of being fully offset?

Ms. OATES. Senator, it is difficult to answer that question. First of all, I think the economy is showing impressive signs of improvement in May of 2010.

Senator BUNNING. My question, though, is, where we are now, 2010, April 20-something, I do not know what it is, 26.

The CHAIRMAN. Five.

Senator BUNNING. Twenty-five. Thank you. Compared to October of 2009, I think we were in a little worse position economically.

We paid for that extension and now, for the last three extensions of unemployment benefits, we have declared emergency spending and not paid for them. Now, we are getting to the point where we are going to pass an extension bill that is hugely not paid for, to the point of only paying for about one-quarter of \$200 billion, which includes unemployment compensation.

You testified that the administration recently sent to Congress unemployment program integrity legislation. Some provisions, like worker reclassification, are pretty controversial.

Why has the administration not pushed for some of the low-hanging fruit in all these unemployment extensions we have been passing?

For example, last year, the House passed your proposal to report the first day of earnings to the directory of new hires, but it was never enacted—never enacted. And your proposal to expand Treasury's authority to withhold tax refunds for overpayment has been around since the President's first budget in 2009.

I have proposed amendments that include both provisions. So you would have bipartisan support. Why has the President not pushed Congress to immediately fix a program that wastes billions of dollars each year?

Ms. OATES. Senator, we are ready, willing, and able to work with you to expedite the passage of the improved act, after you have put your finishing touches on in this committee, and work with you as it passes on the floor.

I think it is very difficult to talk about priorities of crises. So I think that right now, we are willing to get this done and, hopefully, we can get it done before you go out for this Congress.

Senator BUNNING. Last question. The *Wall Street Journal* reported that the White House Economic Adviser, Larry Summers, said in 1999 that government assistance programs, like unemployment insurance, contribute to long-term unemployment by providing an incentive and a means not to work.

Does the administration agree with Larry Summers's views?

Ms. OATES. Well, I have great respect for Larry Summers, when he was president of Harvard and every other position he has held, but I will not speak for the administration. But, Senator, I can tell you that I disagree.

I have traveled to 20 different States since I have been appointed. I have not met one person who wished they were unemployed. Instead, I have seen hardworking people who are dying to get back to work, getting into retraining, looking to shift their sector.

So I believe that the unemployment compensation has given them the safety net to pursue training and—

Senator BUNNING. Then the Department of Labor disagrees with Larry Summers.

Ms. OATES. The Assistant Secretary of Employment and Training, Senator, does disagree with Mr. Summers.

Senator BUNNING. Thank you.

Ms. GASSMAN. If it would help to hear a perspective from the States, Senator, just in terms of those who are unemployed in our State, it is extremely—

Senator BUNNING. What is your rate of unemployment in Wisconsin?

Ms. GASSMAN. Right now, we have just dipped down to about 8.7 percent. And I will say that we have right now just under 100,000 on regular benefits and about another 113,000 who are on extensions. So we are about in the range of 213,000 who are on benefits.

For these folks, unemployment insurance has been an absolute lifeline. They have been in crisis. Our staff are the ones on the phones who hear the calls, who hear the panic, “Will I be able to make the rent payment, the car payment, fare to get to the job interview, clothes for the kids to go to school?”

There has been great urgency for the unemployed in our State. Now, because of the national economy, we are seeing some gains, which we are encouraged by.

We, also, in our State, list job openings on an excellent website, *jobcenterwisconsin.com*, and we have right now about 23,000 job openings that employers in our State have listed with us.

When I go out and meet with unemployed people, as I do, they are very actively trying to see, can they go after those jobs; do they have the right skills? Of course, when you have 213,000 people or so out of work, that is many more than those 23,000 job listings.

So we are working with people. We are helping to up-skill them. We are helping, with your support, to enroll them in training at the technical colleges and through our programs so they will have the skills to get those jobs.

Of course, our Governor has been very active with our legislature in providing incentives to businesses to help them be strong and healthy and competitive and grow, be lean, so that they, in fact, will become more healthy and have the jobs to offer those who are unemployed in our State.

But in our State, the unemployment insurance has been seen as more of just a way to get through a crisis, not a way of living. It is not a choice that, in our State, most—any of the folks I have talked with—consider a substitution of what a paycheck would bring and the stability that a paycheck would bring to their families.

The CHAIRMAN. Thank you, Senator.

I would be curious to know how you expect States to use this 5 percent in overpayments they collect.

How will they use that 5 percent, most likely, to help make the program more efficient?

Ms. OATES. I think, most likely, it will be hiring staff, Senator. I think that to do the work of investigation is people-intensive, and, as you get into really the fraudulent cases, it is a lot of court involvement, and all of us know, when you go to court, you end up sitting and spending a lot of time.

So I think staff will be one, and I think that number two will be technology upgrades. I think both the other witnesses brought up the antiquated technology in the States. All the States are asking for help with that.

So I would say the first two things that we would expect are staff and technology.

The CHAIRMAN. Ms. Gassman?

Ms. GASSMAN. I just want to support what the Assistant Secretary has said. Having the technology, being able to automate our processes, would be extremely helpful to us, and having the staff to then work with the technology and actually do the work.

It is very labor-intensive. We have increased our staff significantly, the folks who are doing this work. But having additional capacity so we could even take additional steps in automation and

hire people to do this important work would be very beneficial to Wisconsin.

The CHAIRMAN. Why haven't more States implemented the SIDES system?

Ms. OATES. It was limited at first, Senator. It was only States that were invited. So it was five or six. It was an excellent program started by the last administration. So I ride on their coattails on this one.

Those States were invited, and now new States are being invited to join.

Ms. GASSMAN. Right. It is about 14 now that have joined the original core that first signed on with seed money from the Department of Labor in the previous administration, which we were very pleased to have.

The CHAIRMAN. Good. You already answered this, in part, but what about administrative errors that result in overpayment? For example, this poor woman, she gets this overpayment, and it is not her fault, it was an administrative error. How do you deal with that?

Ms. OATES. I think the biggest mistake is employer error, like the reason for separation. Someone thinks they were laid off, but the employer says they really were not laid off, it was for lack of performance or they were fired.

So I think that is probably the biggest error that has to be corrected. And I am sure—I do not want to mitigate—just like we make mistakes at the Department of Labor, I am sure there are administrative—the first applicant gets put on top of the others and they get taken out of sequence—I think there are administrative errors, but I think that is probably a small fraction of what we are talking about.

Ms. GASSMAN. We do have staff who are well-trained and very aggressive, and they take it seriously, because we take it seriously, and they spend time talking with the individuals and actually investigating.

If there was an honest misunderstanding, we view that one way. Very often, people will tell us, as we push them, that they were, in fact, gaming the system. We can determine that. That is unacceptable. That is not your money; that is the employer's money and the government's money.

That is why, in all cases, we go after the money, but that is why that goes under the fraud category with penalties.

The CHAIRMAN. Mr. Cullen?

Mr. CULLEN. Mr. Chairman, one of the reasons SIDES came about is that the reason for—the major reason for inconsistency and agency error is usually incomplete or inconsistent information.

By using an electronic data exchange, it requires employers, as they exchange information with the agency, to go through a series of edit checks that make certain that the information is complete and the information is consistently told back to the agency.

Once you have a complete, consistent set of information, it allows that adjudication of that claim to be more accurate and more prompt. So that was one of the basic reasons behind the idea, besides the speed of electronic data exchange, but to add consistency.

Ms. GASSMAN. I do want to second what Mr. Cullen has said. When the process is done completely by paper, it is harder to ensure that every single question will be answered completely and fully.

When you have an electronic, web-based form, it is going to come in as required and in a way where we have enough to go on.

The CHAIRMAN. I suppose it is like when you are buying something online and using—

Ms. GASSMAN. They do not let you go forward.

The CHAIRMAN [continuing]. A credit card, they do not let you go forward unless you complete the required data fields.

Ms. OATES. That ugly red that says “required field.”

The CHAIRMAN. Yes, exactly. The red required field. Exactly.

Senator Bunning?

Senator BUNNING. Thank you. According to the most recent statistics, we have either 15 million unemployed or partially, part-time workers presently.

If, as most economists predict, we do have a reasonable recovery, it is not going to be as the past recoveries were. In other words, they are looking at about 3.5 million jobs in the new recovery.

That leaves about 11.5 million people without a job or whose jobs have moved or they are going to have to be retrained to get into some other business with a different job, because the jobs have moved offshore, they have gone to China, they have gone somewhere, and the business is no longer.

How can we continue to pay about 11.5 million people unemployment benefits and keep extending them if this recovery is, as most economists predict, going to be pretty jobless?

Ms. OATES. Senator, if I may just start that, and I hope the other witnesses will share their thoughts as well.

We have already started, at the Department of Labor, to do things a little bit differently. I am sure you know that we put out money for on-the-job training, a scarce \$90 million, but trying to get States to look at getting the long-term unemployed into actual employment.

Senator BUNNING. We did that up here, too.

Ms. OATES. Yes. So I think that that as a plan—if an employer sees a talented worker, they are much more likely to create a job to keep that worker so that they do not go to their competitors. We are hoping that that job growth continues.

In addition, we are seeing new industries that did not exist before, and people may believe in the great promise of green to varying extents, but I have seen battery plants opening all over the country that did not exist, that that job title did not exist here, just like the job title of health IT workers.

I think there will be some growth in job areas that are brand new, under green, under health care. But mostly, Senator, if I may, it has caused us at the Department of Labor to really look at foreign labor certification.

Just like our country is fighting to end its reliance on foreign oil, we need to start working actively to reduce our reliance on foreign labor.

So, whether it is welders on the Gulf Coast who are from Eastern Europe, or loggers in Maine who are from Canada, we are now hop-

ing to give, through new regulations, the States a much more active role to make sure that they are able to advertise those jobs to American workers before we allow H-2A/H-2B visas to come in, and H-1B, which will take us longer, because, obviously, the people who take those H-1B visas are a higher talent.

We cannot create an engineer overnight. But I think and I hope that the reform of our educational system will drive many more young and not so young people into science, technology, engineering, and mathematics, so we can start to dilute our dependence on foreign brilliance to come in here and take those jobs.

Ms. GASSMAN. Senator, I would just like to—first, I want to give you correct information on our unemployment rate, because I know we had gone down from the 8.8 that we were in Wisconsin in March.

Actually, if you look at our April rates, the seasonally adjusted rate dropped from that 8.8 it had been down to 8.5. And, if you look at the non-seasonally adjusted rate, in our State, it went down to 8.2. So I did want you to know that.

In terms of this issue of, will workers just stay on benefits indefinitely, of course, they will not, because the extensions only cover a certain amount of time. So people cannot stay on indefinitely.

Senator BUNNING. We are up to over 150 weeks now.

Ms. GASSMAN. Ninety-nine.

Senator BUNNING. So 99 and counting.

Ms. GASSMAN. So in our State—

Senator BUNNING. It depends how far back you go.

Ms. GASSMAN. In our State, it is at 99. Now, of course, there are some jobs in our economy—let us say health care, let us say education, let us say the skilled trades—these are jobs that are not going to go overseas, and we will always need nurses; we will need plumbers; we will need electricians; and we need not just to make—

Senator BUNNING. But we need work for them. They have to have someplace to work.

Ms. GASSMAN. Yes. So in our State, we are putting a very big emphasis on having more education past high school, whether you pursue going into the trades—and we need more skilled trade workers—and go to our excellent technical colleges, or go to 4-year colleges, because we do need more engineers.

Senator BUNNING. I want Mr. Cullen to answer, also.

Mr. CULLEN. I will take a different perspective. I think that the unemployment insurance program has been a great safety net. In some ways, I think that it goes back so long, almost 75 years, that we need to relook at the dynamic around the program.

We ought to be considering other options out there on how to use that unemployment insurance money, whether it is wage supplements, whether it is a program along the lines of a Georgia Works, whether it is a work share program, but use it as an incentive, a real bridge back to employment.

Education is wonderful, and it really allows folks to get new skills, but if there was a way that we could take the concept of education and then use the unemployment insurance dollars in some method as a bridge to get that connection back between employers and the unemployed through a supplemental program—seeing it

almost as a supplement to an employer hiring someone—that might be a new way to look at things.

The CHAIRMAN. If the Senator would yield.

Senator BUNNING. Yes, go right ahead.

The CHAIRMAN. That is an interesting concept. I wonder, Mr. Cullen, if you could explain some of those alternatives in more detail.

Mr. CULLEN. It would be very difficult to do, because I kind of made it up as I was sitting here.

The CHAIRMAN. Do the best you can.

Mr. CULLEN. But the idea is that—I believe the Georgia Works program essentially says something along the lines that, for a period of time, an unemployed claimant can continue to draw unemployment insurance and go work for an employer as almost an internship, a trial period.

It says it allows the employer—it gives him a bonus, because he is—

Senator BUNNING. He is looking at the employee.

Mr. CULLEN [continuing]. He is looking at the employee and that work gets supplemented.

A work share program, where a job can be shared between folks and they can still draw some portion of their unemployment benefit, again, provides not quite a full wage, but it provides a better wage than if they were sitting on unemployment.

So they are able to draw the benefit, they are able to supplement the benefit, and then the same idea around a wage supplement. If you could provide a—

Senator BUNNING. We had a program called TTA—Trade TA—trade assistance, and it worked extremely well, and I am considerably worried about the replacement of all of these jobs or part-time jobs presently.

We had 5,000 workers leave one very small county in Kentucky, Taylor County, when—and then Amazon.com came in and gave 2,500 of those workers—retrained and put them to work on Amazon, and now that county has more employment, even though they lost 5,000 Fruit of the Loom jobs that went to Mexico and Guatemala.

Now, TTA was able to train, with about \$600,000, at the local university, all those workers, and now they are all reemployed.

But I am afraid the Amazon.coms are not going to be able to come in and suck up the workers that are either part-time or fully unemployed presently, because we are losing our industrial base. We are losing our manufacturing base to other areas.

The CHAIRMAN. I think, Senator, that is the answer to your question. We just have to do a better job of creating more jobs in this country, including—

Senator BUNNING. I agree 100 percent.

The CHAIRMAN [continuing]. Increasing the manufacturing base. I believe that getting more Americans back to work is the best way to deal with the issue of unemployment benefits.

Thank you all very, very much. I can tell you are all very dedicated in what you do, and you provide a great service both in the public and the private sector, and I want to thank you very much for taking the time to come and testify.

It has been very interesting, and we hope to follow-up with the legislation this year.

Thank you. The hearing is adjourned.

[Whereupon, at 11:10 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Hearing Statement of Senator Max Baucus (D-Mont.) Regarding Improving Quality in the Unemployment Insurance Program

Duke Ellington said: "A problem is a chance for you to do your best."

Inaccurate payments are a problem for the nation's safety-net programs. This problem gives us a chance to do our best to correct the overpayments. We have a chance to redouble our efforts to make government work more efficiently.

Making the government work more efficiently is the smartest and fairest way to reduce the budget deficit. Increasing efficiency does not cut benefits for people who need them. And increasing efficiency does not raise taxes on anyone.

We can increase efficiency by targeting benefits to the people who really need them. And we can increase efficiency by making sure that the taxes that are already owed are in fact paid.

We have already made some progress this year.

The new health care reform law did much to curb fraud, waste, and abuse in health programs.

As part of health care reform, Congress enacted almost two dozen new tools to fight fraud:

- The new law requires that all providers and suppliers are screened before they get billing privileges for Medicare or Medicaid.
- The new law suspends payments to providers who are under investigation for fraud.
- The new law expands the Recovery Audit Contractor program. The program has been a success in traditional Medicare. The new law expands it to Medicaid, Medicare Advantage and the Medicare drug benefit.
- And the new law expands the Health Care Fraud and Abuse Control program. This program funds Federal offices that combat fraud on a daily basis.

Several Senators on the Committee helped to sharpen our focus on health care fraud. I drafted most of the fraud provisions in the Senate-passed health care bill together with my good friend Chuck Grassley. Senator Grassley has long fought zealously against waste, fraud and abuse.

Senators Carper and Cornyn have also helped to lead the attack on health care fraud and inefficiency.

Following our efforts to reduce fraud and inefficiency in health care, the Finance Committee turns next to increasing efficiency in the unemployment insurance program, the Social Security Administration, and the Internal Revenue Service.

Today, we focus on the unemployment insurance program.

Unemployment insurance is a lifeline for more than five million Americans. When workers are laid off through no fault of their own, unemployment insurance is a bridge to their next job. Unemployment insurance helps people put food on the table, keep a roof overhead and put gas in the tank, while they search for work.

The unemployment insurance program also helps the economy. It helps to dampen swings in economic activity. In a recession, unemployment insurance spending rises. This additional spending provides a boost to a sagging economy.

Households receiving unemployment benefits spend them right away. That spurs demand for goods and services. That boosts production. And that leads businesses to hire more workers.

With the Great Recession, in just over a year, claims for unemployment insurance benefits have doubled. Outlays for the program are now four times what they were in 2007.

And people are receiving benefits longer. On average, unemployed workers are receiving unemployment insurance benefits four weeks longer than they did in 2007.

Because the program is now more important than ever, we must ensure that it is run as efficiently as possible.

With the flood of unemployment claims have come instances of fraud, error and inefficiency. This fraud, error and inefficiency leads to overpayments of benefits. The Department of Labor estimates that last year, overpayments in the unemployment insurance program totaled \$11.5 billion.

The leading cause of overpayments is claimants who have returned to work, but continue to claim benefits.

The second largest cause of overpayments is errors in verifying that unemployed workers are in fact eligible for unemployment insurance benefits.

And the third largest cause is workers who continue to receive benefits despite not fulfilling the program's requirements. This could include conducting an active work search or registering with the state employment service.

Plainly we need to improve the unemployment insurance program. We need to trim fraud and error in the system. And we must assure that benefits are targeted to those who deserve them.

Last week, the Obama Administration announced a proposal to address these issues. The proposal seeks to rein in overpayments by making the unemployment insurance program more efficient. Today, we will walk through that proposal.

Under the administration's proposal, states could use a portion of the money that they recover from overpayments to strengthen their program integrity activities. States would also be required to impose financial penalties on people who defraud the program.

Under the proposal, employers would be required to report the start dates of new employees. That will help to identify beneficiaries who have returned to work in a different state but continue to receive unemployment benefits.

The administration's proposal is just one solution. States and private industry have also devised systems that reduce overpayments. They also have ideas on how to streamline unemployment insurance. I look forward to learning more about these proposals today.

And so, let us recognize the problem that we have in our nation's safety-net programs. Let us grab the chance to do our best to correct the overpayments. And let us redouble our efforts to make the government work more efficiently.

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**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**
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**Statement of Daniel I. Werfel
Controller, Office of Management and Budget**

**Senate Finance Committee
“Reducing Overpayments and Increasing Quality in the Unemployment System”
May 25, 2010**

Thank you Chairman Baucus, Ranking Member Grassley, and Members of the Committee, for providing me the opportunity to provide a statement for the record on two very important initiatives in the Federal government: eliminating waste and improving government performance.

Mounting deficits and debt are putting enormous pressure on government spending. At the same time, citizen trust in government to responsibly manage tax dollars has declined to a nearly half-century low. Together, these forces create great urgency to improve government performance and restore citizen trust by making government operations more efficient.

In 2009, taxpayers lost \$98 billion in wasteful improper payments by the Federal government to individuals, organizations, and contractors. These errors are unacceptable and the Administration is committed to reducing payment errors and eliminating waste, fraud, and abuse in Federal programs. Thorough identification of improper payments promotes accountability at executive departments and agencies and provides transparency to the taxpayers. Reclaiming the funds associated with improper payments is a critical component of the proper stewardship and protection of taxpayer dollars, and it underscores that waste, fraud, and abuse by entities receiving Federal payments will not be tolerated. Our partnership with Congress is vital to these efforts. In particular, the Affordable Care Act was an important milestone in program integrity, as the new law contains numerous authorities and tools for the Department of Health and Human Services (HHS) to root out fraud and error in Medicare and Medicaid. With the Act’s passage, we are now focused on the important work of effectively executing these new authorities in a manner that results in swift and sharp decreases in payment errors in our Federal health care programs.

There are additional steps that Congress and the Administration can take together to further eliminate payment errors in government programs and activities. For example, the President’s 2011 Budget contains a series of mandatory and discretionary proposals that enable critical program integrity improvements in areas such as Medicare, Medicaid, Unemployment Insurance, and Social Security. Common to all these proposals are taxpayer savings from the elimination of waste and error. In total, the President’s proposals would save more than \$150 billion over 10 years.

This statement highlights these proposals and also provides information on important administrative activities the President has initiated to reduce payment errors.

Overview

The Federal government makes billions of payments every year. These payments provide support to millions of retirees and disabled individuals; student loan benefits for many college-aged students; payments to contractors for services performed in the United States and abroad; and funds to States for state-administered programs like Unemployment Insurance (UI) and the Supplemental Nutrition Assistance Program (SNAP).

The vast majority of payments made by the government are proper. This means that the payments are for the right amount, are sent to the right recipient, and are used for the right purpose. Unfortunately, though, there are instances where the government makes improper payments; for example, an agency may send a payment to the wrong person or business, the payment may be for the wrong amount or be a duplicate payment, or there may be inadequate documentation to verify that the payment is accurate.

Recognizing that improper payments were likely a problem that extended throughout the Federal government, Congress enacted the Improper Payments Information Act of 2002 (Pub. L. 107-300). Among other things, the law requires agencies to conduct risk assessments to determine which programs are susceptible to significant improper payments, to measure and report improper payment rates and amounts for programs that are found to be susceptible to improper payments, and to implement corrective actions to address the root causes of improper payments and reduce and prevent future improper payments.

Where previously there was limited government-wide knowledge of the extent of improper payments, the IPIA requires agencies to identify programs that are susceptible to making improper payments, and to work to address their causes of improper payments. In 2004, the first year of reporting under the IPIA, agencies measured 30 programs and reported an estimated \$45 billion in improper payments. Since that first year of reporting improper payments under the IPIA, the number of programs measured has more than doubled, agencies have refined their measurement methodologies, and government outlays have increased. These three factors have led to increases in improper payments reported by agencies, and in Fiscal Year (FY) 2009, the most recent year of reporting under the IPIA, agencies reported \$98.5 billion in improper payments. This total represents a \$26 billion increase from FY 2008. Contributing to this increase is a lack of adequate controls surrounding payments, a lack of tools to identify and prevent improper payments, and the factors previously identified (an increase in the number of programs reporting, increased government outlays, and changes to error measurement methodologies).

The Administration is eager to attack this nearly \$100 billion in estimated improper payments and is working with our Federal and State partners to reduce the government-wide amount of improper payments. To that end, we have several initiatives under way to prevent, reduce, and recapture improper payments, and have proposed additional efforts in the President's FY 2011 Budget.

Program Integrity Initiatives in the President's FY 2011 Budget

One way that we can ensure that Federal resources are used properly is by eliminating wasteful spending. One of the Administration's priorities is to improve our financial management and implement additional best practices that will improve payment accuracy and reduce improper payments without negatively affecting beneficiaries' access to needed benefits.

The President's FY 2011 Budget Request included a number of mandatory and discretionary proposals that, if enacted, would help improve program integrity for some of the largest programs at some of our largest agencies, including the Department of Labor (DOL), the Department of Health and Human Services (HHS), the Social Security Administration (SSA), and the Internal Revenue Service (IRS). These agencies have traditionally had some of the largest estimated improper payments government-wide.

Discretionary Proposals

The President's FY 2011 Budget includes \$16.2 billion in funding over five years for program integrity initiatives at DOL, HHS, SSA, and IRS. These activities, described in greater detail below, are estimated to result in more than \$132 billion in savings over the next 10 years, with \$70 billion in lower spending due to the elimination and recovery of payment errors and an additional \$62 billion in tax revenue.

For the DOL Unemployment Insurance (UI) program, the FY 2011 President's Budget requested \$55 million in discretionary appropriations for States to conduct Reemployment and Eligibility Assessments. These reviews evaluate a claimant's continued eligibility and need for additional reemployment assistance, and are designed to reduce improper payments and speed reemployment. The \$55 million of requested funding is estimated to provide benefit savings of \$210 million.

For HHS' programs, proposals were made that would provide additional tools to fight fraud and abuse – and to prevent it before it occurs. The President's Budget requests \$561 million for a number of program integrity activities, including: expanding the Health Care Fraud Prevention & Enforcement Action Team (HEAT) initiative; providing resources to implement a set of legislative and administrative program integrity proposals; and providing additional resources to identify and reduce improper payments in Medicare, Medicaid, and the Children's Health Insurance Program. It is estimated that for every additional \$1 spent by HHS to fight health care fraud, approximately \$1.55 is saved or averted. Based on these projections, this \$561 million in discretionary funding, combined with a multi-year investment in discretionary funding for the Health Care Fraud Abuse Control account, will yield Medicare and Medicaid savings of \$9.9 billion over 10 years.

For SSA, the President's Budget requests more than \$500 million to conduct reviews to determine whether beneficiaries are eligible to continue receiving benefits from the Disability Insurance or Supplemental Security Income (SSI) programs. It is estimated that for every \$1 spent by SSA on a disability review, \$10 is saved from avoiding erroneous payments. The requested funding will help SSA conduct more reviews to determine continued eligibility for benefits and improve payment accuracy. In addition, SSA also requested additional funding to continue implementing its Access to Financial Institutions program, which helps identify individuals with bank accounts that exceed the SSI program limits.

For the IRS, the President's Budget requested \$1.1 billion to cover some increases for the base IRS enforcement program plus new and continuing investments in expanding and improving the effectiveness and efficiency of the IRS' overall tax enforcement program. IRS enforcement activities recoup roughly \$7 for every \$1 spent.

Mandatory Proposals

For DOL's UI program, the President's Budget included an Unemployment Insurance Integrity proposal, which would require employers to provide the start date for new workers to state directories of new hires; authorize states to use up to 5 percent of recovered improper payments for program integrity purposes; require states to charge at least a 15 percent penalty to individuals that purposefully defraud the government; and expand the authority of states to use the Treasury Offset Program to collect improper payments from recipients that received a wrong amount or that weren't eligible for a payment. Secretary Hilda Solis recently sent a legislative package to the Congress that incorporated these proposals. If enacted, the Administration believes these proposals could help reduce and recapture improper payments in the UI program, and I look forward to working with the Committee, the Congress, and the Department, to enact these important reforms.

For HHS, the President's Budget proposed expanding the Centers for Medicare & Medicaid Services' (CMS) Program Integrity efforts to prevent fraud and abuse before they occur, detect fraud and abuse as early as possible, and comprehensively enforce penalties and other sanctions when fraud and abuse do occur. Some specific HHS proposals include: establishing a CMS data-match with the Internal Revenue Service to compare billing and tax information and identify fraudulent Medicare providers; expanding Medicare revocations of billing privileges for providers who bill for services they did not provide; and tracking prescription drug utilizers and prescribers to identify instances of abuse or overutilization in the Medicaid program. These are just a few of the program integrity proposals designed to fight waste, fraud, and abuse in HHS' largest programs.

For SSA, the President's Budget proposed legislation that would improve reporting for non-covered pensions so that the Social Security Administration could enforce offsets for non-covered employment. The proposal would require State and local governments to provide information on their non-covered pension payments to SSA so that the agency can apply these offsets and reduce improper payments.

For the IRS, the President's Budget proposed several initiatives to improve mandatory and receipt savings through program integrity initiatives. The budget included two proposals to increase receipts from debt collection activities: 1) authorizing Treasury to offset payments to Federal vendors to collect delinquent income taxes before hearings occur, and 2) making a technical correction to allow Treasury to levy 100 percent of Federal vendor payments.

These are just a few of the initiatives put forward in the President's budget to help reduce improper payments. Many other proposals for mandatory and discretionary initiatives are included in the President's Budget, and the Administration looks forward to continuing to work with the Congress to review and consider these proposals.

Current Administration Efforts

In addition to putting forward administrative, legislative, and funding requests in the FY 2011 President's Budget, the Administration is already taking several steps to reduce and recapture improper payments. I would like to highlight and provide a brief description of four of these initiatives: implementation of the Affordable Care Act (Pub. L. 111-148), implementation of Executive Order 13520 on Reducing Improper Payments, release of a Presidential memorandum of March 10, 2010 on Payment Recapture Audits, and implementation of the Partnership Fund for Program Integrity Innovation.

The Affordable Care Act:

The Affordable Care Act was recently signed into law and the Administration is working with the Federal agencies to implement this historic legislation. While the new law contains many important provisions to extend and improve health care for millions of Americans, it also has several provisions designed to prevent and detect fraud and abuse, to identify and recover improper payments, and to penalize those who commit fraud or abuse, in the Medicare, Medicaid, and CHIP programs.

These provisions include:

- Providing the Secretary of HHS with new authorities to increase screening of providers and suppliers before they enroll in Medicare, Medicaid, or CHIP and to conduct oversight directly after they enroll; and to implement temporary moratoria on new providers in high-risk areas to combat waste, fraud, and abuse;
- Increasing data sharing between Federal agencies – like CMS, SSA, the Department of Defense, and the Department of Veterans Affairs – to detect and investigate potential fraud and abuse throughout Federal health programs;
- Expanding the Recovery Audit Contractor program from Medicare Parts A and B to also include Medicare Parts C and D and Medicaid; and
- Enhancing civil and criminal penalties for Federal health care fraud and false claims.

The Administration is currently working with HHS and other agencies to implement these and other program integrity provisions included in the new law.

Executive Order 13520 on Reducing Improper Payments:

In response to the large increase in improper payments between FY 2008 and FY 2009, on November 20, 2009, the President issued Executive Order 13520 on Reducing Improper Payments¹. The Executive Order will reduce and prevent improper payments by enhancing transparency, increasing agency accountability, and exploring incentives for State and local government efforts to reduce improper payments in State-administered programs (like UI, SNAP, and Medicaid).

Already, agencies have made great strides in implementing the Executive Order. We have identified agencies with high-priority programs that account for the majority of improper payments, established supplemental measures to provide more frequent and current measurements for the majority of these high-priority programs, and selected Accountable

¹ Executive Order 13520 can be viewed on the White House's website at: <http://www.whitehouse.gov/the-press-office/executive-order-reducing-improper-payments>

Officials that are responsible for coordinating efforts to reduce improper payments at agencies with high-priority programs. In addition, we have greatly enhanced the transparency of improper payments. Whereas improper payments were previously reported solely in agency financial documents, we are creating a website that will clearly and efficiently share information with the public. We will launch this website later this summer.

Payment Recapture Audits Memorandum:

While the Administration believes agencies must do everything possible to prevent and reduce improper payments, we also believe that when they do occur, agencies should do everything possible to recapture these payments. Therefore, on March 10, 2010, the President issued a memorandum to agencies directing them to intensify and expand their efforts to recapture improper payments². Under the Recovery Auditing Act (Section 831 of the FY 2002 Defense Authorization Act), agencies are required to review contract outlays if their annual contract outlays are over \$500 million. In addition, other agencies review grant, benefit, and contract payments as part of their normal post-payment review process. Certain other programs – including Medicare – also are authorized to review payments and to recover any improper payments identified during these reviews. Through these and other methods, agencies are reviewing their payments and recapturing any improper payments identified.

The President's memorandum of March 10, 2010 directs agencies to intensify and expand these efforts. OMB is working with agencies to review current practices, reviewing the results of previous recapture audits performed on contract outlays, and reviewing the results of Medicare Recovery Audit Contractors, to promulgate additional guidance for agencies that will describe best practices and ensure that agencies are doing as much as possible to identify and recapture improper payments. In addition, if enacted, the Improper Payments Elimination and Recovery Act (S. 1508 / H.R. 3393) could also significantly expand agency efforts to recapture improper payments.

Partnership Fund for Program Integrity Innovation:

The fourth initiative that I would like to highlight is the Partnership Fund for Program Integrity Innovation. The FY 2010 Consolidated Appropriations Act (Pub.L. 111-117) allocated \$37.5 million for the Partnership Fund for Program Integrity Innovation (the Partnership Fund). The purpose of the Partnership Fund is to identify ways to improve service delivery, payment accuracy, and administrative efficiency, while also reducing access barriers to Federal assistance programs and protecting beneficiaries. The Partnership Fund will accomplish these goals by funding innovative pilots at the state and local level that will be rigorously evaluated to determine their effectiveness in meeting these goals.

Already, we have made great strides to stand up the Partnership Fund. OMB has created a governance structure, established staff to oversee the project, and created a Federal Steering Committee to assist in selecting grants. In addition, we have begun exploring potential ideas that could be piloted by States or local governments and agencies. I am excited about the progress

² The Presidential memorandum of March 10, 2010 can be viewed on the White House's website at: <http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-finding-and-recapturing-improper-payments>

that we have made to date, as well as our upcoming actions to further implement the Partnership Fund.

A New Approach to Reducing Improper Payments

The problem of improper payments is not new; it has likely impacted Federal agencies since the founding of our Nation. Under this Administration, Federal agencies are renewing and improving their efforts in this area.

In addition, States and Federal agencies have been implementing initiatives designed to reduce improper payments for at least the last decade, if not longer. This experience has helped us identify practices that work to prevent improper payments, such as pre-payment reviews using new software and technology, and the use of third-party databases to verify eligibility for benefits or payments. Moving forward, one of my goals is to ensure that Federal and State agencies share these best practices with each other, and we are working to do so by improving collaboration and bringing together different agencies and offices within agencies.

Whereas Federal agencies have traditionally taken a very siloed approach to addressing improper payments – e.g. the financial managers try to implement changes without talking to programmatic staff, or Federal and state agencies work independently of each other – I believe the results of the last six years show that this approach has limited impact. Accordingly, I am excited that many of the initiatives under way – including the implementation of Executive Order 13520 and the Partnership Fund – have already helped to foster collaboration by bringing together representatives from different parts of agencies, from different agencies, and from different levels of government, to identify best practices and share information on efforts that have helped to improve payment accuracy.

I appreciate the opportunity to update you on this important issue, and look forward to working with you to ensure its continued progress.

STATEMENT OF MICHAEL CULLEN
MANAGING DIRECTOR
ON POINT TECHNOLOGY, INC.
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

Hearing on Reducing Overpayments and Increasing Quality in the Unemployment System

May 25, 2010

Chairman Baucus, Ranking Member Grassley, and distinguished members of the committee, thank you for the opportunity to testify this morning.

I am Mike Cullen, Managing Director at On Point Technology. On Point Technology's entire focus is Unemployment Insurance, and as a company we take pride in our employees' experience and expertise in this arena. Prior to joining On Point, I spent 14 years with the Colorado Department of Labor and Employment, serving six years as the State's Unemployment Insurance Program Director – our staff possesses similar backgrounds as career state unemployment insurance professionals. For over 20 years, On Point's solutions have enabled 15 states to find and collect improperly paid UI benefits, returning hundreds of millions of dollars to their state trust funds. We are proud to provide more efficient management systems that strengthen UI programs and help minimize tax burdens on employers.

Background

The Unemployment Insurance system faces its greatest set of challenges in a generation. The recession's impact on state and federal UI trust funds is clear and stark as millions of unemployed continue to look for work in an economy that struggles to regain its feet. To date, 35 state trust funds have been forced to borrow a combined \$38 billion, and many of these state programs still face insolvency. However, this problem is not exclusive to the states – due to extended demand, Federal UI accounts have had to borrow an additional \$37 billion from the United States Treasury to support the numerous federal unemployment insurance programs.

Unprecedented UI payouts, bankrupt trust funds, and unparalleled borrowing means that the benefits to our nation's unemployed are imperiled. Employers, who are struggling to keep their business afloat, are increasingly bearing the burden of rebuilding the trust funds in the form of tax increases. In 2010, employers in 24 states saw UI tax increases. If the trend continues, tens of thousands of employers in 28 states will face these tax increases in 2011. For example, in Florida payroll taxes have jumped from \$8.40 per employee to \$100 per employee – a huge increase for any small business looking to hire new employees.

The improper payment of benefits has exacerbated the challenges state UI programs face. Historically, during times of high unemployment the number of claims paid erroneously and the incidence of fraud increases. In 2010, the United States Department of Labor (USDOL) conservatively determined the overpayment rate to be 9.6%.

Since the beginning of the recession in December 2007, more than \$230 billion in unemployment benefits have been paid. Moreover, the Administration projects that an additional \$453.7 billion of UI will be paid over the next 5 years. This means that over \$22 billion has been paid improperly over the past 2 ½ years and unless immediate action is taken, an additional \$43.5 billion will be paid improperly over the next five years. According to the President's 2011 budget, the UI program will have to borrow \$51 billion in 2010 and an additional \$25 billion in 2011 from the general fund.

The current outdated systems create a tension between timely processing of benefits and ensuring the integrity of these payments. However, this dilemma ultimately represents a false choice. With an investment in technology systems, we can both improve states' capacity to process benefits while dramatically enhancing the integrity of these payments.

Administrative Funding

Since 1992, administrative funding for the UI program has remained static. State agencies have been required to cut service levels or compete for other state dollars to administer their UI programs. Cost savings have been found through limited automation, but UI support systems on average, are 24 years old. That age has impaired the states' ability to move quickly in administering the variety of currently active UI payment programs. It has also made it difficult to effectively use currently available software to address large, labor-intensive, repetitive processes. Because of limited administrative funds dedicated to integrity, little automation has been implemented.

Best Practices

On Point Technology has found that the detection and recovery of overpayments can be dramatically increased.

- Currently, most states have some automated processes to detect overpayments, such as the National Directory of New Hires (NDNH), but the primary tool remains a 35 year old cross match system that is highly inefficient. After the overpayments are detected, the automated processing typically comes to a grinding halt. Most states rely upon manual processing to recoup wrongly paid benefits. Performing calculations, interfacing with state systems, and creating documents for employers and claimants are labor intensive processes. Resolving any question regarding a case, generally requires searching through file cabinets to secure the required information. These manual processes prevented states from addressing the overpayment problem before the recession and have proven impossible to ramp up with the increase in workload. Adapting existing

technology to eliminate this paper processing will dramatically increase productivity. States should store information in a web-accessible system to enable automated reports, letters, and interface thereby increasing productivity.

- Most states adjudicate every overpayment manually based on state statutes and UI case law. On Point works with state adjudication experts to translate state law and precedents into business rules to issue automated determinations. Using these techniques, states have seen 70% of overpayment decisions automated. This assures all decisions are made on the same criteria and thus have the same results. It is our experience that implementing software incorporating these processes improves the overall detection and processing of UI overpayments by at least 300%. One state has had a return on investment of more than 100 times the original cost.
- Organized fraud exists. States that are armed with software to find organized fraud can avoid significant losses to their trust funds. In June of 2005, the U.S. Department of Labor's Office of Inspector General testified before Congress about a single organized fraud ring that stole 15,000 identities and committed \$58 million of UI fraud. Other cases have been found. A proactive approach could have identified this organized fraud earlier, saved millions of UI dollars, and prevented identity theft for thousands of individuals. The use of automated software to search disparate databases for known patterns of fraud can detect and stop these illegal activities. Importantly, On Point's software shares updatable audits of known fraudulent patterns between states reducing the spread of these schemes.

Most states lack a comprehensive overpayment collection process. States that implement overpayment collection software, typically experience dramatic improvements, doubling their overpayment collections amounts in most cases.

Recommendations

Improper payments represent a large and growing threat to the integrity of the UI system and require an immediate solution. We believe there are several ways that Congress can invest a comparatively small amount yet yield substantial results to both the U.S. Treasury and state UI trust funds.

- Congress should provide dedicated administrative funding for software to support effective integrity activities with each UI extension and through the annual appropriations process. Purposing 10% of the administrative funds for integrity technology to protect the dollars from fraud and abuse could return significant multiples of the investment in the first year of implementation alone. Savings realized will enable states to assist more beneficiaries for a longer period of time while mitigating waste fraud and abuse and keeping payroll taxes lower. These savings provide for better options for the states, and a sound national economic policy in a time of need. Both the Congressional Budget Office and the

Department of Labor have recognized that dedicated integrity funding produces net revenue increases for the unemployment trust funds and the federal budget. Based upon our experience, investments in software for state integrity programs can easily return \$10 every year for each dollar spent in the first year.

- Adding the first day of work to the National Director of New Hires would make this an even more effective tool for the states to identify overpayments.
- In concert with the Department of Labor and the states, we encourage Congress to consider a long-term solution legislative solution to the Unemployment Insurance integrity problem. In this context, the proposed Unemployment Compensation Integrity Act is a much needed first step towards a thoughtful legislative process.

Our unemployment Insurance system is a vital lifeline for millions of Americans especially during times of economic turmoil like we face today. We must act to preserve the integrity of the system to ensure its continued viability for those in need. Fortunately, we are in a position to strengthen the UI trust funds and to help ease the tax burdens employers will soon face. A modest investment in integrity technology will yield significant savings for the government, our employers and our taxpayers.

Thank you for the opportunity to testify. I am available for any questions you might have.

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TESTIMONY SUBMITTED TO THE U.S. SENATE COMMITTEE ON FINANCE

**Hearing on Reducing Overpayments and Increasing Quality in the
 Unemployment System**

**Submitted by Roberta Gassman
 Secretary
 Wisconsin Department of Workforce Development**

May 25, 2010

Chairman Baucus, Ranking Member Grassley, and distinguished members of the Committee, thank you for the opportunity to testify today at this hearing on the important subject of "Reducing Overpayments and Increasing Quality in the Unemployment System."

I am Roberta Gassman and I serve as the Secretary of the Wisconsin Department of Workforce Development. I have been honored to serve under Governor Jim Doyle in his Cabinet and as the Secretary of this department since he took office in 2003.

With its 1,645 employees, the Department of Workforce Development's mission is to meet the needs of workers and employers in strengthening Wisconsin's workforce. The agency provides employment and training services, works with employers to fill jobs, enforces workers' rights, and administers the Unemployment Insurance, Apprenticeship and Worker's Compensation programs.

INTRODUCTION

We in Wisconsin have a proud tradition of protecting workers and their families in order to keep both our workforce and our workplaces strong. Wisconsin, in fact, was the first state to establish an unemployment compensation program, in response to the Great Depression. It was also the first state to enact Worker's Compensation and a modern apprenticeship program, as well as one of first states to prohibit discrimination on the basis of race and national origin. Many of these path-breaking policies came about as a result of the "Wisconsin Idea," the idea that "the boundaries of the University are the boundaries of the state," with important input into public policy innovations from the University of Wisconsin-Madison.

Today, our nation finds itself emerging from the deepest economic downturn since the Great Depression. The downturn has taken a toll on every state, especially on heavy manufacturing states, and Wisconsin is the number one state in the country in terms of the percent of our workforce that works in the manufacturing sector.

Although Wisconsin's unemployment rate has been lower than all of the other Midwestern heavy manufacturing states during this recession, it has been a very challenging period for all of our citizens

who have lost jobs. Unemployment Insurance (UI) has been a lifeline for those who are out of work through no fault of their own. Total UI payments in Wisconsin have risen from less than \$1 billion in 2007 to \$3.1 billion in 2009. Those payments not only support our workers and their families, but our businesses and communities as well.

Thanks to Congress and President Obama, UI benefit extensions have been a critical help for every state, including my own. Wisconsinites are currently eligible for up to 99 weeks of benefits. Extension of the existing federal UI benefit programs through 2010 is vital to support working families as they struggle to get back on their feet and I am very pleased that a year-end extension is scheduled to come to the Senate floor this week.

The focus of our UI program in Wisconsin, during this economic downturn, has been to get checks to eligible workers quickly and efficiently, while also being vigilant about program integrity and protecting employer and taxpayer dollars. To meet those goals during a historic national recession, we have increased our UI staff by a third, extended call hours, reassigned staff, added phone lines, and doubled our computer server capacity. Because of those efforts, we have cut claimant wait times on our phone inquiries lines dramatically and we have been able to continue to maintain our goal of having most new claimants receive their first payment in less than a week.

Today, we continue to see evidence of economic recovery in Wisconsin and across the nation. Thanks to Governor Doyle's "Grow Wisconsin" agenda and action by President Obama and Congress to implement the American Recovery and Reinvestment Act, we are helping put Wisconsin back to work. Just last week we learned that Wisconsin gained more jobs last month, in April, than in any month since 1996—14 years ago. Wisconsin has gained 32,000 jobs during the first four months of 2010.

Despite that progress, many Americans, including many Wisconsinites, remain out of work through no fault of their own. We at the Wisconsin Department of Workforce Development are working hard, every day, to strengthen customer service and meet worker and employer needs.

One way we have been keeping our UI system strong is by focusing on program integrity. Reducing overpayments—whether they are inadvertent or intentional—benefits everyone. It benefits claimants because paying back overpayments is a substantial burden. It benefits employers who are unfairly charged for benefits when overpayments occur. Finally, it protects the investment of the federal government in extended benefits.

ABOUT WISCONSIN'S UNEMPLOYMENT INSURANCE SYSTEM

Administering unemployment benefits, which occurs at the state level, involves a number of efforts. For example, states are responsible for:

1. Processing benefit payments for both state and federal claims;
2. Preventing overpayments and fraud;
3. Answering thousands of questions they receive from UI beneficiaries and employer taxpayers; and,
4. Resolving disputes between UI claimants and employers in the claims adjudication process.

Wisconsin is particularly proud that we have maintained excellent timeliness of first payments to UI claimants even during the most challenging months of the recession. We have also made great progress in improving the timeliness of providing eligibility decisions when issues must be resolved before payments can begin. The USDOL has made it clear to the states that despite our high claims volumes, we must maintain strong performance and accountability. We in Wisconsin agree.

These have been extraordinary times for the UI program, given the national economy. As expected, with an increase in payments, there has been an increase in overpayments. Not all erroneous payments are the fault of claimants nor are they the result of intentional concealment. Most claimants operate in good faith and play by the rules. There are, however, some who view the UI system as an opportunity for financial gain and act dishonestly to receive UI benefits for which they are not eligible.

Overpayment Detection and Investigation in Wisconsin

Most overpayments occur when a UI recipient collects benefits while receiving wages. Claimants who continue to work or return to work after filing a claim but either underreport, or altogether fail to report their weekly earnings, are responsible for nearly half of the established overpayments. This is more likely to happen when a recipient finds himself or herself under financial stress. The national recession has put many people in that category.

Reducing overpayments is an important focus for Wisconsin, other states, and the federal government. We have twenty-one employees dedicated to detection and investigation, an increase of ten in the last six months. Reducing and recovering overpayments and tax delinquencies are important for the integrity of our program and for the solvency of our trust fund. Wisconsin utilizes a variety of methods to discern the accuracy of UI payments and to detect erroneous payments. Chief among these are:

1. Interagency/federal cross-match data exchanges including:
 - Quarterly Wage Record reports;
 - Verification of weekly earnings for partial benefits;
 - State and national directories of new hires;
 - Systematic Alien Verification for Entitlements (SAVE) program to verify the employment authorization of undocumented workers;
 - Social Security Administration;
 - Wisconsin Department of Corrections;
2. Tips from employers or the public; and,
3. Claimant interviews and self reporting.

We utilize Social Security Administration (SSA) cross matches in two ways. First, we check the Social Security numbers on wage records to make sure that the numbers we receive from employers actually

exist. Second, we use SSA data as a part of our cross match to determine whether recipients are incarcerated in local jails.

Similarly, we use Wisconsin Department of Corrections information to determine whether anyone receiving benefits is in the Wisconsin correctional system.

We utilize new hire data because it provides evidence of when a person is working—data that is more current than data from quarterly wage cross matches. The law requires employers to inform us of new hires within twenty days of their start date. Originally, this new hire data was collected to locate people who were not meeting their child support responsibilities, but it is very useful for UI purposes as well.

We check wages of those receiving partial benefits by seeking verification from both the employer and the claimant. When they are not consistent, we try to sort out the correct number. If for any reason partial wages are unreported, that can result in an overpayment when the information is compared later to quarterly wage records.

If the potential for an overpayment is identified, we initiate a verification process with requests for information from both the claimant and employer. When the staff confirms an overpayment, they send a “determination” to the claimant and the collection staff contacts the claimant to recover the payment.

Overpayment Collection in Wisconsin

The recovery of overpayments is important in promoting program compliance and restoring reserves. The states also collect overpayments that occur in the federal extension programs. Wisconsin and other states remit these recovered funds directly to the federal government. In effect, the states are the collection agents for the U.S. Treasury. The increase in the number of established overpayments, as shown in Tables 1 and 2, below, has seriously taxed the ability of the collection staff to maintain their historically high recovery rates.

In particular, Table 1 shows that state benefits to UI claimants more than doubled over the last three years, increasing from 0.9 billion in 2007 to \$2 billion in 2009. During this period, overpayments more than doubled from \$13.4 million to \$33.4 million, while overpayments collected increased by 96 percent to almost \$24 million.

Table 1: Non-Fraud Overpayment Recovery Rates - Regular UI

	2007	2008	2009
Total Regular UI Paid	\$0.9 billion	\$1.1 billion	\$2.0 billion
Total UI Non-Fraud Overpayment Dollars Established	\$13.4 million	\$14.7 million	\$33.4 million
Percent Non-Fraud	1.5 percent	1.4 percent	1.7 percent
Total UI Non-Fraud Overpayment Dollars Recovered	\$12.2 million	\$13.3 million	\$23.9 million

Table 2 presents similar statistics as Table 1, but for fraud-related overpayments. It shows that both overpayments and collections increased significantly between 2007 and 2009.

Table 2: Fraud Overpayment Recovery Rates - Regular UI

	2007	2008	2009
Total Regular UI Paid	\$0.9 billion	\$1.1 billion	\$2.0 billion
Total UI Fraud Overpayment Dollars Established	\$4.7 million	\$6.6 million	\$17.7 million
Percent Fraud	0.5 percent	0.6 percent	0.9 percent
Total UI Fraud Overpayment Dollars Recovered	\$4.4 million	\$4.9 million	\$7.1 million

Our department's Division of Unemployment Insurance currently has 16.5 staff responsible for the collection of benefit overpayments and tax delinquencies. We are also adding additional staff to meet the increase in collection volume. The collection team uses a new tax application, automated work flow and an interface with the Circuit Court Automation Program to docket and release judgments in 72 Wisconsin counties. Other tools include:

1. An automated interface for intercepting state tax refunds of those who were overpaid benefits;
2. An automated billing system for claimants and employers which transfers work to collection analyst for follow-up when appropriate;
3. The system automatically creates offsets of potential payments to claimants who have not repaid overpayments (in the long run, 78 percent of benefit overpayments are collected, many through the offset process);
4. Liens on private property provided for in Wisconsin statutes (e.g. car, boat, etc.);
5. Forfeitures of UI benefits, utilized to collect penalties for fraud. Wisconsin collects forfeitures through the benefit offset process; and
6. Penalties and interest for non-filing or late filing (employers only).

Reducing Worker Misclassification

Governor Doyle has recently signed legislation on misclassification that significantly expands the capability of my department to enforce our state's laws relating to proper classification of employees. We will have for the first time the ability to issue "stop-work" orders at construction sites operated by contractors and subcontractors who are unable to demonstrate compliance with Wisconsin's laws relating to UI, Worker's Compensation, and wage and hour reporting. The proposed federal Program Integrity Act of 2010 will be an excellent complement to the Wisconsin law.

SIDES: A STRATEGY FOR PREVENTING OVERPAYMENTS

Most state activities relating to overpayments focus on detection and collection. The State Information Data Exchange System (SIDES) is a multi-state effort that will help *prevent* overpayments from occurring. Utilization of SIDES will serve to increase the accuracy of UI payments and prevent overpayments from occurring.

Payment errors related to job separation issues make up a substantial source of UI overpayments. It is the second leading cause of UI overpayments which account for \$1.2 billion or 19.6 percent of UI overpayments. Wisconsin leads a consortium of six states including Colorado, Georgia, New Jersey, Ohio and Utah that is working to reduce overpayments through improved technology. At least twelve more states are expected to join the SIDES system in the next two years, including Arizona, Connecticut, Rhode Island, Iowa, Kansas, Maryland, Michigan, North Carolina, New York, Texas, Mississippi, and Virginia. When fully operational, this system will improve UI timeliness, provide significant cost savings to states, dramatically improve the accuracy of information, and reduce improper benefit payments.

Initially this system is being used to transmit UI separation information (requests and replies) over the Internet between UI agencies and different size employers. Separation requests to large and multi state employers or third party administrators are transmitted from the state through the SIDES central broker as a batch web service to the participating employers.

Employers, in turn, respond to these separation requests over the Internet through the SIDES central broker back to the states. In addition, a SIDES Employer Website was created to handle much smaller numbers of separation requests and responses primarily dealing with small employers. States transmit the separation requests to the SIDES Employer Website and employers go online to this website, enter identification credentials and respond individually to these requests.

Other types of transactions such as wage verification between states and employers will be added to SIDES to reduce other areas of Unemployment Insurance improper payments. When fully operational, this system will improve UI timeliness, provide significant cost savings to states, dramatically improve the accuracy of information, and reduce improper benefit payments and appeals reversals.

INNOVATIONS IN OTHER STATES

Wisconsin is not the only state pursuing aggressive collection efforts. Many other states do an excellent job identifying and collecting overpayments. For example, the state of Washington has very sophisticated methodologies for locating and contacting claimants with overpayments, as well as employers who are delinquent in paying their UI taxes. Washington has also developed an on-line payment system to facilitate restitution of overpayments.

Also, two state consortia have organized themselves into an effort to modernize their UI systems. The first consortium includes Arizona, Wyoming, Idaho and North Dakota; the second consortium includes North Carolina, South Carolina, Georgia and Tennessee. These initiatives are aimed at developing the requirements for a common UI information technology system and determining the feasibility of building those systems.

U.S. DEPARTMENT OF LABOR'S INTEGRITY PROPOSAL

The steps that states like Wisconsin have taken to reduce overpayments and promote program integrity have been important. But additional steps at the federal level will help ensure the nation continues to increase program integrity and maintain a strong UI system. In particular, Wisconsin strongly endorses the Unemployment Compensation Program Integrity Act of 2010, proposed by the U.S. Department of Labor.

The Act would make important changes to the federal-state UI system that would:

- permit states to utilize five percent of the receipts from overpayment recoveries to fund additional program integrity and worker misclassification resources;
- require increased penalties for benefit fraud; and,
- reduce overpayments that otherwise occur because of incomplete information from employers and claimants—a provision that is similar to one passed in Wisconsin in 2005.

A CONCLUDING NOTE

I am very appreciative of the opportunity to come before you today. The topic of reducing overpayments and increasing quality in UI is compelling and timely. I want to take this opportunity to urge the Committee to address soon some related topics crucial to the future health and stability of the UI program. They include:

- The reform of the federal extended benefits program. The extended benefits programs have been crucial to providing help during this recession to people in desperate need. However, the stop and start nature of legislative action has been a source of concern to claimants and a significant challenge for the states. We would like to see all extended benefit triggers set in advance so there is some predictability as to when extended benefits are payable. There is a case for eliminating Extended Benefits (EB) and establishing a predictable Emergency Unemployment Compensation (EUC) program that would have some state-based triggers and some national triggers. Essentially, the argument would be for an EUC program with predictable tiers and a single set of rules. This would permit the states to plan and program their systems to provide benefits promptly once the triggers are reached.
- A national conversation about the UI program and its modernization. The recession has been a difficult test of the national UI system. These hard times have underscored the need to look deeply at the program and the way it is administered. As the recession abates, we should have a national conversation about the UI program and what is needed to improve it, especially given that the workforce is changing and the program should be updated to reflect those changes.
- The states and the federal government need to work together to restore the solvency of the UI system. Wisconsin is one of thirty-three states that are currently paying regular UI benefits with money borrowed from the federal government. This is not sustainable over the long-run or the short-run. We face the important challenge of returning the UI system to fiscal soundness. In the meantime, it would be of great assistance to the states who are borrowing to have an extension of interest forgiveness through 2012.

- Re-employment services (RES) are a key component of Wisconsin's effort to reduce UI expenditures and strengthen our Reserve Fund. This is a cost effective strategy that helps workers find a job while reducing the costs to state UI Reserve Funds. Continued federal support of these efforts is crucial.
- Wisconsin also supports the Department of Labor's initiative to reduce misclassification by increased enforcement activity at the federal level and support for state level misclassification initiatives.

Thank you very much for the opportunity to appear before you. I look forward to answering your questions.

*United States Senate
Committee on Finance*

*Sen. Chuck Grassley · Iowa
Ranking Member*



Statement of Senator Chuck Grassley
Hearing Before the Senate Committee on Finance
Reducing Overpayments and Increasing Quality in the Unemployment System
May 25, 2010

Our nation's unemployment insurance system is designed to automatically respond to the ups and downs in our economy.

As unemployment rates have risen across the nation in the past two years, unemployment benefits have increased accordingly.

Congress has magnified that automatic response by providing additional benefits beyond those normally available.

The sum of this assistance is substantial. Total unemployment benefits are projected to be \$157 billion this year. That's up from \$43 billion in 2008.

Unfortunately, with increased benefits, come increased opportunities for honest mistakes and outright fraud.

The Improper Payments Information Act of 2002 requires federal agencies to identify improper payments. According to the latest estimate from the Department of Labor, 10 percent of regular state unemployment benefits were paid in error in Fiscal Year 2009. That represents more than \$7 billion in improper payments.

The most common improper payment is due to individuals working and collecting unemployment benefits at the same time. While such activity is generally legal, workers must accurately report their earnings and their benefits are subject to offset.

Other reasons for improper payments include: work separation issues, refusal to accept suitable work, alien status, identify theft, and failure to register or comply with state requirements.

The purpose of today's hearing is to examine these errors and identify ways to reduce or eliminate them. I hope can improve the unemployment program at the same time we save taxpayer dollars.

**STATEMENT OF JANE OATES
ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
U.S. DEPARTMENT OF LABOR
BEFORE THE COMMITTEE ON FINANCE
UNITED STATES SENATE**

May 25, 2010

Good morning. Chairman Baucus, Ranking Member Grassley, and distinguished members of the Committee, thank you for this opportunity to discuss improper payments and the Administration's legislative proposals to improve integrity in the Unemployment Insurance (UI) program. Reducing improper payments and strengthening program integrity are priorities for the Administration government-wide. They are equally a priority within the Department of Labor with regard to the UI program. Given that Federal and state unemployment benefits being paid have dramatically increased during the course of this recession, focusing on this issue is both timely and necessary. I might also add that addressing improper payments relates to trust fund solvency. Particularly now, when trust funds are under extreme pressure and states are borrowing at near record levels, it is essential to ensure that UI benefit payments are made properly and that all employers pay their fair share of unemployment contributions.

I appreciate the Committee's interest in this critical issue.

BACKGROUND

I am pleased to report that the UI program has a longstanding commitment to ensuring its financial integrity. The program uses highly sophisticated sampling and audit methods to deter, detect, and recover overpayments. Every state operates a UI Benefit Payment Control unit that utilizes a wide variety of tools to prevent, detect, and collect overpayments. When potential overpayments are detected, individuals are given the opportunity to demonstrate that the payment was not made in error before collection efforts begin. All states also operate a quality control system to identify claims errors and support corrective action in the state's UI system. Benefit Accuracy Measurement (BAM) is a statistical survey of a sample of UI claims in each state that investigates the accuracy of benefit payments. For claims that were improperly paid, BAM determines the cause of, and the party responsible for, the error, and the amounts over (or under) paid. In fact, this UI statistical sampling program is often held up as a model for other Federal programs.

As you review improper payment statistics for the UI program, there are several things to keep in mind. States are required by the Social Security Act to pay benefits as soon as administratively feasible and states constantly struggle with getting timely, sufficient information from the individual's prior employer to make that determination. Many errors result from this structural issue. The Employment and Training Administration (ETA) routinely reports an annual improper payment rate based upon data collected from very thorough BAM audits that detect many errors that are not within the control of the state agency. As a result, we report two rates for the UI program: the overall annual rate based on all sources of error and the operational rate, which represents those improper payments which could be more readily controlled—that is, identified and addressed—under normal state operations.

While benefit payments and improper payment dollar amounts have increased as a result of the recession and special Federal programs, during each of the last two fiscal years, both the annual rate and the operational overpayment rates have fallen. This phenomenon is due in part

to the fact that during a recession there are more “clean claims” without issues that require more in-depth fact finding. (More people are laid off because of a lack of work rather than quit or are discharged for misconduct.) For fiscal year (FY) 2009, for regular unemployment benefits, the annual overpayment rate was 8.94% and the operational overpayment rate, for those root causes that were controllable, was 4.77%. These rates compare to 9.92% and 5.71%, respectively, in FY 2008. The underpayment rate in FYs 2008 and 2009 was 0.7%.

States also carry out integrity activities for state collection of UI contributions (taxes). Similar to the BAM survey, the Tax Performance System evaluates the quality of state UI tax operations. A sample of activity for each major tax function is examined including the collections operation and the field audit unit. Tax operations in the states employ a variety of tools including information sharing and audits to detect and recover unreported contributions. All states audit a sample of employers to determine if they are properly reporting their employees and paying correct amounts of contributions.

On November 20, 2009, President Obama signed Executive Order 13520: “Reducing Improper Payments and Eliminating Waste in Federal Programs”. This Executive Order requires identification of the Federal programs with the highest dollar value or majority of government-wide improper payments, which are called high-priority programs. Due to its size, the UI program has been identified as a high-priority program. While states strive to improve their integrity functions and the Department of Labor has several initiatives to support these state efforts, additional statutory authority and resources are needed to enhance our collaborative efforts and to continue to improve payment accuracy. To this end, the Department transmitted the Unemployment Compensation Program Integrity Act of 2010, or as we call it, the Integrity Act, to Congress on May 11, 2010. The Department estimates this bill would produce PAYGO savings of \$734 million over 5 years, and \$1.642 billion over 10 years. In addition, although not reflected in these estimates, the bill would also produce budgetary savings in the form of further reductions in improper UC payments and higher state unemployment tax collections.

UNEMPLOYMENT COMPENSATION PROGRAM INTEGRITY ACT OF 2010

The Integrity Act consists of several provisions that will reduce erroneous payments of UI, underpayment of employer taxes, and misclassification of employees as independent contractors; it will also improve the collection of overpayments and delinquent contributions.

Specifically, the legislation would provide flexibility to states that want to augment their resources for integrity activities by permitting them to use a portion of recovered overpayments and delinquent contributions specifically for integrity purposes. Under current Federal law, all overpayments of UI benefits and all delinquent payments of UI contributions by employers that are collected by a state must be deposited in the state’s unemployment fund where they may be used only for the payment of UI benefits. The Integrity Act would permit states to use up to 5 percent of each overpayment recovered to augment administrative funding for preventing, detecting, and recovering benefit overpayments. Similarly, states would be permitted to use up to 5 percent of delinquent contributions collected for preventing, detecting, and recovering employer fraud and evasion of required employer contributions, including the misclassification of employees as independent contractors and the identification of employers who attempt to manipulate the taxing provisions to pay less than their fair share of contributions. Having dedicated resources to support integrity activities is critical, given that states are so often faced with difficult choices when deploying resources. When workloads are high, states often divert integrity resources to mission critical functions, such as timely benefit payments to unemployed workers.

Currently, every state assesses penalties on employers who are delinquent in tax payments. The Integrity Act would apply a similar penalty on UI claimants with outstanding fraudulent overpayments and boost resources for integrity activities. It would require states to assess a penalty of not less than 15 percent of the amount overpaid on any claim for benefits that is determined to be due to the claimant's fraud. States would be required to place the penalties collected in a special state fund from which amounts may be withdrawn solely for integrity activities. This would ensure that individuals who have defrauded the system—who are frequently required to do no more than repay the fraudulently received benefits—will be penalized and that the penalty will be used in a way that will result in improved program integrity. While many states currently have these penalty provisions, the amounts received are often used for non-UI purposes. The Integrity Act would offer a state the option of transferring the penalty funds received into its account in the Unemployment Trust Fund for the payment of benefits if the state decides to use the funds for this purpose. With regard to penalty provisions related to claimants, the Department also plans to issue policy guidance and provide technical assistance to states to ensure that claimants are afforded appropriate due process.

The Integrity Act would help prevent overpayments as well by giving employers an incentive to respond timely and adequately to an agency request for information. Employers' state contributions to the fund from which benefits are paid are based in part on benefits paid to their former employees. Each time a payment is made, the benefits are "charged" to an individual employer's account, meaning that the benefits paid are used to calculate the employer's tax rate. Benefits may be "noncharged" when the employer is not at fault for causing the unemployment (e.g., the individual quit work for good personal cause) and thus the benefits paid are not used to calculate the employer's contribution rate. In determining whether an individual is eligible for UI, states rely on information provided by employers. When this information is not received on a timely basis, is inaccurate, or is incomplete, an ineligible individual may receive benefits. States typically detect these improper payments when employers appeal their benefit charges. In many states, when benefit awards are reversed on appeal, contributing employers are non-charged regardless of whether or not the overpayments are recovered. To encourage employers to provide complete, timely, and accurate information about their former employees, this legislation would provide that if the state determines that an overpayment was the employer's fault due to failure to respond timely or adequately to an agency request for information, and that the employer has a pattern of failing to respond timely or adequately to such requests, the state may not relieve the employer's account of the benefit charges.

The Integrity Act would also give states better tools to recover overpayments. The Treasury Offset Program (TOP) is a government-wide debt matching and payment offset system that works by matching delinquent debts owed to various government agencies against Federal income tax refunds. In September 2008, Congress provided states the authority to use the TOP to recover certain UI debts (overpayments of UI benefits and uncollected employer contributions due to fraud), and associated penalties and interest, through offsets from Federal income tax refunds. The Integrity Act would expand the TOP authority to permit recovery of any overpayment incurred due to the individual's failure to report earnings to the UI agency. This addresses overpayments where the individual is at fault, because the individual fails to report earnings for the week of unemployment claimed, yet the state does not choose to classify it as a fraudulent overpayment. Since, in these cases, the individual clearly caused the overpayment and should have known to report the earnings, the Department believes it is appropriate to use TOP to recover the debt. Additionally, the proposal repeals other limitations on TOP usage, including time limitations on the age of debts and the requirement that the state notify the person owing the debt by certified mail. It would also eliminate the restriction limiting recovery of a UI

debt through TOP to when the address on the individual's tax form for a taxable year is an address within the state seeking the offset of the UI debt. In the UI program, many individuals receive UI benefits or employers pay UI taxes to one state while residing in another state. When this is the case, the state owed the UI debt would now be permitted to recover the debt via TOP.

Lastly, the Integrity Act would help states identify overpayments by requiring that the date the individual starts work (that is, the first day of earnings) be included in the information reported by all employers to the State Directory of New Hires, which transmits this information to the National Directory of New Hires (NDNH). State UI agencies have found the state and national directories of new hires to be extremely useful in identifying individuals who continue to claim UI benefits after they have returned to work. However, the effectiveness of this system is limited because not all employers currently report the date on which an individual actually started work, which is critical in determining whether the individual worked while claiming UI benefits. As a result, when reviewing UI claims that were identified via cross match with the new hire directories as potentially being improper payments, states must contact each employer directly to determine the date the individual actually started work. Follow-up on all of these leads is an expensive, time consuming process. In some cases, overpayment investigations may not be pursued because of the lack of this start date. The Department's Office of Inspector General has recommended amending Federal law "to require employers to report a new hire's first day of earnings." The Integrity Act would implement that recommendation.

MISCLASSIFICATION OF WORKERS

Preventing misclassification of workers as independent contractors when they are actually employees is another priority for the Administration. Both ETA and the Department's Wage and Hour Division are currently working with the Vice President's Middle Class Task Force and the Department of Treasury on a multi-agency initiative to develop strategies to address this issue. To support this initiative, the Administration's budget request for FY 2011 includes \$25 million for the Department of Labor, including \$12 million for increased enforcement of wage and overtime laws in cases where employees have been misclassified, and almost \$11 million for ETA to increase the capacity of state UI programs to focus their audits on employers likely to misclassify their employees and to enhance information sharing activities with Federal and state agencies to detect worker misclassification. These funds would provide competitive grants and high performance bonuses to states to improve and reward improved worker misclassification efforts. The Department is actively engaged in exploring new alternatives for addressing worker misclassification as well.

STATE AND FEDERAL EFFORTS TO ADDRESS INTEGRITY

The provisions I have outlined above in the Integrity Act will bolster existing integrity efforts already in place at the state and Federal levels. Because the UI program has exceptionally good data as a result of the BAM sampling process, we can use that data to assess and analyze the root causes of UI improper payments and develop strategies that are targeted to those root causes.

The primary cause of improper payments, approximately 30 percent, is unreported earnings—individuals who return to work and continue to claim benefits. To assist in identifying this type of overpayment, states cross match their payment files with a variety of databases. The most effective cross match is with the NDNH database. The addition of employee start dates to the NDNH, among the Integrity Act provisions, will improve detection and reduce state costs.

The second highest cause of improper payments, approximately 20 percent, are errors related to state determinations concerning the reason an individual became unemployed. Ensuring the state UI agency receives sufficient and timely information from employers upon request would reduce this type of overpayment. To help address this issue, the Department worked with a group of states to pilot the State Information Data Exchange System (SIDES). SIDES will provide a secure electronic data exchange between states and employers with a standard format. This will help improve the quality and timely receipt of information by states. SIDES is now operational in one state with several more expected to join later this year. Several large employers and third-party employer representatives are planning to use SIDES, and additional employers are being recruited.

Identity theft is another area of concern regarding proper benefit payments. To combat this issue, states cross match with databases from several agencies, such as the Social Security Administration and state departments of motor vehicles, to verify the identity of claimants.

States have multiple tools, including offsets from future UI benefits, wage garnishment, monthly payment plans, liens, other legal actions, and interception of lottery winnings or state income tax refunds to recover improper payments. As mentioned before, the Integrity Act would enable states to use TOP to offset additional UI debts against Federal income tax refunds.

With regard to integrity of state UI taxation, the Department has developed software for states to detect employers who try to pay less than their fair share by “dumping” some of their state unemployment tax act (SUTA) liability on the rest of the state’s employers, commonly referred to as “SUTA Dumping”. This “SUTA Dumping” software, including funds for installation, maintenance and support was provided to all states in FY 2005. The Department assists the states with maintenance and support of this software with available resources.

At Congress’ direction, we continue to provide states with resources to support integrity activities. In FY 2009, we issued \$13.5 million in response to supplemental budget requests from 24 states for integrity improvement and anticipate awarding an additional \$10 million in FY 2010. We are also working with the states by sponsoring training conferences, sharing best practices and have provided \$50 million in FY 2010 for the Re-employment and Eligibility Assessment program and special integrity technology grants to address the root causes of UI improper payments.

CONCLUSION

Again, let me thank you for the opportunity to talk to you about the integrity of the UI program. I look forward to working further with the Committee as you consider ways to enhance Federal and state efforts to reduce improper payments in the UI program, including passage of the Integrity Act. I will be glad to respond to any questions you may have.

