Congressional Budget Office
Cost Estimate

March 21, 2023

At a Glance

H.R. 1163, Protecting Taxpayers and Victims of Unemployment Fraud Act

As ordered reported by the House Committee on Ways and Means on February 28, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	-394	-293
Revenues	0	12	80
Increase or Decrease (-) in the Deficit	0	-406	-373
Spending Subject to Appropriation (Outlays)	0	0	0

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	< $2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

The bill would
- Allow states to spend a portion of recovered overpayments of unemployment insurance (UI)
- Change the number of years that states could recover overpaid amounts by reducing benefits
- Repeal funding for program integrity activities in the Department of Labor (DOL)
- Require states to conduct data matching using specific tools to verify UI claimants' identity and eligibility
- Lengthen the statute of limitations for federal criminal fraud charges related to unemployment compensation

Estimated budgetary effects would mainly stem from
- Allowing states to spend a portion of recovered overpayments
- Repealing funding for program integrity activities

Areas of significant uncertainty include
- Projecting recoverable amounts of benefits overpaid by pandemic-related unemployment programs
- Anticipating how DOL would interpret provisions that repeal existing funding for program integrity actions and that would allow states to spend a portion of recovered overpayments

Detailed estimate begins on the next page.

See also *CBO's Cost Estimates Explained*, www.cbo.gov/publication/54437;
How CBO Prepares Cost Estimates, www.cbo.gov/publication/53519; and *Glossary*, www.cbo.gov/publication/42904.

Bill Summary

H.R. 1163 would allow states to pay for program integrity activities with funds they recover from overpayment of unemployment insurance (UI) benefits, including fraud. The bill also would change the period during which states can reduce unemployment benefits in order to recover overpayments. Additionally, the bill would change the handling of fraud for the Pandemic Unemployment Assistance (PUA) program, require states to match claimant information and eligibility using specific tools, and generally extend the statute of limitations to bring federal criminal charges for fraudulently collected unemployment benefits from 5 years to 10 years.

Finally, the bill would repeal section 2118 of the Coronavirus Aid, Relief, and Economic Security Act, as added by the American Rescue Plan Act of 2021 (ARPA), which provided $2 billion in funding for the Department of Labor (DOL) to prevent fraud and improve equitable access and timely payment of benefits for regular and pandemic-related UI programs.

Estimated Federal Cost

The estimated budgetary effect of H.R. 1163 is shown in Table 1. The costs of the legislation fall within budget function 600 (income security).

Table 1.
Estimated Budgetary Effects of H.R. 1163

	By Fiscal Year, Millions of Dollars												
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023-2028	2023-2033
Increases or Decreases (-) in Direct Spending													
Estimated Budget Authority	-400	-13	-18	5	15	17	17	18	21	22	22	-394	-294
Estimated Outlays	0	-223	-161	-43	16	17	18	18	21	22	22	-394	-293
Increases in Revenues													
Estimated Revenues	0	0	*	1	4	7	11	13	14	15	15	12	80
Net Increase or Decrease (-) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit	0	-223	-161	-44	12	10	7	5	7	7	7	-406	-373

* = between zero and $500,000.

Basis of Estimate

CBO assumes that the bill will be enacted around the beginning of August 2023. Estimated outlays are based on historical patterns for existing and similar activities.

Background

The permanent UI system is a joint federal-and-state program that provides temporary weekly benefits (consisting of regular benefits and, in economic downturns, extended benefits) to qualified workers who are unemployed through no fault of their own. Funding for the program is drawn from payroll taxes imposed on employers by the states and by the federal government. Within the limits set by the federal government, states set eligibility criteria and benefit amounts, and states provide the funding for all regular UI and half of extended UI benefits. The federal government funds states' administrative activities and the other half of extended UI benefits. Both the benefits paid by states and the revenues from state employer payroll taxes are recorded in the Unemployment Trust Fund (UTF) on the federal budget. CBO treats recoveries of fraudulent and other overpayments as offsetting receipts (or reductions in direct spending) that are credited to the states' UTF for state-funded benefits or to the Treasury for federally funded benefits.

Over time, CBO expects that states will maintain a balance in their UTF accounts, so that changes in benefits paid will be offset by changes in revenues collected. For example, when CBO estimates spending from state accounts would increase (for activities such as spending recovered overpayments on program integrity), we also estimate that deposits of state payroll taxes in those accounts over the following years also would increase. Those increases in revenues lag the increased spending by a few years. On net, CBO expects that changes in revenue would not completely offset changes in spending, because paying additional taxes for unemployment insurance would reduce the base of income taxes and other payroll taxes. That is, gross collections would be partially offset by a loss of other receipts.

Laws enacted in 2020 and 2021 temporarily extended benefits to additional people, increased benefit amounts, and extended the duration of benefits. Those temporary programs, including PUA, Pandemic Emergency Unemployment Compensation (PEUC), Federal Pandemic Unemployment Compensation (FPUC), and Mixed Earners Unemployment Compensation (MEUC), which terminated on September 6, 2021, were fully funded by the federal government. Additionally, the federal government temporarily funded all of extended UI benefits (instead of half), and the first week of regular UI benefits.

The states identify overpayments when they determine that beneficiaries have received a payment, or a portion of a payment, to which they are not entitled. Some overpayments are identified as fraud; the definition of fraud for the regular UI program varies from state to state but generally requires that an individual has knowingly concealed facts to obtain or increase benefits. Under current law, recoveries of regular and state-funded extended unemployment benefits are deposited into a state's UTF account.

Direct Spending

Various provisions in H.R. 1163 would affect direct spending in different ways. On net, CBO estimates that enacting the bill would decrease direct spending by $293 million over the 2023-2033 period, as shown in Table 2.

Table 2.
Estimated Changes in Direct Spending Under H.R. 1163

	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023-2028	2023-2033
By Fiscal Year, Millions of Dollars													
Increases or Decreases (-) in Direct Spending Outlays													
Allow States to Spend Recovered Overpayments of Regular and Extended UI Benefits													
Estimated Outlays	0	4	11	17	18	19	19	19	20	21	22	69	170
Allow States to Spend Recovered Overpayments of Pandemic Unemployment Benefits													
Estimated Outlays	0	6	9	4	2	1	1	*	*	*	0	22	23
Change the Handling of Fraud Under the PUA Program													
Estimated Outlays	0	2	3	0	0	0	0	0	0	0	0	5	5
Repeal Program Integrity Funding Under ARPA													
Estimated Outlays	0	-200	-150	-50	0	0	0	0	0	0	0	-400	-400
Change Benefit Offset Periods													
Estimated Outlays	0	-35	-34	-14	-4	-3	-2	-1	1	1	*	-90	-91
Total Changes													
Estimated Outlays	0	-223	-161	-43	16	17	18	18	21	22	22	-394	-293

* = between zero and $500,000; ARPA = American Rescue Plan Act of 2021; PUA = Pandemic Unemployment Assistance; UI = unemployment insurance.

Allow States to Spend Recovered Overpayments of Regular and Extended UI Benefits. H.R. 1163 would permanently allow states to spend 5 percent of whatever overpayments of regular and extended UI benefits they recover on program integrity activities. CBO expects that DOL also would allow states to spend the portion of recovered regular UI and extended benefits that were exclusively funded by the federal government during the pandemic, and this estimate incorporates that assumption.

CBO expects that states that spend recovered amounts would need to increase employment taxes to maintain a positive balance in their UTF accounts. Not all states would spend those amounts because of the need to raise payroll taxes if they did, but CBO cannot generally determine which states would or would not spend those funds. Given that uncertainty, we estimate that about half of the states would spend recovered amounts from regular and extended UI overpayments. On that basis, CBO estimates that enacting this provision would increase direct spending by $170 million over the 2023-2033 period. That increase in spending would be partially offset by an increase in revenues, discussed below.

Allow States to Spend Recovered Overpayments of Pandemic Unemployment Benefits. H.R. 1163 would allow states to retain and spend 25 percent of recovered overpayments that were identified as fraudulent under pandemic-related programs, along with amounts recovered from overpayment of regular UI and extended benefits that were federally funded during the pandemic. Those funds would be used for program integrity activities. Under current law, recoveries of federally funded benefits are ultimately credited back to the federal government and are not deposited into the states' UTF accounts. Therefore, CBO expects that allowing states to retain and spend recovered amounts that they otherwise could not use would result in all states undertaking these activities. States would only be allowed to retain amounts recovered after the bill is enacted and within 10 years of the date an overpayment was made.

Data from DOL shows that by the end of fiscal year 2022, states had identified roughly $3 billion in fraudulent overpayments for FPUC, PUA, and PEUC. States have recovered about $130 million so far. Using that information and the recovery of similar overpayments of temporary unemployment benefits paid from 2008 through 2013, CBO estimates that roughly $100 million will be recovered between 2024 and 2031 and that states would keep (and spend) about $23 million (or 25 percent) of the amounts recovered over the 2023-2033 period. Because that $23 million would have been retained by the federal government, enacting this provision would increase direct spending.

Change the Handling of Fraud Under the PUA Program. The bill would change the way fraud is handled for purposes of the PUA program. Rather than requiring states to handle fraud in the manner used for the Disaster Unemployment Assistance program, which is uniform across all states, H.R. 1163 would require states to use the procedures for identifying fraud and disqualifying claimants in accordance with state laws for regular unemployment compensation.

CBO cannot determine whether the change would allow states to identify additional cases of people who collected benefits fraudulently in the past. CBO expects that states would require additional administrative funding to change their methods for identifying and processing potentially fraudulent payments. Under current law, DOL has the authority to fund those activities for pandemic-related programs using existing authorities and appropriations. Using information from DOL, CBO estimates that the department would provide $5 million in additional funding to states to administer the PUA program, increasing direct spending by the same amount over the 2023-2033 period.

Repeal Program Integrity Funding Under ARPA. The bill would repeal the section of ARPA that provided funding for program integrity activities for unemployment insurance. Using information from DOL, CBO estimates that $400 million of the funds provided for that purpose will remain unobligated by the beginning of August, the assumed enactment date. On that basis, CBO estimates that repealing that section of law would decrease direct spending by $400 million over the 2023-2033 period.

Change Benefit Offset Periods. Under current law, states must recover overpayments of FPUC, MEUC, and PEUC benefits by reducing recipients' benefits over the subsequent three-year period. The PUA program does not limit the number of years over which states can reduce benefits to recover overpayments.

H.R. 1163 would change the length of time during which states can recover overpayments of those pandemic unemployment benefits to 10 years following the overpayment. Based on the recovery history for regular UI benefits, CBO estimates that enacting the provision would decrease direct spending by $91 million over the 2023-2033 period.

Require States to Undertake Certain Program Integrity Initiatives. The bill would require states to use certain data-matching and analytical tools to assess the validity of UI claimant information. CBO expects that the requirement would not significantly affect the amount of benefits paid or recovered because states already use most of those data sets or their equivalent to verify claimants' identity and eligibility.

Spending of Criminal Penalties. H.R. 1163 would increase collections of criminal penalties by an insignificant amount; those collections would be credited to the Crime Victims Fund and spent without further appropriation. The penalties are discussed in the next section. CBO estimates that direct spending from that fund would increase by an insignificant amount over the 2026-2031 period.

Revenues

Several provisions of H.R. 1163 would affect revenues. On net, CBO estimates that enacting the bill would increase revenues by $80 million over the 2023-2033 period.

Allow States to Spend Recovered Overpayments of Regular and Extended UI Benefits. The bill would permit states to retain and spend a portion of recovered overpayments, which would, on net, decrease balances in the states' UTF accounts. As a result, CBO expects that states would increase their employer payroll taxes. CBO estimates that enacting this provision would increase revenues by $80 million over the 2023-2033 period.

Extend the Statute of Limitations for Federal Criminal Fraud Charges. Section 6 would extend the statute of limitations for federal criminal fraud charges related to unemployment compensation from 5 years to 10 years. That change would not affect state laws or rules governing the recovery of overpayments. CBO estimates that the extension would increase revenues from criminal penalties by an insignificant amount after 2026. (Those penalties are credited to the Crime Victims Fund and spent without further appropriation.)

DOL's Office of Inspector General estimates that there have been more than 500 convictions for criminal fraud related to UI benefits since March 2020. Neither that office nor the

Department of Justice will generally be able to initiate fraud cases related to pandemic-related UI compensation after 2025 because of the current five-year statute of limitations.

Extending that period to 10 years would allow federal investigators and prosecutors more time to pursue cases that could result in additional successful prosecutions after 2025. Those prosecutions, in turn, could result in the collection of additional criminal penalties (and subsequent spending from the Crime Victims Fund) or the recovery of additional benefits paid fraudulently (those recoveries are classified as offsets to mandatory spending.)

The additional amounts that may be collected by the government within the next decade, on net, are highly uncertain and, in CBO's estimation, would likely be small. Most federal convictions for fraud do not include the assessment of fines, and monetary penalties or amounts intended for restitution may not ultimately be collected. Moreover, the government's enforcement resources are limited and the additional time required to investigate and prosecute UI fraud cases that otherwise would be beyond the statute of limitations may come at the expense of other enforcement actions, which could result in the government's forgoing restitution payments or collections of criminal or civil penalties or damages.

Uncertainty

The amount that states would recover from overpayments of pandemic-related unemployment benefits, either under current law or under the bill is uncertain. CBO's estimates of future recoveries are based on current data. States are still identifying overpayments and discerning whether they were obtained fraudulently, so the amount of overpayments susceptible to recovery could be larger than what is apparent today. Additional investigations would be necessary to establish that payments were the result of fraud, and then further effort to recover any of those amounts. Ultimately, recoveries from those programs are likely to be a small percentage of total suspected fraud.

The amount of recoveries from pandemic unemployment programs also is uncertain because of the nature of the benefits. Those programs' benefits were substantially larger than regular UI benefits, and they were disbursed over a short time. In addition, the PUA program provided benefits to workers who were not previously covered by the UI system and who are not covered under current law. Some of the methods that states use to recover overpayments in the regular UI program—such as reducing future benefits or reducing income tax refunds—would probably be ineffective for recovering fraudulently received benefits. Therefore, the proportion of such amounts established and recovered would be significantly lower than recoveries of regular UI benefits, but the magnitude of that difference is uncertain.

CBO expects that under the bill, DOL would allow states to spend 5 percent of recovered overpayments of regular and extended UI benefits exclusively funded by the federal government along with 25 percent of recovered fraudulent overpayments of those same benefits. Whether DOL would interpret that language the same way that we did is unclear.

Additionally, H.R. 1163 repeals some funding for program integrity and administrative activities for pandemic-related unemployment programs. Because DOL has the authority to fund similar activities for the same programs under laws that would not be repealed by the bill, DOL could provide funding to partially or fully replace the amount of repealed funds.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 3.

Table 3.
CBO's Estimate of the Statutory Pay-As-You-Go Effects of H.R. 1163, the Protecting Taxpayers and Victims of Unemployment Fraud Act, as Ordered Reported by the House Committee on Ways and Means on February 28, 2023

	By Fiscal Year, Millions of Dollars												
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023-2028	2023-2033
	Net Increase or Decrease (-) in the Deficit												
Pay-As-You-Go Effect	0	-223	-161	-44	12	10	7	5	7	7	7	-406	-373
Memorandum:													
Changes in Outlays	0	-223	-161	-43	16	17	18	18	21	22	22	-394	-293
Changes in Revenues	0	0	0	1	4	7	11	13	14	15	15	12	80

Increase in Long-Term Net Direct Spending and Deficits

CBO estimates that enacting H.R. 1163 would not increase net direct spending by more than $2.5 billion in any of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting H.R. 1163 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2034.

Mandates

Rescinding unobligated balances that were provided by the American Rescue Plan Act of 2021 to make grants to states and territories for program integrity activities would reduce funds used by states and territories to comply with existing duties to prevent and to investigate UI fraud and overpayments. Under the Unfunded Mandates Reform Act (UMRA), a mandate occurs only when a provision would reduce or eliminate the amount of an authorization of appropriations. Thus, rescinding funds already provided would not impose intergovernmental or private-sector mandates as defined in UMRA.

The additional authorities granted by the bill to states and territories to retain and spend a portion of UI fraud and overpayment recoveries would be beneficial and not a mandate.

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