

Congress of the United States

Washington, DC 20510

July 29, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue NW
Washington, D.C. 20210

Dear Secretary Scalia,

We are writing to you to ask for assistance in combating instances of organized crime attempting to exploit and undermine the stability of the unemployment system and delay benefits. This coordinated attack is overwhelming capacity and leaving too many Americans struggling to obtain the relief they desperately need in a timely manner.

Workers across Nevada and throughout our nation are facing an unprecedented economic crisis because of the COVID-19 pandemic. Millions¹ were forced to turn to outdated and underfunded unemployment state systems to protect and provide for their families during this crisis. As you know, we in Congress, passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which the President signed into law on March 27, 2020, to provide relief for those impacted by the economic fallout of the pandemic. The CARES Act expanded unemployment benefits and created Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), Federal Pandemic Unemployment Compensation (FPUC), and other federal relief programs to provide a lifeline to these workers in need across our country. Four months later, and with FPUC benefits expected to expire at the end of this month, many in need across the country are *still* waiting for assistance. The timely distribution and administration of benefits has been mixed, as unemployment offices across the country continue to be overwhelmed and displaced workers are frustrated and frightened that the benefits they should be eligible for still have not come. Making matters worse, many are unable to reach their local unemployment offices for help.

One barrier to getting people the help they need is the persistence of coordinated and organized fraud on state unemployment systems. This appears to be a coordinated, intentional effort by a group of criminal actors to game the system and undermine our unemployment offices' ability to quickly and accurately process legitimate eligible claims. In Nevada, the Department of Employment, Training, and Rehabilitation (DETR) has identified over 100,000² applications flagged for potential fraud and that number is rising. They recognize this as an organized and

¹ U.S. Dept. of Labor, Bureau of Labor Statistics, "The Employment Situation – June 2020," available at https://www.dol.gov/newsroom/economicdata/empsit_06052020.pdf.

² Declaration of Kimberly Gaa, Administrator for the Employment Security Division, NV Department of Employment, Training, and Rehabilitation (July 2020), available at <https://www.scribd.com/document/468269877/Declaration-of-Employment-Security-Division-Chief-Kimberly-Gaa-DETR-Lawsuit>

coordinated attack because of the number of flags, including the volume, IP addresses, and the unrealistic speed with which these applications were completed and submitted. Still, many others of those flagged are indeed legitimate applicants who may be missing information, faced some barrier with the system or process, or may have incorrectly completed one minor piece of their application.

DETR is trying to do its due diligence and fulfill its federal obligations through verifying applicants on the front end, but it is limited in staff and technical capacity to adjudicate each claim in a timely manner. The Second Judicial District Court of the State of Nevada has ordered³ DETR to expedite paying outstanding claims, putting further pressure on the system to effectively verify and process claims. The pressure to accurately verify eligibility of claimants is critical but takes time that many eligible families no longer have. Stopping fraud on the front end is easier than recovering fraud after payment is distributed, but this should not be allowed to become an excuse for significantly delaying or failing to pay legitimate claims to individuals in need.

Furthermore, countless Nevadans have reported calling DETR daily and are repeatedly unable to get through to a live person for assistance. DETR has reported to our offices that phone lines are jammed because of persistent coordinated robocalls blocking up the phone lines. These robocalls are designed to undermine the system and slow the agency's capacity to fight this crime and prevent them from focusing on adjudicating and disbursing critical relief to legitimate claimants. In Nevada, it takes nearly 1 hour for an adjudicator to accurately process a single claim. Every minute wasted responding to persistent and organized criminal attacks adds to the delay of unemployment agencies' abilities to process legitimate claims.

This issue is not unique to Nevada alone. States across the country⁴ are reporting similar issues. We appreciate the Department's Office of Investigator General looking into this matter but we need more guidance and assistance to help combat this organized attack on state unemployment systems so that we can get back to focusing on distributing legitimate claims to the people who need this aid right now. We request the Department of Labor (DOL) to provide a briefing by August 14th on what efforts have been taken to date and what future actions are planned to help resolve this issue. In addition, we request answers to the following:

1. Are you aware of the extent of coordinated and mass organized criminal fraud targeted at the unemployment system and expanded benefits provided in the CARES Act? If so, what is the Department doing to combat this threat, at either the state or federal level?

³ Second Judicial District Court of the State of Nevada in and for the County of Washoe Order of Mandate, Case CV20-00755, "AMETHYST PAYNE et al v STATE of NEVADA" (July 2020), available at <https://www.washoecourts.com/>.

⁴ NY Times, "Feds Suspect Vast Fraud Network Is Targeting U.S. Unemployment Systems (May 2020), available at <https://www.nytimes.com/2020/05/16/us/coronavirus-unemployment-fraud-secret-service-washington.html>.

2. Will you publicly acknowledge this threat and issue guidance on how state agencies can effectively and appropriately combat coordinated and organized fraud to ensure states can process legitimate claims quickly and effectively?
3. What technical assistance or resources can the Department provide to help agencies build capacity to combat organized crime and allow adjudicators to focus on processing legitimate claims efficiently?
4. Will you commit to holding state unemployment agencies harmless for disbursement of payments if they are able to demonstrate a concerted effort to verify claimants to the best of their abilities given the unique haste and circumstances surrounding this crisis?
5. What will you do at a national level to coordinate efforts to isolate, respond, and contain the instances of organized crime on unemployment agencies across the country?
6. How will you ensure that efforts to prevent fraud do not cause delays for legitimate claimants seeking unemployment benefits?

Ultimately, we all want workers to be able to safely return to work again, and for our economy to work for everyone. However, it is clear that these benefits are still vital in states like Nevada, where the tourism and entertainment economies have been devastated, and COVID-19 is rising at a rate faster than ever.

States alone do not have the bandwidth to process both an historic and unprecedented demand for benefits while simultaneously combating coordinated and organized crime designed to exploit and undermine the stability of the unemployment administration systems. We need the Department of Labor to assist state agencies to ensure the integrity and stability of the system and that those Americans in dire need for relief are able to get the aid they so desperately need as efficiently and quickly as possible. This is an issue that affects all of us, undermines our national unemployment response, and states cannot do this alone. We need your help.

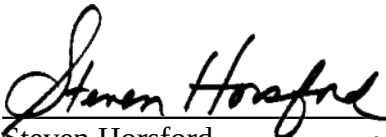
Sincerely,



Catherine Cortez Masto
United States Senator




Jacky Rosen
United States Senator



Steven Horsford
Member of Congress



Susie Lee
Member of Congress



Dina Titus
Member of Congress