

**ATTESTATION REPORT  
OF THE  
NEBRASKA DEPARTMENT OF LABOR  
JULY 1, 2020, THROUGH JUNE 30, 2021**

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**Issued on December 14, 2021**

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NEBRASKA DEPARTMENT OF LABOR

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## NEBRASKA DEPARTMENT OF LABOR

### BACKGROUND

The Nebraska Department of Labor (Department) is charged with helping Nebraskans prosper through responsible workforce services that connect the State's employers to educated and skilled workers through a service delivery network of public and private partners.

The Department is organized into eight divisions: The Commissioner of Labor; Administrative Services; Finance; General Counsel; Labor Market Information; Reemployment Services; Safety; and Unemployment Insurance. The Department delivers services through one administrative office in Lincoln and career centers in Alliance, Beatrice, Columbus, Fremont, Grand Island, Hastings, Lexington, Lincoln, McCook, Nebraska City, Norfolk, North Platte, Omaha, Scottsbluff, Sidney, and York.

#### **Commissioner of Labor**

The Commissioner of Labor is the chief executive officer for the Nebraska Department of Labor, appointed by the governor and confirmed by the Legislature. The office is responsible for oversight of all department divisions, as well as the public information office and process improvement personnel. In addition to the duties prescribed by statute, the Commissioner serves on boards, commissions, and task force entities as determined by the governor.

#### **Office of Administrative Services**

The Office of Administrative Services coordinates and administers the following divisions: Information Technology; Human Resources; and Facilities and Buildings.

#### **Finance**

The Finance division provides services to programs administering numerous Federal grants, in addition to cash-funded programs and General Fund appropriations. The Office of Financial Services supports, operates, and maintains Department financial management systems; oversees budget preparation, financial reporting, coordination of long-term Department financial needs, and preparation and oversight of the Cost Allocation Plan; administers accounts payable, contracts, and grant management; prepares fiscal impact statements, coordinates and resolves audit procedures and issues; completes Unemployment Insurance financial reports; coordinates the procurement of agency goods and services; manages surplus property and property insurance; maintains facility plans, building inventory, usage records, space plans, construction requests and documentation; coordinates facility lease and custodial agreements; and monitors for compliance with Federal grants, State statutes, and agency rules and regulations, as well as compliance with generally accepted accounting principles.

#### **General Counsel**

The Office of General Counsel provides legal and legislative services to the Commissioner, Department divisions, and agency boards, including legal services for all programs of the Department; hearings on unemployment benefits and tax appeals; the Benefit Accuracy Measurement (BAM) program, which reviews the payment and denial of unemployment benefits; programs relating to labor law, contractor registration, and employee classification; and the Workforce Innovation and Opportunity Act monitoring program.

#### **Labor Market Information**

The Labor Market Information division provides a variety of information products and manages various Federal grants. The office delivers labor market information, which is the applied science of collecting, analyzing, reporting, and publishing economic activities to describe and predict the relationship between labor demand and supply. This data is used to describe a local area's economic picture, which impacts social, fiscal, technological, and economic policies; employer hiring and other business decisions; allocation of funds by policy makers; individual career choices; educational programs; and the amount of government assistance individuals receive.

#### **Reemployment Services**

The Reemployment Services division provides direct services to employers and job seekers statewide through American Job Centers and Department locations throughout the state. The division also has grant management and

## NEBRASKA DEPARTMENT OF LABOR

### **BACKGROUND**

(Concluded)

reporting responsibilities for a variety of Federal employment and training grants, including Wagner-Peyser Employment and Re-employment services; Workforce Innovation and Opportunity Act statewide administrative activities; Rapid Response programs and WARN (Worker Adjustment and Retraining Notification Act) notices; Trade Adjustment Act programs; Worker Opportunity Tax Credit and Foreign Labor Certification; Nebraska Worker Training Program; Greater Nebraska Workforce Innovation and Opportunity Act program delivery; Jobs for Veterans State Grants program; and other discretionary grants awarded through the Employment and Training Administration.

#### **Office of Safety**

The Office of Safety administers the On-Site Safety and Health Consultation program, which encourages businesses to provide safe work environments through collaboration between Department inspection staff and business owners and managers.

#### **Unemployment Insurance**

The Unemployment Insurance - Benefits division is responsible for administering unemployment insurance benefits operations in accordance with Nebraska Employment Security Law. Responsibilities include the processing and payment of benefits to unemployed workers. Located within the division are several integrity-related programs, including the Benefit Payment Control Unit, which detects and collects both non-fraudulent and fraudulent overpayments. The unit establishes overpayment and collects by offsetting payable benefits, negotiating repayment agreements, court restitution, or State and Federal income tax intercepts.

The Unemployment Insurance-Tax division is responsible for administering the tax and wage systems, as described in the Nebraska Employment Security Law. The division's duties include determining new employer liability and processing transfers of unemployment insurance accounts; collecting and processing employer tax and wage reports and delinquent payments of combined tax; auditing employers to ensure compliance; investigating allegations of system abuse and enforcing compliance; and resolving employment issues that prevent benefit claim processing.

Source: Nebraska Blue Book 2020-21

NEBRASKA DEPARTMENT OF LABOR

KEY OFFICIALS AND DEPARTMENT CONTACT INFORMATION

Nebraska Department of Labor Executive Management

Name	Title
John Albin	Commissioner
Kim Schreiner	Controller ( <i>Resigned October 22, 2021</i> )
Katie Thurber	Legal Counsel
Angela Hansen Kruse	Administrative Services Director
Scott Hunzeker	Research Administrator
Bradley Pierce	Reemployment Services Director
Andi Bridgmon	Unemployment Insurance Director

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## NEBRASKA DEPARTMENT OF LABOR

### SUMMARY OF COMMENTS

During our examination of the Nebraska Department of Labor (Department), we noted certain deficiencies and other operational matters that are presented here. The following comments are required to be reported in accordance with *Government Auditing Standards*: Comments #3, #4, #5, and #6, which are considered to be significant deficiencies, and comments #1 and #2, which are considered to be material noncompliance and/or material weaknesses.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. **Accounting Issues:** The Department did not have procedures to ensure accounting records were recorded accurately in the State's accounting system. The financial schedule required material adjustments due to incorrect journal entries and a lack of adequate procedures to reconcile the Department's separate tax system (TMS) and benefit system (GUS) to the State's accounting system to ensure activity was reflected properly. We noted nearly \$1.3 billion in errors for the fiscal year ended June 30, 2021.
2. **Unemployment Insurance Benefit Payments:** The Department did not have adequate procedures to ensure unemployment benefit payments were proper. Our random sample of 60 payments questioned costs of \$17,412, a 53.87% error rate, which estimates potential dollars at risk for fiscal year 2021 to be \$341,096,555. We also noted \$1,007,264 of questioned costs during other testing procedures. Issues noted were as follows:

**Ineligible Payments to Inmates:** We identified 35 inmates who received payments during the fiscal year ended June 30, 2021. Of the 35 inmates identified, we tested the claims for the 10 highest-paid inmates and noted \$64,966 and \$34,899 paid in fiscal years 2021 and 2020, respectively, while the inmates were incarcerated.

**Benefits Paid to Deceased Claimants:** Nine claimants received benefit payments, totaling \$70,286 and \$1,034, during fiscal years 2021 and 2020, respectively, after the claimants had died. At the time of our testing, the Department had failed to identify that two of these claimants were deceased. The Department started investigations of the remaining seven claimants; however, those investigations were not undertaken timely.

**Improper Unemployment Benefits Paid to State Employees:** We identified \$87,973 in improper unemployment benefits paid to Nebraska State employees for 23 of 77 claimants tested. We also noted several instances of the banking information in the benefit system not agreeing to that in the State's EnterpriseOne (E1) accounting system, which could be indicative of a third party fraudulently filing a claim impersonating the State employee. We contacted one of these employees, who stated that he had not filed a claim and was unaware of someone having filed a claim using his identity. The address in the benefit system was not his current address. Benefits paid on this claim totaled \$11,687.

**Benefits Paid to Claimants Under the Age of Sixteen:** We selected six individuals younger than 16 years of age to test. For all six individuals tested, payments were neither reasonable nor allowable. Job searches for one claimant included concrete mixer truck driver, journeyman plumber, and truck driver. A concrete mixer truck driver requires a commercial driver's license (CDL), and the minimum age to obtain a CDL in Nebraska is 18 years old (intrastate only); however, the claimant was only 15 years old when the claim was filed.

**Adjudication Issues:** Because the Department lacked adequate controls, several claimants tested may have been ineligible to receive benefits. For example, one claimant was paid \$4,754 in fiscal year 2021, despite responding that she had quit her job, and case notes stated that the claimant did not provide good cause for quitting and, therefore, should be disqualified. Another claimant was paid \$16,700 in fiscal year 2021; however, the employer responded that the claimant was no longer showing up to scheduled shifts, and hours were available for the claimant to work.

## NEBRASKA DEPARTMENT OF LABOR

### SUMMARY OF COMMENTS

(Continued)

Six claimants tested did not complete the work search requirements properly, but they still received benefit payments, totaling \$16,256, for those weeks in fiscal year 2021.

Fifteen claimants tested had wages that met the criteria for the quarterly wage crossmatch; however, for six of these claimants, no investigation was created, and the investigation was not worked timely for the other nine claimants. Those nine investigations had not been completed by the time we conducted our fieldwork. The 15 claimants were paid \$62,198 for those quarters.

Three claimants had investigations, and the Department determined that their claims may have been fraudulent; however, because the investigations were not completed timely, benefit payments continued to be made. Total payments made on these claims were \$18,022 and \$34,612 in fiscal years 2021 and 2020, respectively.

***Pandemic Unemployment Assistance (PUA) Issues:*** Requests for documentation to verify employment/self-employment for PUA claimants were not sent timely, and identity verification for the majority of PUA claimants was not completed as required. On January 8, 2021, the U.S. Department of Labor (USDOL) provided new guidance requiring individuals to submit documentation substantiating employment or self-employment; however, most PUA claimants were not made aware of this requirement until May 2021. The USDOL also required states to have procedures for identity verification by January 26, 2021. According to the Department, PUA payments after December 27, 2020, were run through its identity verification software on July 19, 2021, almost six months after required. Further, the Department was unable to show that the claimants tested by the APA were run through the identity verification software. Therefore, it appears that, as of August 24, 2021, the Department did not perform identity verification procedures for continuing PUA claims. The amount of continuing PUA payments made for the weeks ended after December 27, 2020, totaled \$28,613,524. For five claimants tested, the claimant either did not provide self-employment or employment verification, and/or the Department did not perform identity verification procedures.

***Short-Time Compensation (STC) Claimants and Claimants with Excessive Wages:*** Short-Time Compensation (STC) is a voluntary program in which an employer can enroll to assist in averting layoffs by allowing employers to reduce employees' hours while also permitting employees to receive prorated unemployment benefit payments. We noted that several members of upper-level management received benefits despite their wages increasing. This does not appear to have been in accordance with the program's objectives.

We also noted issues with 10 claimants who had over \$55,000 in wages; however, their wages were not reported, investigations were not worked timely, and overpayments were not established. One employer responded to the Department on November 11, 2020, that the claimant was still employed, the claimant had not filed for benefits, and the claim was likely fraudulent. Nevertheless, a payment for \$1,040 was still processed. Another employer responded on November 11, 2020, that the claimant was still employed and the claim was fraudulent. Per the case notes in the benefit system, the Department identified this as fraud on May 18, 2021, over six months later. However, payments were still made on this claim through June 21, 2021. Payments, totaling \$21,280, were made on this claim in fiscal year 2021.

***Untimely Resolution to Bank Account Fraud Investigations:*** We identified 17 claims as high risk because a single bank account was used by 10 or more claimants. During our review, we noted that investigations started by the Department were not completed timely. Payments of \$11,087, \$113,937, and \$1,010 were made on these claims in fiscal years 2020, 2021, and 2022, respectively.



NEBRASKA DEPARTMENT OF LABOR

SUMMARY OF COMMENTS

(Continued)

***Duplicate Benefit Payments:*** Four of 20 individuals tested received improper payments, totaling \$50,959, due to the Department making payments from multiple programs for the same benefit week or duplicating payments for the same program during a week, neither of which is allowed. For three of the four claimants, the Department had failed to establish an overpayment in the system, or the overpayment balance that was established was incorrect.

***Maximum Benefit Amount (MBA) Not Correctly Calculated:*** For one of 60 claimants tested, the MBA was not calculated properly, leading to overpayments of \$358.

***Inaccurate Social Security Numbers:*** We noted that the Social Security numbers (SSN) were not correct in the benefit system for five individuals. Three of these individuals were paid from the Pandemic Unemployment Assistance (PUA) program, not from regular Unemployment Insurance (UI) or Pandemic Emergency Unemployment Compensation (PEUC). The Department failed to identify that these individuals had wages during the base period due to the SSN being wrong in the benefit system.

***Improper Employer Charges:*** For seven claimants tested, we noted that the employers were not charged properly.

3. ***Lack of Timely Response for Audit Requests:*** The Department failed to comply with Neb. Rev. Stat. § 84-305 (Cum. Supp. 2020). The Department did not respond to audit requests within the required three business days and/or did not provide the information requested within the required three weeks after the initial request.
4. ***Inadequate Review of Unemployment Insurance Administrative Expenditures:*** The Department did not obtain or review adequate documentation to support that payments were proper. We requested timesheets related to four contract payments, and each payment had errors. As the Department was not reviewing timesheets, it is likely that additional errors could have occurred. We also noted technology services allocated to various programs without adequate support.
5. ***Nebraska Training and Support Cash Fund:*** Adequate documentation was not on file for two worker training grant payments tested. We noted alcohol purchases, unreasonable meal charges, and reimbursements for expenses prior to the grant agreement being signed.
6. ***Payroll Lacked Segregation of Duties:*** The Department did not have an adequate segregation of duties or compensating controls over payroll. We also noted that one employee had the ability to approve her own timesheet.
7. ***State Vehicle Usage:*** An employee drove a State vehicle home without the required approval, and a Transportation Services Bureau (TSB) rental was not cancelled timely. Excessive mileage and incomplete travel logs were also noted.
8. ***Employment Services Monitoring:*** The Department paid United Way of the Midlands as a contractor rather than as a subrecipient and did not follow Federal requirements for subrecipients.
9. ***WIOA Subrecipient Monitoring:*** A subrecipient payment tested did not have adequate documentation to support compliance with Federal regulations.
10. ***Untimely Refund:*** One claimant had taxes intercepted, totaling \$1,200, that should have been refunded in May; however, they were not refunded until July, after the Auditor of Public Accounts (APA) had inquired about the delay.

NEBRASKA DEPARTMENT OF LABOR

SUMMARY OF COMMENTS

(Concluded)

11. ***Fines & Penalties Incorrectly Coded:*** The Department incorrectly recorded fines, totaling \$45,762, to the Temporary School Fund instead of to the Common School Fund.

***Changes to Banking Information – NE Works:*** Pursuant to American Institute of Certified Public Accountants (AICPA) Auditing Standards AU-C Section 265B.A17, we also noted another matter involving internal control and its operation that we have reported to management of the Department in a separate early communication letter, dated August 3, 2021, for the fiscal year ended June 30, 2021, Annual Comprehensive Financial Report. During our review of the process for changing banking information in NEworks, the Department's case management system for various Federal programs, including unemployment insurance, we noted a lack of controls to ensure that such changes were proper and accurate. More detailed information is provided in the August 3, 2021, letter available on the APA's website (<https://auditors.nebraska.gov/>).

*Department Response: As stated in the August 3, 2021 response, the Department has implemented new procedures to address this risk. The system is designed so that the individual filing the claim is the person primarily responsible for inputting and changing banking information. If the claimant requires assistance in inputting or changing banking information, the process requires at least two Department employees be involved in changing banking information.*

More detailed information on the above items is provided hereinafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Department.

Draft copies of this report were furnished to the Department to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this report. Where no response has been included, the Department declined to respond. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

1. Accounting Issues

The Department lacked procedures for ensuring that accounting records were recorded accurately in the State's accounting system. Monies for the Unemployment Compensation Fund are maintained outside of the State Treasurer in separate bank accounts. Journal entries are prepared to record the activity to the State accounting system, EnterpriseOne. The financial schedule required material adjustments due to incorrect journal entries and a lack of adequate procedures for reconciling the Department's separate tax system (TMS) and benefit system (GUS) to the State's accounting system to ensure activity was reflected properly. In addition, the Department did not have adequate procedures to ensure that accounting entries were completed timely. The Department did not complete posting entries for the fiscal year ended June 30, 2021, until August 26, 2021.

The table below summarizes nearly \$1.3 billion in errors for the fiscal year ended June 30, 2021. The APA proposed adjustments, and the Department agreed. However, an attestation examination is not designed to test all transactions; therefore, due to the limitations of an examination and the lack of adequate controls, there is a significant risk that additional material errors went undetected.

Description		Dollar Error
1	Transfers in and out were overstated due to 1) interfund transfer activity not being eliminated; or 2) transfer accounts being used instead of the proper expenditure or revenue accounts.	\$ 729,038,024
2	An erroneous entry performed in fiscal year 2020 was reversed in fiscal year 2021, causing an understatement in benefits. An adjustment was necessary to reflect benefits properly and to record the adjustment as a beginning balance adjustment.	296,242,317
3	Accounts receivable and claims payable were understated by \$93 million due to an error in fiscal year 2020 that had not been corrected for fiscal year 2021 balances in the accounting system.	93,242,673
4	The Department performed a tax write-off in the accounting system that overstated activity in six account codes, including \$45 million in operating expenditures.	83,074,828
5	The Department received funds from the Coronavirus Relief Fund (CRF) in September 2021 for benefits incurred during fiscal year 2021. Therefore, the unrecorded revenue should have been included in the financial schedule as being due from the CRF.	40,343,463
6	First weeks Unemployment Insurance (UI) benefits were reimbursed by the Federal government. The Department overdrew Federal funds and, when the monies were returned, revenues were not properly decreased; instead, a transfer out was recorded. Furthermore, \$13 million was for benefits incurred during fiscal year 2020 and should have been recorded as a beginning balance adjustment instead of current year revenues.	18,952,915
7	The Department received funds for Federal Emergency Relief but recorded the receipt as a transfer in. Because the monies had not been obligated or spent, the balance should have been recorded as a liability to the Federal government.	14,786,798
8	Emergency Unemployment Insurance Stabilization and Access Act (EUISAA) Federal grant funding was recorded in the Reed Act fund instead of in the Unemployment Insurance Administration fund, causing misstatements in several lines of the financial schedule, including transfers, revenue, and expenditures.	11,458,658
9	Short-time compensation reimbursement was inaccurately recorded to the Federal fund instead of to the Unemployment Compensation (UC) fund, where the benefits were paid; therefore, an entry was necessary to correct the Federal fund. The Department made a correction to the UC fund when the issue was brought up during testing.	4,704,845
10	Construction in progress was inaccurately recorded as operating expenditures.	3,233,779
11	Cash and revenues were overstated for an erroneous entry made in the accounting system for the UC fund. The bank reconciliation was not performed properly to identify the error timely in order to correct the accounting system.	353,910
<b>TOTAL</b>		<b>\$ 1,295,432,210</b>

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

1. **Accounting Issues** (Concluded)

During the process of testing transactions, we identified other transfer activity, totaling \$6.6 million, that was not recorded properly, but we were unable to determine the proper correcting entry. Additionally, several balances in payables and receivables appear to have been misstated on the financial schedule. As stated in the Independent Accountant's Report, we were unable to express an opinion on whether the financial schedule was accurate due to the numerous material errors and the risk of unrecorded activity, which attestation procedures may not identify.

Good internal control and sound business practices require procedures to ensure that accounting transactions are accurate and complete.

Without such procedures, there is an increased risk that material misstatements may occur and remain undetected.

We recommend the Department establish procedures to ensure accounting records are recorded properly in the accounting system, including reconciliation procedures to ensure accounting records reflect accurately the activity and appropriate balances of the separate UI systems (TMS & GUS). Additionally, we recommend the Department implement procedures to ensure accounting entries are completed in a timely manner.

*Department's Response: The Nebraska Department of Labor recognizes that incorrect journal entries created issues with the Department's records compared to the State's accounting system. Our discussions with the APA indicate that all corrective entries have been made, and there are no other known errors that need to be corrected. The Department stresses that the accounting issues were journal entry errors that did not result in questioned costs or improper expenditures. The Department is currently in the process of hiring a new Controller. As noted above the Controller during the period of this audit is no longer with the Department. The new controller will be directed to work closely with DAS accounting to review existing practices and make sure that all funds are entered in the correct manner.*

2. **Unemployment Insurance Benefit Payments**

The Department paid \$633 million in unemployment insurance (UI) benefits to 96,090 claimants between July 1, 2020, and June 30, 2021.

Our testing included a random sample of 60 payments, totaling \$32,321, and questioned costs for those payments tested were \$17,412. Total benefit payments for the fiscal year ended June 30, 2021, were \$633,184,621. Based on the sample tested, the dollar error rate for the sample was 53.87% (\$17,412/\$32,321), which estimates the potential dollars at risk for fiscal year 2021 to be \$341,096,555. We also questioned costs, totaling \$270,022, for the same individuals on other payments.

In addition to the \$17,412 questioned costs for the 60 random sample payments, we also noted \$1,007,264 of questioned costs during other testing procedures. Similar findings were noted during the previous audit.

The table below summarizes the questioned costs:

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

	Questioned Costs		
	FY 2020	FY 2021	FY 2022
Ineligible Payments to Inmates	\$ 34,899	\$ 64,966	\$ -
Benefits Paid to Deceased Claimants	1,034	70,286	-
Improper Unemployment Benefits Paid to State Employees	10,332	87,973	-
Benefits Paid to Claimants Under the Age of Sixteen	-	24,007	-
Random Sample, including:			
-Inadequate Controls			
-Adjudication Issues			
-Weekly Certification Issues			
-Wage Crossmatch Issues			
-Pandemic Unemployment Assistance (PUA) Issues	99,639	187,795	-
Short-Time Compensation (STC) Plan Issues	45,080	66,840	-
Claimants with Excessive Wages	27,172	127,302	-
Untimely Resolution to Bank Account Fraud Investigations	11,087	113,937	1,010
Duplicate Benefit Payments	-	50,959	-
Maximum Benefit Amount (MBA) Not Correctly Calculated	-	-	358
<b>Total</b>	<b>\$ 229,243</b>	<b>\$ 794,065</b>	<b>\$ 1,368</b>
<b>Grand Total All Fiscal Years</b>			<b>\$ 1,024,676</b>

***Background of the Pandemic Funding for Unemployment Benefits***

Due to the COVID-19 pandemic, on March 13, 2020, the President of the United States issued a “Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak.” Additionally, Congress passed the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Continued Assistance to Unemployed Workers Act of 2020 (CAA), and the American Rescue Plan Act (ARPA) to provide Federal funding for unemployment compensation to all states, as well as to ease restrictions on the unemployment compensation program. The State of Nebraska ended its participation in those programs after the week ended June 19, 2021. Below is a summary of each program.

- Federal Pandemic Unemployment Compensation (FPUC): For weeks ended April 4, 2020, through July 25, 2020, the FPUC program added \$600 to each week of benefits paid. For weeks ended January 2, 2021, through June 19, 2021, the FPUC program was reduced to an additional \$300 to each week of benefits paid. An individual eligible for at least \$1 for one week of UI benefits would receive the additional stimulus of \$600 or \$300.
- Pandemic Emergency Unemployment Compensation (PEUC): For weeks ended April 4, 2020, through June 19, 2021, if a claimant had exhausted all of his or her regular UI benefits, and the regular UI claim had a benefit year end date after July 1, 2019, then the claimant was eligible to receive PEUC benefits. The claimant needed to meet other UI eligibility requirements, such as able and available and work search requirements. The claimant’s weekly benefit amount (WBA) was the same as the WBA on the previous regular UI claim.
- Pandemic Unemployment Assistance (PUA): PUA was available for individuals who were not eligible for regular UI benefits, which included self-employed individuals. To be eligible for PUA, the claimant had to certify that he or she was unemployed, partially unemployed, or unable or unavailable to work due to the COVID-19 pandemic. The program was effective from weeks ended January 27, 2020, through June 19, 2021.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

- Lost Wages Assistance (LWA): On August 8, 2020, the President instructed the Federal Emergency Management Agency (FEMA) to make available other needs assistance for lost wages. In Nebraska, Lost Wages Assistance (LWA) was payable for claimants for the weeks ended August 1, 2020, through September 5, 2020. Recipients of LWA received a \$300 stimulus in addition to the UI benefit payment if the UI benefit payment for the week was at least \$100.

Our procedures noted the following:

***Ineligible Payments to Inmates***

Inmates are not eligible to receive UI benefits because they are not able and available to work in accordance with Neb. Rev. Stat. § 48-627(3)(f) (Cum. Supp. 2020). During testing, we identified 35 inmates who received benefit payments during the fiscal year ended June 30, 2021. Of the 35 inmates identified, we selected the 10 highest-paid inmates to test in detail and noted the following issues:

- While incarcerated, all 10 inmates tested received payments, totaling \$64,966 and \$34,899 in FY 2021 and FY 2020, respectively.
- Four of the 10 inmates tested did not have an investigation or other judicable issues created in the benefit system for payments received during their incarceration.
- For six of 10 inmates who had an investigation or other judicable issues created, all six issues were adjudicated incorrectly.
- The APA identified an additional 25 individuals who received payments, totaling \$39,533, while incarcerated.
- Claimant #1 below filed for PUA and received more than the minimum weekly benefit amount (WBA) of \$173. He did not provide the Department with documentation substantiating his income within 21 calendar days of filing but continued to receive payments at the higher rate of \$306. The improper rate was paid for 39 weeks before the Department established an overpayment of \$5,187 in December 2020. Furthermore, the claimant should have been denied all of the benefits during his incarceration for \$23,934.

Claimant	FY 2021 Gross Amount Paid While Incarcerated	FY 2020 Gross Amount Paid While Incarcerated	Sentence Begin Date / Release Date	1 <sup>st</sup> / Last Week Benefits Paid While Incarcerated	Observations
Claimant #1	\$ 10,932	\$ 13,002	1/16/2020 - 12/25/2020	3/7/2020 - 11/28/2020	Three separate investigations were created in the system for the incarceration, but payments were incorrectly allowed.
Claimant #2	8,288	-	11/18/2009 - *	6/27/2020 - 10/10/2020	An investigation for the incarceration was created in May 2020, but payments were incorrectly allowed.
Claimant #3	7,465	2,742	12/6/2018 - 10/8/2020	6/13/2020 - 9/12/2020	An investigation for the incarceration was created in March 2021, disqualifying benefits for January 2021-2022, which were not the dates paid during incarceration.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Claimant	FY 2021 Gross Amount Paid While Incarcerated	FY 2020 Gross Amount Paid While Incarcerated	Sentence Begin Date / Release Date	1 <sup>st</sup> / Last Week Benefits Paid While Incarcerated	Observations
Claimant #4	7,049	9,449	9/25/2003 - *	3/28/2020 - 11/14/2020	No investigations for the incarceration were created.
Claimant #5	5,133	-	8/13/2020 - *	8/15/2020 - 1/2/2021	No investigations for the incarceration were created.
Claimant #6	6,622	-	3/7/2019 - 4/27/2021	7/4/2020 - 10/3/2020	No investigations for the incarceration were created.
Claimant #7	4,944	-	1/27/2021 - *	1/30/2021 - 4/3/2021	An investigation for the incarceration was created in January 2021, but payments were incorrectly allowed.
Claimant #8	4,903	346	7/17/2009 - 5/4/2020	2/8/2020 - 5/2/2020	The Department established an overpayment on 11/12/2020. No investigations for the incarceration were created.
Claimant #9	4,900	9,360	1/24/2020 - 8/8/2020	5/2/2020 - 8/1/2020	An investigation for the incarceration was created in January 2021, but payments were incorrectly allowed.
Claimant #10	4,730	-	1/19/2021 - *	2/20/2021 - 4/24/2021	Four investigations for the incarceration were created in January 2021, three were allowed and one denied. However, the denied investigation was not for the weeks paid during incarceration.
<b>Totals</b>	<b>\$ 64,966</b>	<b>\$ 34,899</b>			

\*Still incarcerated as of audit fieldwork.

Neb. Rev. Stat. § 48-627 (Cum. Supp. 2020) provides, in relevant part, the following:

*An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:*

\* \* \* \*

*(3)(a) He or she is able to work and is available for work.*

\* \* \* \*

*(f) An inmate sentenced to and in custody of a penal or custodial institution shall be considered unavailable for work for purposes of this section[.]*

20 CFR § 625.6(e)(1) states the following:

*In the case of a weekly amount determined in accordance with paragraph (e) of this section, based only on the individual's statement of earnings, the individual shall furnish documentation to substantiate the employment or self-employment or wages earned from or paid for such employment or self-employment or documentation to support that the individual was to commence employment or self-employment on or after the date the major disaster began. In either case, documentation shall be submitted within 21 calendar days of the filing of the initial application for DUA.*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Good internal control requires procedures to ensure that inmates do not receive UI benefits while incarcerated.

Without such procedures, there is an increased risk of the Department disbursing unallowable UI payments.

***Benefits Paid to Deceased Claimants***

We tested 13 claimants who were paid UI benefits after their date of death. Nine of the claimants' payments were for benefit weeks after the date of death, totaling \$1,034 and \$70,286 in FY 2020 and FY 2021, respectively. The Department lacked adequate procedures to identify deceased individuals prior to benefits being paid.

Claimant	Date of Death	Benefit Weeks Paid after Date of Death	FY 2020 Payments	FY 2021 Payments	Observations
Claimant #1	2/16/2013	6/27/2020 - 7/18/2020	\$ -	\$ 3,092	The investigation was started but not completed for 106 days.
Claimant #2	8/8/2014	4/4/2020 - 10/3/2020	-	16,671	The APA identified a counterfeit driver's license was submitted to the Department. The Department did not identify the counterfeit license. Furthermore, there was no indication that the Department was aware the individual was deceased as of audit fieldwork.
Claimant #3	6/27/2019	6/20/2020 - 6/27/2020	-	2,319	The investigation was started but not completed for 120 days.
Claimant #4	9/27/2020	11/28/2020 - 6/19/2021	-	12,683	The investigation was started but not completed as of audit fieldwork.
Claimant #5	4/15/2020	6/27/2020 - 10/24/2020	1,034	11,578	The investigation was started but not completed as of audit fieldwork.
Claimant #6	5/17/2020	5/23/2020 - 6/20/2020	-	4,210	The investigation was started but not completed for 142 days.
Claimant #7	11/12/2020	11/21/2020 - 1/16/2021; 3/6/2021 - 5/15/2021	-	9,937	There was no indication of the Department being aware that the individual was deceased as of audit fieldwork.
Claimant #8	2/5/2021	2/13/2021 - 4/24/2021; 5/1/2021	-	5,676	The investigation was started but not completed as of audit fieldwork.
Claimant #9	8/7/2020	8/29/2020 - 10/24/2020	-	4,120	An investigation initiated on 12/4/2020 identified the individual as deceased. The claim was denied, and an overpayment was established.
<b>Total</b>			<b>\$ 1,034</b>	<b>\$ 70,286</b>	

Neb. Rev. Stat. § 48-627 (Cum. Supp. 2020) states the following:

*An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:*

\* \* \* \*

(3)(a) *He or she is able to work and is available for work.*



NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Good internal control requires procedures to ensure that only eligible claimants receive UI benefits.

Without such procedures, there is an increased risk of inappropriate or fraudulent payments.

***Improper Unemployment Benefits Paid to State Employees***

For the fiscal year ended June 30, 2021, the APA identified \$87,973 in improper unemployment benefits paid to Nebraska State employees for 23 of 77 claimants tested. The claimants tested did not report all State wages to the Department. The Department's process for identifying State employees who were also receiving benefit payments appeared to be not only time consuming but also ineffective.

Active State workers were eligible for unemployment if their State work hours were reduced, they were terminated from other employment, or their hours from another job were reduced. In these instances, the employee was required to report State wages in order to determine the claimant's unemployment benefit. The APA compared the list of unemployment benefit claimants to the State's employee management system (Workday) to identify State employees who had also received unemployment benefits during the fiscal year ended June 30, 2021. In total, the APA identified 911 State employees who received UI benefits during the fiscal year, and we selected 77 of those employees to test.

We also noted instances of the State employee's bank account in the State's accounting system (E1) not agreeing to the bank account in the Department's benefit system. Bank accounts that did not match could indicate that a third party had fraudulently filed a claim impersonating the State employee. The APA contacted Employee #2, as shown in the table below, who stated that he neither filed the UI claim nor received any benefit payments.

Employee	State Agency	Number of Weeks Overpaid	Gross Benefits Overpaid during FY 2021 (Questioned Costs)	Bank Account in Benefit System Agreed to E1	Observations
#1	DHHS	15	\$ 7,045	No	
#2	Military	19	11,687	No	No wages had been reported by Military for this employee. The employer response questionnaire was sent to an employer other than Military, and that employer reported that the individual was never employed. The Department did not perform further procedures to follow up on the response.
#3	DHHS	21	8,106	No	This employee was tested during the FY 2020 audit, and the APA communicated the issue to the Department on 7/31/2020; however, the claimant continued to receive payments through 12/19/2020.
#4	DHHS	6	5,725	No	This employee was tested during the FY 2020 audit, and the APA communicated the issue to the Department on 8/3/2020; however, the claimant continued to receive payments on 8/3/2020, 8/10/2020, and 9/17/2020.
#5	DHHS	3	3,120	No	DHHS responded to the employer questionnaire and stated that the individual was still working, but the Department did not perform further procedures to follow up on the response.

## NEBRASKA DEPARTMENT OF LABOR

**COMMENTS AND RECOMMENDATIONS**

(Continued)

**2. Unemployment Insurance Benefit Payments** (Continued)

<b>Employee</b>	<b>State Agency</b>	<b>Number of Weeks Overpaid</b>	<b>Gross Benefits Overpaid during FY 2021 (Questioned Costs)</b>	<b>Bank Account in Benefit System Agreed to EI</b>	<b>Observations</b>
#6	Supreme Court	4	1,308	No	An Intrastate Quarterly Wage Crossmatch investigation was not created in the benefit system, and the Department had sent out no wage audit request at the time of testing.
#7	Supreme Court	2	880	No	
#8	DHHS	3	2,400	Yes	This employee was tested during the FY 2020 audit, and the APA communicated the issue to the Department on 7/31/2020; however, the claimant continued to receive payments on 8/27/2020 and 9/17/2020.
#9	Veteran's Affairs	11	4,229	Yes	An overpayment was established for \$621 on 12/16/2020 but had not been collected as of our testing.
#10	Corrections / DHHS	24	9,161	Yes	Overpayments were established on 5/7/2021 for \$8,151, with penalties of \$728, but were not collected as of testing.
#11	DHHS / NDOT	10	8,524	Yes	This employee was tested during the FY 2020 audit, and the APA communicated this issue to the Department on 8/3/2020; however, the claimant continued to receive payments on 9/24/2020.
#12	Military	2	900	No	
#13	DHHS	2	806	Yes	
#14	DHHS	1	202	Yes	
#15	DHHS	5	2,045	Yes	An overpayment was established for \$440 on 11/12/2020 but was not collected as of testing.
#16	Agriculture	2	1,932	Yes	
#17	DHHS	1	836	No	This employee was tested during the FY 2020 audit, and the APA communicated the issue to the Department on 8/3/2020; however, the Department had not established any overpayments at the time of testing.
#18	Game & Parks	1	268	Yes	
#19	Corrections	1	148	Yes	
#20	DAS	8	6,501	Yes	
#21	DHHS	21	10,570	No	The APA also noted 18 weeks of questionable unemployment payments made during FY 2020 for \$10,332.
#22	DHHS	1	1,040	Yes	This employee was tested during the FY 2020 audit, and the APA communicated the issue to the Department on 8/3/2020; however, the Department had not established any overpayments at the time of testing.
#23	DAS	1	540	Yes	
			<b>\$ 87,973</b>		

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Neb. Rev. Stat. § 48-625(1) (Cum. Supp. 2020) states the following:

*Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.*

Neb. Rev. Stat. § 48-628.02 (Cum. Supp. 2020) provides, in relevant part, the following:

*(1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:*

*(a) Wages in lieu of notice or a dismissal or separation allowance;*

*(b) Vacation leave pay, including that received in a lump sum or upon separation from employment;*

*(c) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;*

*(d) Retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; or*

*(e) A gratuity or a bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law.*

*(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributed.*

A good internal control plan requires adequate procedures to identify improper or questionable benefits for further investigation and proper resolution.

Without such procedures, there is an increased risk of improper or fraudulent payments being made.

***Benefits Paid to Claimants Under the Age of Sixteen***

We tested six claimants under the age of 16 years old. For all six claimants tested, the benefit payments were not reasonable or allowable in accordance with State and Federal laws. All six individuals tested received benefits from the PUA program. Below is a table of the individuals' CY2019 and CY2020 wages versus benefits received:

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Claimant	Age of Claimant for 1 <sup>st</sup> Week Paid	CY 2019 Wages	CY 2020 Wages	FY 2020 Benefits Paid	FY 2021 Benefits Paid	Observations
Claimant #1	14 years	\$ 425	\$ 480	\$ 5,414	\$ 4,038	Work search requirements for the weeks ending 7/18/2020-8/8/2020 were not completed, but benefits were still paid for \$2,492, which are questioned costs.
Claimant #2	14 years	-	-	-	17,017	Work search requirements for the weeks ending 7/18/2020-7/25/2020, 8/8/2020, and 8/22/2020-10/3/2020 were not completed, but benefits were still paid for \$4,130, which are questioned costs.
Claimant #3	15 years	-	-	10,395	6,622	Work search requirements for the weeks ending 7/18/2020-8/8/2020, 8/22/2020-8/29/2020, and 9/12/2020-10/3/2020 were not completed, but benefits were still paid for \$4,130, which are questioned costs.
Claimant #4	14 years	-	6,028	774	9,621	Work search requirements for the weeks ending 7/18/2020-8/22/2020 were not completed, but benefits were still paid for \$3,438, which are questioned costs.
Claimant #5	15 years	2,165	1,814	-	12,883	The claimant was scheduled to start work on 5/22/2020, but the pool was not opened because of COVID-19. However, the claimant was paid benefits for weeks ending 2/8/2020-5/23/2020 prior to his regularly schedule resume date. \$7,568 of benefits were paid for these weeks, which are questioned costs.
Claimant #6	15 years	986	1,578	10,058	20,523	The claimant received \$1,136 in wages during the period 10/1/2020 to 12/31/2020; however, the claimant did not self-certify the wages, and no review was performed by the Department to ensure benefits were properly reduced. \$2,249 of benefits were paid during this time period, which are questioned costs.

**Note:** The period used to determine the Weekly Benefit amount for PUA benefits is based on the calendar year.

Claimants #2 and #3 were sisters, and both reported on their respective applications that they worked for their father. Each also reported on her application that she made \$2,000 a quarter prior to the pandemic. Claimant #3 documented the following job searches: concrete mixer truck driver, journeyman plumber, and truck driver. A concrete mixer truck driver – as well as truck drivers in general – requires a Commercial Driver’s License (CDL). The minimum age to obtain a CDL in the State of Nebraska is 18 years (intrastate only). Based on the young ages of the claimants (14 and 15 years old) and certification for the job searches performed, these claims appear to have been fraudulent and should have been identified and denied by the Department. Both sisters were paid a total of \$34,034.

An individual could be eligible for PUA if his or her employment was disrupted due to the pandemic. However, the likelihood of someone under the age of 16 having disrupted employment, especially when his or her wages were minimal, seems remote.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Neb. Rev. Stat. § 48-627 (Cum. Supp. 2020) states the following, as is relevant:

*An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:*

*(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports at an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate . . . .*

Title 219 Nebraska Administrative Code (NAC) 4-004.B provides the following:

*A claimant, for whom the work search requirement has not been waived pursuant to 219 NAC 4(007), shall be required to make an active and earnest search for work that is reasonably calculated to result in the earliest possible reemployment of the claimant. An active and earnest search for work shall include five reemployment activities each benefit week. At least two of a claimant's five reemployment activities each benefit week shall be applications for permanent employment. Applications for employment shall be made in a method accepted by the employer.*

Attachment 1(C)(7)(a) of the U.S Department of Labor's Unemployment Insurance Program Letter (UIPL) No. 16-20 (April 5, 2020) says that, in order to be eligible for the PUA program, an individual has to be unemployed, partially unemployed, unable to work, or unavailable for work due to COVID-19.

Good internal control requires procedures to ensure that claimants are eligible, and benefit payments are proper.

When such controls are not in place, there is an increased risk of inappropriate/fraudulent payments being made.

***Adjudication Issues***

***Inadequate Controls***

In response to the high number of claims filed, the Department removed or changed the following system controls. The issue was noted during the previous audit and had not been corrected for the current period tested:

- Effective April 2, 2020, the Department allowed numerous issues that would normally be adjudicated, or reviewed by staff, to be approved automatically and processed by the system. These included, but were not limited to, the following:
  - The claimant's reason for separation was anything other than Quit or Discharge (such as Still Employed, Still Working Full-time, Other, etc.), and the last employer did not respond to the Department's inquiry regarding the nature of the separation.
  - The employer's reason for separation was any reason other than Quit or Discharge.
  - If the reason for separation reported by both the claimant and the employer did not agree, the claim was allowed if the reason listed by either party included, but was not limited to, one of the following:
    - Still Employed
    - Other
    - Suspended from Work
    - Still Working Full-Time

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

In response to the Governor's executive orders, the Department changed the following system controls:

- The work search requirements were waived effective between March 15, 2020, through July 12, 2020. During testing, we noted that the benefit system did not require claimants to complete work search requirements until after the week ended October 3, 2020.
- For claims filed between March 15, 2020, and August 1, 2020, the requirement to charge employers was waived if the separation of employment was due to COVID-19. However, the Department did not charge any employers during this period regardless of the reason for the separation.
- The Department reviewed only the last separation of employment during the base period (the one-year period upon which the benefit payments are calculated) for claims filed on or after March 15, 2020, instead of reviewing all of the separations during the base period.

The benefit system was able to create investigations for various circumstances, including inconsistencies in email addresses, claimant addresses, etc. When an investigation was created, payments stopped only if the investigation was closed, and the benefits were denied. We noted that the majority of investigations were not undertaken timely, which resulted in fraudulent payments that could have been stopped sooner.

One investigation performed by the Department was the quarterly wage crossmatch, which checked a claimant's wages during the quarter that the claimant received benefits. We noted several instances of a claim meeting the criteria for initiating an investigation; however, investigations were not initiated, or the results were not reviewed timely.

During fiscal year 2021, the Department established \$50,748,768 in overpayments. Of that amount, \$11,507,347 had been written off, cancelled, or waived as of November 8, 2021. Additionally, as of November 8, 2021, 593 cases, totaling \$2,126,163 from claims filed prior to June 30, 2021, were flagged as potentially fraudulent in the benefit system and in need of review by the Department for a final determination.

Due to the lack of controls, there was an increased risk for fraudulent claims and improper benefits being paid during the fiscal year tested.

Moreover, during testing, the Department stated that Neb. Rev. Stat § 48-636 (Cum. Supp. 2020) precluded the making of redeterminations for errors noted on claims tested. This makes it all the more important that the Department have adequate procedures in place to ensure that claims are processed properly.

During our testing of 60 random payments, we noted adjudication issues with the following:

**Issues Regarding Adjudication of Employer Responses**

When a claimant files for UI benefits, the Department sends a "Request to Employer for Separation Information" to the claimant's previous employers to provide information, such as beginning and ending dates of employment, reason for termination, and whether vacation, severance, or other wages were paid after termination. Employers are required to respond within 10 days after the mailing or electronic transmission of such a request in accordance with Neb. Rev. Stat. § 48-632(1) (Cum. Supp. 2020). Additionally, per the Governor's Executive Order No. 20-26 (June 2, 2020), the Department was required to adjudicate only the last separation from a claimant's employment for claims filed on or after March 15, 2020, to 30 days after the lifting of the COVID-19 state of emergency.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

For seven claimants tested, the most recent separating employer did not provide a response to the Department when requested. According to the Department, when an employer does not respond to a request for separation information, another attempt is made, via telephone, mail, etc., to obtain the needed information. There was no documentation that the Department performed follow-up procedures for these seven claimants. Therefore, procedures were not adequate to ensure that the claimant was eligible to receive benefits. All seven of these claims were filed during fiscal year (FY) 2020, but payments were made during FY 2021; therefore, we reviewed the adjudication procedures performed in FY 2020 to verify that eligibility was determined correctly for payments during the fiscal year tested.

The following table details the benefits paid to the seven claimants per the Department's benefit system.

Claimant	Benefit Weeks Ending Paid	FY 2020 Payments	FY 2021 Payments
Claimant #1	4/4/2020 - 9/26/2020	\$ 13,520	\$ 9,920
Claimant #2	4/11/2020 - 9/12/2020	11,064	6,498
Claimant #3	7/4/2020 - 10/10/2020	-	4,754
Claimant #4	5/30/2020 - 9/5/2020	3,970	6,140
Claimant #5	5/9/2020 - 6/19/2021	5,488	10,940
Claimant #6	4/4/2020 - 6/19/2021	13,246	24,776
Claimant #7	6/20/2020 - 6/19/2021	-	23,712

Claimant #3 indicated that he had quit his employment. According to the case notes, the claimant did not provide good cause for quitting and should have been disqualified; however, the claim was still allowed. After discussion with the Department, staff agreed that the claim should have been denied. For Claimant #4, the employer provided a response well after the date the request was sent. That response said that the claimant was "terminated/fired," but no further follow up was performed. For Claimant #7, the Department did not adjudicate the last employer; instead, the Department adjudicated the previous employer. When the APA pointed this out, the Department sent the request to the last separating employer, who responded promptly that the claimant had "resigned/quit." Had the Department followed up properly with the employer/claimant responses, the claimants would likely have been denied benefits. The payments to these three claimants, totaling \$3,970 and \$34,606 in FY 2020 and 2021, respectively, are considered questioned costs.

For an additional seven claimants tested, we noted that the most recent separating employer provided a response that should have required adjudication by Department staff; however, these issues were either incorrectly allowed by an adjudicator or automatically allowed by the system. Six of these claims were filed in FY 2020. Because the claimants received payments during FY 2021, however, we reviewed the adjudication procedures performed to determine eligibility.

The following table shows the benefits paid to the seven claimants per the Department's benefit system.

Claimant	Employer Response	Result	Benefit Paid for Weeks Ending	FY 2020 Payments	FY 2021 Payments
Claimant #8	Terminated due to Theft	Allowed by the System	4/11/2020-10/3/2020	\$ 9,576	\$ 6,972
Claimant #9	Still Employed	Allowed by the System	5/16/2020-6/19/2021	5,227	25,174
Claimant #10	Quit	Not Reviewed	3/28/2020-9/12/2020	10,740	3,829
Claimant #11	Terminated/Fired	Allowed by the System	4/11/2020-11/7/2020	10,944	10,087
Claimant #12	Still Employed	Allowed by Adjudicator	1/2/2021-6/19/2021	-	16,700
Claimant #13	Quit	Not Reviewed	4/18/2020-8/22/2020	11,440	7,120
Claimant #14	Terminated/Fired	Allowed by the System	3/1/2020-3/6/2021	14,400	12,560

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

For Claimant #12, the employer responded that the claimant was no longer showing up to his scheduled shifts, and hours were available for the claimant to work. The claim was still allowed by the adjudicator. For Claimant #11, both the claimant and the employer stated that the claimant lost her job due to illegal drug use. The separation from the employer was automatically allowed by the system. An adjudicator should have reviewed this claim to determine if the claimant was disqualified from UI benefits. Lastly, for Claimant #10, the employer responded that the claimant quit, but this response was not entered into the benefit system, which resulted in the system automatically allowing the claim.

Neb. Rev. Stat. § 48-628.10 (Cum. Supp. 2020) provides the following:

*(1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.*

*(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery while the individual is on the worksite or while the individual is engaged in work for the employer, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer.*

*(3) If the commissioner finds that the individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct.*

Neb. Rev. Stat. § 48-628.12 (Cum. Supp. 2020) states, in relevant part, the following:

*An individual shall be disqualified for benefits:*

*(2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions.*

Good internal control requires procedures to ensure that the Department adjudicates properly each claimant's last separation from employment, as directed by the Governor's executive orders.

Without such procedures, there is an increased risk of not only benefit payments being made to ineligible claimants but also noncompliance with the Governor's executive orders.

**Weekly Certification Issues**

Six claimants tested did not complete the work search requirements properly, but they still received payment for those weeks.

Claimants are required to perform work searches in order to be eligible to receive unemployment compensation benefits under Neb. Rev. Stat. § 48-627 (Cum. Supp. 2020), which states, in relevant part, the following:

*An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:*

*(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports at an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate. The commissioner may, by rule and regulation, waive or alter any of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations if the commissioner finds that compliance with such requirements would be oppressive or inconsistent with the purposes of the Employment Security Law[.]*



NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Further, the Department has also adopted the following rules and regulations related to the work search requirements under 219 NAC 4, which states, in relevant part, the following:

002. *In order to establish his or her availability for work in the job market to which he or she is attached, a claimant shall register for work and engage in an active work search.*

\* \* \* \*

004. A. *In order for a claimant to be “available for work” within the meaning of Neb. Rev. Stat. §48-627(3), a claimant for whom the work search requirement has not been waived pursuant to 219 NAC 4(007) must actively seek work in accordance with the provisions of this Chapter. (See also, 20 C.F.R. §604.5 and 42 U.S.C.A. 503.)*

B. *A claimant, for whom the work search requirement has not been waived pursuant to 219 NAC 4(007), shall be required to make an active and earnest search for work that is reasonably calculated to result in the earliest possible reemployment of the claimant. An active and earnest search for work shall include five reemployment activities each benefit week. At least two of a claimant’s five reemployment activities each benefit week shall be applications for permanent employment. Applications for employment shall be made in a method accepted by the employer.*

Executive Orders No. 20-04 (March 17, 2020), No. 20-14 (April 2, 2020), and No. 20-22 (April 30, 2020) waived the work search requirements, otherwise required under § 48-627 and 219 NAC 4, for claims filed on or after March 15, 2020. Executive Order No. 20-31 (July 6, 2020) reinstated the work search requirements, effective July 12, 2020.

However, the Department did not update its benefit system to require claimants to complete work search requirements when the work search waiver ended on July 12, 2020. Based on the APA’s testing, it appears the issue was resolved after the week ended October 3, 2020.

The following table shows the weeks during which the six claimants tested did not complete the work search requirements and how much the claimants were overpaid for those weeks.

Claimant	Weeks Work Search Requirements were not Completed	FY 2021 Amount Paid	Observations
Claimant #1	10/17/2020	\$ 173	Though certifying that he searched for work, the claimant did not specify the employers he contacted, which was required.
Claimant #2	7/18/2020 - 8/1/2020	1,999	
Claimant #3	7/18/2020 - 10/3/2020	5,208	
Claimant #4	7/18/2020 - 10/3/2020	5,076	
Claimant #5	4/10/2021 - 4/17/2021	1,040	The claimant reported only two work searches for the week ending 4/10/2021 and three work searches for the week ending 4/17/2021. Five job activities are required each week.
Claimant #6	7/18/2020 - 8/1/2020	2,760	

Additionally, Claimant #3 responded “No” to this question: “Other than for reasons that were the direct result of COVID-19, were you able and available to work each day of the week?” On April 5, 2020, the Employment and Training Administration (ETA) Advisory System of the U.S. Department of Labor (USDOL) issued UIPL No. 16-20 (April 5, 2020), which contains the following:

*PUA provides up to 39 weeks of benefits to qualifying individuals who are otherwise able to work and available for work within the meaning of applicable state UC law . . . .*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Section 48-627(3) requires claimants to be able to work and be available for work in order to be eligible for UI benefits.

According to the Department, there was a system issue with the PUA work search in the benefit system, but the issue was resolved beginning in July 2020. However, the claimant selected “No” to being able and available to work for the weeks ending April 25, 2020, through October 3, 2020, which extended well past the date on which the issue was supposedly fixed. Claimant #3 was paid a total of \$7,736 and \$6,880 in FY 2020 and FY 2021, respectively, for the period that “No” was selected as the answer to the question regarding being able and available to work on the weekly certifications.

Good internal control requires procedures to ensure that benefit payments are made in compliance with applicable Federal and State requirements.

Without such procedures, there is an increased risk of improper benefit payments being made in violation of Federal and State requirements.

**Wage Crossmatch Issues**

On May 11, 2020, the ETA Advisory System of the USDOL issued UIPL No. 23-20 (May 11, 2020) to remind states of program integrity functions required for the regular UI program and to provide states with guidance regarding required program integrity functions for the UI programs authorized by Sections 2102 (PUA), 2104 (FPUC), and 2107 (PEUC) of the CARES Act. Included is the requirement to perform a quarterly wage records crossmatch per 20 CFR § 603.23(b) (April 1, 2020), which provides the following:

*The State UC agency must crossmatch quarterly wage information with UC payment information to the extent that such information is likely, as determined by the Secretary of Labor, to be productive in identifying ineligibility for benefits and preventing or discovering incorrect payments.*

According to the Department, a quarterly wage crossmatch was performed. The benefit system checked the claimant against the Department’s wage database to see if a claimant met the criteria for further investigation. If the criteria was met, an investigation was created automatically in the benefit system. The investigation included sending a wage audit request to the employer to obtain the amount of wages earned for each week the claimant was receiving benefits.

For 15 claimants tested, we noted that the claimants met the criteria, but an investigation was either not created or not completed timely.

The following table details the 15 claimants’ wages for the quarter tested, the amount self-certified by the claimant as required, the amount of benefits paid to the claimant for the quarter tested, and the dates of any investigations created.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Claimant	Quarter Tested	Wages for the Quarter	Wages Certified by Claimant	Benefits Paid for the Quarter Tested	Questioned Costs	Date Investigation Created
Claimant #1	1/1/2021 - 3/31/2021	\$ 4,101	\$ -	\$ 6,620	\$ 600	8/12/2021
Claimant #2	7/1/2020 - 9/30/2020	446	-	4,900	1,040	1/14/2021
Claimant #3	10/1/2020 - 12/31/2020	7,910	476	1,063	372	5/13/2021
Claimant #4	1/1/2021 - 3/31/2021	5,808	-	3,764	756	Not Created
Claimant #5	1/1/2021 - 3/31/2021	1,988	720	6,016	600	Not Created
Claimant #6	7/1/2020 - 9/30/2020	8,947	-	8,600	440	1/14/2021
Claimant #7	10/1/2020 - 12/31/2020	3,150	-	2,521	194	5/13/2021
Claimant #8	7/1/2020 - 9/30/2020	2,753	-	2,580	1,720	2/11/2021
Claimant #9	1/1/2021 - 3/31/2021	1,386	-	8,140	1,410	8/11/2021
Claimant #10	10/1/2020 - 12/31/2020	527	-	3,780	420	Not Created
Claimant #11	7/1/2020 - 9/30/2020	3,056	1,099	4,242	815	Not Created
Claimant #12	7/1/2020 - 9/30/2020	5,343	-	1,461	782*	Not Created
Claimant #13	7/1/2020 - 9/30/2020	666	-	3,565	773	2/11/2021
Claimant #14	1/1/2021 - 3/31/2021	5,108	570	2,790	700	8/12/2021
Claimant #15	4/1/2021 - 6/30/2021	6,007	-	2,156	614	Not Created

\*An investigation was created for the week ending 7/11/2020 due to the claimant being flagged in the National Directory of New Hires, not for the system wage crossmatch. However, based on that investigation, the employer responded that the claimant did have a break in wages from 5/16/2020 to 7/23/2020; therefore, the payment for this claimant was not questioned.

Another claimant tested was overpaid \$5,227 for FY 2020 and \$4,896 for FY 2021. Investigations were created on March 9, 2021, for the weeks ended May 16, 2020, through June 27, 2020, and on May 13, 2021, for the weeks ended October 3, 2020, through December 26, 2020. These investigations had not been worked as of August 2, 2021, however. An investigation should have been created also for the weeks ended July 4, 2020, through September 26, 2020, but none was created as of August 2, 2021. Upon the APA's inquiry, the Department sent a wage audit request to the employer on August 25, 2021, and received a response from the employer the following day. Based on the employer's response, the claimant should have been disqualified for the weeks ended May 16, 2020, through August 8, 2020.

Furthermore, on August 31, 2021, the APA inquired with the Department about whether the wage crossmatch was working properly in the system, based on the issues noted with the claimants above. The APA requested documentation that the wage crossmatch was performed for all 60 claimants tested. But the Department did not provide additional documentation that the system was working properly and provided no further response as to why the wage crossmatch investigations had not been created for those claimants noted above.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Good internal control requires procedures to ensure that wage crossmatches are performed, and benefits are paid in compliance with applicable Federal requirements.

Without such procedures, there is an increased risk of improper benefit payments being made in violation of Federal requirements.

Other Adjudication Issues

For three claimants tested, the Department had created investigations due to a variety of factors, including the State having flagged the email address as being potentially fraudulent or the claimant's physical address, email address, or listed phone number being used by multiple other claimants. For each of these claimants, we noted that the Department completed the investigations and made determinations that these claims may be fraudulent due to the claimant not providing identity verification. However, the Department did not work these investigations timely, causing payments to be made before the possibly fraudulent claims were identified.

Claimant	Date Investigation Created	Date of Determination	Weeks Ending Paid	FY 2020 Payments	FY 2021 Payments
Claimant #1	7/17/2020	7/12/2021	4/11/2020 - 10/3/2020	\$ 9,576	\$ 6,972
Claimant #2*	6/8/2020	7/19/2021	3/28/2020 - 8/1/2020	11,356	3,970
Claimant #3	9/10/2020	6/14/2021	3/28/2020 - 10/3/2020	13,680	7,080

\*The Department determined that no overpayments were necessary because the identity verification request was sent on 1/4/2021, and no payments were made to the claimant after this date. However, it would appear reasonable to perform further procedures to determine if payments made prior to the request were fraudulent.

For one PUA claimant tested, the application was filed on May 14, 2020, and the claimant self-certified that he received \$28,000 in self-employment income during calendar year 2019. Therefore, the claimant's weekly benefit amount (WBA) was calculated to be \$268, which is more than the minimum WBA of \$173. In accordance with UIPL No. 16-20, Change 1 (April 27, 2020), Attachment I, PUA claimants were required to provide documentation of self-employment income within 21 days to substantiate the wages earned; otherwise, the WBA was to be reduced to \$173. The claimant did not provide documentation to support his wages, but the Department continued to pay the claimant at the greater WBA. The Department did not adjudicate this issue until December 2020, seven months after the application was filed. The total amount overpaid was \$570 and \$2,185 in FY 2020 and FY 2021, respectively.

Another claimant tested was eligible for regular UI at a WBA of \$318; however, the claimant was paid PEUC instead at only \$304. The claimant was underpaid \$168. The Governor issued Executive Order No. 21-03 (January 22, 2021), which ordered the following:

*Suspend that portion of Nebraska Revised Statute § 48-625 which requires the payment of regular unemployment benefits to an individual for any week of unemployment, if the individual is eligible for a greater PEUC weekly benefit amount pursuant to section 206 of the Continued Assistance Act, subject to the following conditions. In order for the suspension of regular unemployment benefits to occur, the following conditions must apply:*

- 1. The individual has been determined to be entitled to PEUC with respect to a benefit year;*
- 2. The benefit year with respect to which the PEUC eligibility was established (i.e., the parent claim) has expired after the date of the enactment of the Continued Assistance Act;*
- 3. The individual has remaining eligibility for PEUC with respect to such benefit year; and*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

4. *The individual would qualify for regular unemployment compensation in a subsequent (new) benefit year and the weekly benefit amount for regular unemployment compensation in the new benefit year would be at least \$25 less than the weekly benefit amount payable on the individual's PEUC claim.*

According to UIPL No. 17-20, Change 2 (December 31, 2020), an individual may continue to be eligible to receive PEUC as long as he or she meets the requirements in section 206(c)(1) of the Continued Assistance Act. That same document adds the following:

- ii. *Criteria for determining if an individual may continue to receive PEUC when eligible for regular UC in a subsequent benefit year. Individuals may be eligible to continue to receive PEUC instead of regular UC if all of the following criteria are met:*

*Criterion #1: The individual has been determined to be entitled to PEUC with respect to a benefit year;*

*Criterion #2: The benefit year with respect to which the PEUC entitlement had been established (i.e., the parent claim) has expired after the date of the enactment of the Continued Assistance Act (December 27, 2020);*

*Criterion #3: The individual has remaining entitlement to PEUC with respect to such benefit year; and*

*Criterion #4: The individual would qualify for regular UC in a subsequent (new) benefit year and the WBA for regular UC in the new benefit year would be at least \$25 less than the WBA payable on the individual's PEUC claim.*

Lastly, one claimant tested had a vacation payout by his previous employer that was not correctly applied to reduce payments for the week ended March 28, 2020. Per Neb. Rev. Stat. § 48-628.02 (Cum. Supp. 2020), lump sum payments of vacation pay must be prorated in an amount reasonable to such week and reduce benefit payments. The claimant was paid \$420 but should have been paid only \$183 for that week, a difference of \$237.

Good internal control requires procedures to ensure that benefit payments are proper, overpayments are established timely, and claims are reviewed by staff when required.

Without such procedures, there is an increased risk of improper benefit payments and overpayments not being established timely.

***PUA Issues***

The Department did not perform identity verification procedures or obtain self-employment or employment verification for the following five claimants:

Claimant	Self-Employment/ Employment Verification Received	Identity Verification Procedures Performed	Amount Paid after 12/27/2020
Claimant #1	No	No	\$ 11,825
Claimant #2	Yes	No	17,400
Claimant #3	No	No	11,783
Claimant #4	No	No	3,784
Claimant #5	No	No	9,375

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Generally, PUA claimants were not made aware of the requirement to provide verification of employment or self-employment until May 2021, over four months after the required timeframe per the Continued Assistance Act. Furthermore, the APA requested the Department's written procedures for verifying the legitimacy of documentation provided by claimants. The Department explained that there were no specific, written procedures for verifying each different type of documentation that a claimant could provide. Total PUA payments made for the weeks ended after December 27, 2020, through the fiscal year ended June 30, 2021, were \$30,638,698.

The identity verification requirement applied to all PUA claimants who received payment after December 27, 2020. The Department stated that all continuing PUA claims that had received payments prior to December 27, 2020, and continued to receive payments after December 27, 2020, were run through its identity verification software on July 19, 2021. However, in a meeting on August 24, 2021, the Department was unable to provide documentation that the claimants tested had been run through the identity verification software. As of August 24, 2021, the Department had not performed identity verification procedures for continuing PUA claims. The amount of continuing PUA payments made after December 27, 2020, totaled at least \$28,613,524.

On January 8, 2021, the ETA Advisory System of the USDOL issued UIPL No. 16-20, Change 4 (January 8, 2021), to provide States with updated guidance for the PUA program, as amended by the Continued Assistance Act and updated instructions for reporting PUA program activities. That document includes the following language regarding new requirements for individuals to submit documentation substantiating employment or self-employment:

- b. **New Requirement for Individuals to Submit Documentation of Employment or Self-Employment.** Section 241 of the Continued Assistance Act, creates a new requirement for individuals to submit documentation substantiating employment or self-employment . . . .*
  - i. **Filing New Applications for PUA.** Individuals filing a new PUA application on or after January 31, 2021 (regardless of whether the claim is backdated), are required to provide documentation within 21 days of application or the date the individual is directed to submit the documentation by the State Agency, whichever is later. The deadline may be extended if the individual has shown good cause for not submitting documentation under state UC law within 21 days.*
  - ii. **Filing Continued Claims for PUA.** Individuals who applied for PUA before January 31, 2021 and receive a payment of PUA on or after December 27, 2020 (regardless of which week ending date is being paid), are required to provide documentation substantiating employment or self-employment, or the planned commencement of employment or self-employment, within 90 days of application or when directed to submit the documentation by the State Agency, whichever is later. The deadline may be extended if the individual has shown good cause under state UC law.*

In providing guidance regarding acceptable documentation, Attachment 1 of UIPL 16-20, Change 4, rejects reliance solely upon agency records:

*This documentation demonstrates a recent attachment to the labor force and serves as an important tool against fraud by requiring the individual to submit documentation to prove eligibility, rather than have such documentation automatically added to the file based on agency records. As such, states may not rely solely on agency records to satisfy this condition – the individual must submit documentation to the agency to be entitled to benefits.*

- a. **Type of acceptable documentation.** The requirements to submit documentation substantiating employment or self-employment and to submit documentation for a higher WBA are distinct. As described in Section C of Attachment I and in Attachment II to UIPL No. 16-20, Change 1, an individual is already required to submit documentation substantiating wages if the individual is to receive a WBA that is higher than the state minimum WBA. However, the documentation that an individual submits in support of a higher WBA may also be used to satisfy the documentation requirement to substantiate employment or self-employment.*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

*An individual who has not submitted documentation in support of a higher WBA must still provide documentation substantiating employment or self-employment. While documentation to support a higher WBA must demonstrate earnings during the entire look-back period, documentation to substantiate employment or self-employment need only demonstrate the existence of employment or self-employment at some point between the start of the applicable tax year and the date of filing.*

*In general, proof of employment includes, but is not limited to, paycheck stubs, earnings and leave statements showing the employer's name and address, and W-2 forms when available. Proof of self-employment includes, but is not limited to, state or Federal employer identification numbers, business licenses, tax returns, business receipts, and signed affidavits from persons verifying the individual's self-employment. Proof of employment with organizations such as the Peace Corps, AmeriCorps, and educational or religious organizations includes, but is not limited to, documentation provided by these organizations and signed affidavits from persons verifying the individual's attachment to such organizations. Proof of the planned commencement of employment includes, but is not limited to, letters offering employment, statements/affidavits by individuals (with name and contact information) verifying an offer of employment. Proof of the planned commencement of self-employment includes, but is not limited to, business licenses, state or Federal employer identification numbers, written business plans, or a lease agreement.*

*Individuals must present the proof of employment and the state may verify the proof submitted using records the state may have available, such as wage records or state revenue records.*

The Continued Assistance Act also implemented new requirements regarding identity verification of individuals. Attachment 1 of UIPL No. 16-20, Change 4, includes the following language regarding new requirements for States to implement procedures for verifying the identity of individuals receiving PUA program benefit payments:

1. *Verification of Identity (Section 242(a) of the Continued Assistance Act) (new). Section 242(a) of Continued Assistance Act modifies Section 2102(f)(1) of the CARES Act. For states to have an adequate system for administering the PUA program, states must include procedures for "identity verification or validation and for timely payment, to the extent reasonable and practicable" by January 26, 2021, which is 30 days after December 27, 2020 (enactment of the Continued Assistance Act). States that previously verified an individual's identity on a UC, EB, or PEUC claim within the last 12 months are not required to re-verify identity on the PUA claim, though the Department encourages the state to take additional measures if the identity is questioned. Individuals filing new PUA initial claims that have not been through the state's identity verification process must have their identities verified to be eligible.*

Good internal control requires procedures to ensure that verification of identity and employment or self-employment for individuals is performed in compliance with applicable Federal requirements.

Without such procedures, there is an increased risk of improper benefit payments being made in violation of Federal requirements.

***Short-Time Compensation (STC) Plan Issues and Claimants with Excessive Wages***

The Department provided an unemployment benefits program called Short-Time Compensation (STC), which was a voluntary program in which an employer could enroll in to assist in averting layoffs. The program allowed employers to reduce employees' hours while also permitting employees to receive a prorated unemployment benefit payment. The Department was authorized to administer the STC program under Neb. Rev. Stat. §§ 48-607 and 48-672 through 48-683 (Reissue 2010, Cum. Supp. 2020).

In UIPL No. 21-20 (May 3, 2020), the USDOL provided additional background for the STC program as it relates to the COVID-19 pandemic and Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020:



NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

*In the context of re-opening businesses closed temporarily by a pandemic, STC can also serve as a means of bringing most or all of a temporarily laid-off workforce back to the job, even if social-distancing measures, a decline in business, or other factors prevent operating at full staffing levels full time. Specifically, this benefit may be made available to individuals returning to work with reduced hours who worked for the employer prior to the temporary lay-off due to COVID-19. This program preserves employees' jobs and employers' trained workforces during a disruption to the firm's regular business activity by reducing hours of work for an entire group of affected employees, rather than by laying off some employees while others continue to work full time. The STC benefit payment cushions the adverse effect of the reduction in business activity on workers and, by maintaining their connection to their employers, ensures that these workers will be available to resume prior employment when business demand increases.*

As explained above, the primary purpose of the STC program was to assist employers in avoiding laying off their employees while their businesses were experiencing a disruption in normal operations. Within STC agreements, the employer could stipulate groups of employees to participate in the plan. Thus, in accordance with the objectives of the program, the Department should have allowed agreements for groups affected by a disruption in their working schedules. Instead, the Department entered into STC agreements with two employers that allowed upper-level management to participate in the agreements. We observed that these individuals were high-wage earners and did not appear to meet the agreements' decreased-hour requirements; instead, they sometimes earned wages in excess of those in the quarter prior to the start of the agreement.

Employer #1 – STC Agreement

For 16 claimants tested for Employer #1, the STC agreement stipulated a 12%-50% reduction in hours, varying by employee, for the period March 22, 2020, through March 20, 2021. Each of the 16 claimants received a large increase in wages during the fourth quarter (October 1, 2020, through December 31, 2020), and 14 of the claimants continued to receive UI benefit payments during that quarter, which were determined to be questioned costs. Because wages are reported in summary by quarter, we were unable to determine if the benefit weeks paid were allowable and in accordance with the STC agreement. All 16 of these employees were upper-level management at the company, including the President, Vice President, CEO, CFO, etc. It is not reasonable that upper-level management, that received extremely large payments in a benefit quarter, would be included in the agreement with the Department. The likelihood of these employees being laid off would appear to be minimal.

Claimant	CY 2020 Q2 Wages	CY 2020 Q3 Wages	CY 2020 Q4 Wages	FY 2020 UI Benefits Paid	FY 2021 UI Benefits Paid	Questioned Costs for Q4 UI Benefits Paid
Claimant #1	\$ 28,074	\$ 84,580	\$ 4,087,625	\$ 6,560	\$ 6,890	\$ 550
Claimant #2	25,368	75,055	3,230,936	5,740	6,290	660
Claimant #3	20,724	61,339	2,857,978	5,740	6,290	660
Claimant #4	16,304	50,214	1,961,109	-	7,980	-
Claimant #5	15,882	47,726	1,792,762	6,560	6,290	660
Claimant #6	14,179	43,573	1,656,332	6,560	6,290	660
Claimant #7	15,174	45,080	1,436,271	7,380	6,290	660
Claimant #8	14,189	43,693	1,360,506	7,380	4,700	-
Claimant #9	12,735	39,475	771,256	7,380	6,290	660
Claimant #10	9,527	30,251	752,516	7,380	6,290	660
Claimant #11	8,193	25,419	757,105	7,380	5,580	660
Claimant #12	10,472	22,510	528,061	6,560	9,960	1,430
Claimant #13	15,178	23,489	528,719	-	17,558	676
Claimant #14	14,219	21,898	526,793	8,850	7,896	676
Claimant #15	11,095	12,174	514,439	10,660	13,040	2,860
Claimant #16	29,654	34,582	261,166	5,868	4,928	52
<b>Totals</b>	<b>\$ 260,967</b>	<b>\$ 661,058</b>	<b>\$23,023,574</b>	<b>\$ 99,998</b>	<b>\$ 122,562</b>	<b>\$ 11,524</b>



## NEBRASKA DEPARTMENT OF LABOR

## COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)Employer #2 – STC Agreement

For nine claimants from Employer #2, the STC agreement stipulated a 10% reduction in hours for employees during the period March 29, 2020, through October 3, 2020. However, the nine claimants' wages either were not reduced or increased from the first quarter of calendar year 2020 to the end of the calendar year. Because wages are reported in summary by quarter, we were unable to determine if the benefit weeks paid were allowable and in accordance with the STC agreement. Again, all nine of these employees were upper-level management at the company, including the General Manager, Operations Manager, Controller, etc., which did not appear reasonable and in accordance with the purpose of the STC program.

Claimant	CY2020 Q1 Wages	CY 2020 Q2 Wages	CY 2020 Q3 Wages	CY 2020 Q4 Wages	FY2020 UI Benefits Paid	FY2021 UI Benefits Paid	QC FY2020 Benefits Paid	QC FY2021 Benefits Paid
Claimant #1*	\$246,917	\$224,662	\$295,190	\$347,882	\$ 4,508	\$ 8,036	\$ -	\$ 4,816
Claimant #2	68,560	67,129	111,463	89,850	6,440	6,104	6,440	6,104
Claimant #3	54,921	56,917	92,457	76,938	6,440	6,104	6,440	6,104
Claimant #4	41,723	39,823	58,909	58,197	6,440	6,104	6,440	6,104
Claimant #5	51,471	49,834	76,014	76,170	6,440	6,104	6,440	6,104
Claimant #6	52,207	49,941	63,919	78,507	-	12,544	-	12,544
Claimant #7	46,389	44,360	57,986	69,365	6,440	6,104	6,440	6,104
Claimant #8*	43,353	41,512	37,998	67,732	6,440	6,104	6,440	1,332
Claimant #9	41,341	39,563	51,194	56,460	6,440	6,104	6,440	6,104
<b>Totals</b>	<b>\$646,882</b>	<b>\$613,741</b>	<b>\$845,130</b>	<b>\$921,101</b>	<b>\$49,588</b>	<b>\$ 63,308</b>	<b>\$ 45,080</b>	<b>\$ 55,316</b>

\*Claimants #1 and #8 had a 9% reduction in quarter 2 and a 12% reduction in quarter 3, respectively. The reductions appeared reasonable; therefore, these were not included in questioned costs.

Other High-Wage Earners

We tested 10 claimants with wages reported over \$55,000 for the fiscal year ended June 30, 2021. The first table below shows wages by quarter, and the second table shows the questioned costs by quarter.

Claimant	CY2020 Q1 Wages	CY2020 Q2 Wages	CY2020 Q3 Wages	CY2020 Q4 Wages	CY2021 Q1 Wages	CY2021 Q2 Wages
Claimant #1	\$ 363,394	\$ 208,314	\$ 208,018	\$ 215,820	\$ 434,643	\$ 232,167
Claimant #2	43,127	1,085	3,356	531,377	4,188	-
Claimant #3	14,422	15,226	17,442	14,730	11,079	18,990
Claimant #4	75,904	97,540	65,123	-	-	-
Claimant #5	75,061	68,871	58,836	-	-	-
Claimant #6	10,937	8,277	11,774	14,525	12,980	17,366
Claimant #7	48,558	52,977	64,312	2,186	-	-
Claimant #8	15,878	6,317	18,654	15,689	9,839	12,285
Claimant #9	33,843	16,022	18,628	19,068	30,584	16,179
Claimant #10	12,541	12,035	15,434	12,962	13,168	16,410
<b>Totals</b>	<b>\$ 693,665</b>	<b>\$ 486,664</b>	<b>\$ 481,577</b>	<b>\$ 826,357</b>	<b>\$ 516,481</b>	<b>\$ 313,397</b>

## NEBRASKA DEPARTMENT OF LABOR

## COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Claimant	QC CY2020 Q1 for UI Benefits Paid	QC CY2020 Q2 for UI Benefits Paid	QC CY2020 Q3 for UI Benefits Paid	QC CY2020 Q4 for UI Benefits Paid	QC CY2021 Q1 for UI Benefits Paid	QC CY2021 Q2 for UI Benefits Paid
Claimant #1	\$ -	\$ 1,040	\$ -	\$ -	\$ -	\$ -
Claimant #2	-	13,520	4,900	-	-	-
Claimant #3	-	-	8,880	4,400	6,660	5,720
Claimant #4	-	-	1,320	-	-	-
Claimant #5	-	-	1,320	-	-	-
Claimant #6	418	13,234	9,216	5,434	9,174	-
Claimant #7	-	-	-	3,960	-	-
Claimant #8	-	-	7,060	2,640	6,308	6,336
Claimant #9	-	-	-	3,520	9,620	8,140
Claimant #10	-	-	-	3,894	9,620	8,140
<b>Totals</b>	<b>\$ 418</b>	<b>\$ 27,794</b>	<b>\$ 32,696</b>	<b>\$ 23,848</b>	<b>\$ 41,382</b>	<b>\$ 28,336</b>

\*Total Questioned Costs by fiscal year: FY2020 = \$27,172; FY2021 = \$127,302

For Claimants #1, #9, and #10, the separating employer responded to the Department's request for information, explaining that the claimant was still employed, and the claims were likely fraudulent; however, benefit payments continued to be made on the claims.

- For Claimant #1, in addition to the separating employer stating that the claim was likely fraudulent because the employee was still working, the IP address for the claim was located in Rhode Island. The Department created an investigation in the benefit system on June 7, 2020; however, the investigation was closed with no decision. No further review was performed to identify this claim as fraudulent.
- For Claimant #9, the separating employer provided a response on November 11, 2020, but the Department did not identify this as a fraudulent claim until May 18, 2021, six months later, and payments continued to be made through June 21, 2021.
- For Claimant #10, the separating employer provided a response on October 7, 2020, but the Department still allowed the claim, and payments were made through June 21, 2021.

For Claimant #2, two wage crossmatch investigations were created in February and March 2021, but the investigations were inactive and not resolved. Furthermore, an investigation was created on June 8, 2020, because the claimant had high wages during the benefit base period. The Department requested the claimant provide identity verification, but the claimant did not provide it, so the Department denied this claim and flagged it as fraudulent on August 9, 2021. However, no overpayments were established in the system.

For Claimants #3 through #7, an investigation was not created for the quarterly wage crossmatch, as required for four of the five claims. For the fifth claim (Claimant #6), an investigation was created, but staff had not completed the investigation when we conducted our fieldwork. For each of these, the wages certified by the individual were not reasonable when compared to the wages reported by the employer per the Department's records.

For Claimant #8, the claimant was included as part of an employer's STC agreement, which specifies that the claimant is to have a 50% reduction in normal working hours effective from March 22, 2020, through March 19, 2022. However, the claimant received only a 50% reduction for Quarter 2 of Calendar Year 2020. For the remaining quarters, the claimant did not receive a reduction in wages commensurate with the STC agreement while benefits were being paid.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Claimants were required to perform weekly certifications, which included reporting all wages earned during that week, to ensure that benefit reductions were unnecessary. These certifications were performed to ensure compliance with Neb. Rev. Stat. § 48-625(1) (Cum. Supp. 2020), which provides the following:

*Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.*

The Department had a system control to crossmatch wages reported on a quarterly basis by employers through the Tax Management System (TMS). If a claimant did not certify wages properly, the crossmatch would identify wages that required further adjudication and staff review to follow up with the employers. That system ensured compliance with 20 CFR § 603.23(b) (April 1, 2020), which states the following:

*The State UC agency must crossmatch quarterly wage information with UC payment information to the extent that such information is likely, as determined by the Secretary of Labor, to be productive in identifying ineligibility for benefits and preventing or discovering incorrect payments.*

The crossmatch reviewed wages two quarters in arrears, meaning a crossmatch performed in Quarter 1 of Calendar Year 2021 reviewed wages for Quarters 3 and 4 of Calendar Year 2020. If the wages met the crossmatch criteria, an Intrastate Quarterly Crossmatch investigation should be created. However, as noted above, several claimants who had large wages while receiving benefits either did not have an investigation created or the investigations had not been completed.

Good internal control requires procedures, including periodic verifications or audits, to ensure compliance with the provisions of approved STC agreements.

Without such procedures, there is an increased risk of improper benefit payments to claimants.

***Untimely Resolution to Bank Account Fraud Investigations***

Within the Department's benefit system, investigations or issues were automatically created using various parameters set by the Department. We tested 17 claimants whose bank accounts and routing numbers were used by 10 or more claimants. Such claimants would be at greater risk of fraud, as it would be unusual for 10 or more people to use the same bank account. For 16 of the 17 claimants tested, the investigations created were not adjudicated and resolved in a timely manner.

The following table shows the questioned costs, totaling \$126,034, for the claimants tested. For 15 of 16 investigations performed, the Department determined the claims to be fraudulent. However, while the investigations were being completed, benefit payments were not stopped; therefore, fraudulent claims continued to be paid, leading to questioned costs, even after an employer and/or claimant made it known that they had not filed the claim. The investigations were not completed timely, ranging from 102 to 218 days to complete. Additionally, one of the investigations was still ongoing as of audit fieldwork, and another had yet to be created.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Claimant	QC FY2020 Gross UI Benefits	QC FY2021 Gross UI Benefits	QC FY2022 Gross UI Benefits	QC Benefit Weeks Ending Begin Date/End Date	Investigation Begin Date/End Date	Days Investigation was Open	Observations
Claimant #1	\$ -	\$ 1,300	\$ -	1/2/2021 - 1/9/2021	1/19/2021 - 8/9/2021	202	
Claimant #2	-	1,974	-	2/13/21 - 2/27/2021	2/15/2021 - 7/30/2021	165	
Claimant #3	-	3,048	-	1/2/2021 - 2/6/2021	1/19/2021 - 8/3/2021	196	
Claimant #4	-	4,032	-	2/13/2021 - 4/3/2021	2/11/2021 - Not completed	As of 9/14/2021 (audit fieldwork) 215 days	
Claimant #5	11,087	11,224	-	2/22/2020 - 6/19/2021	2/7/2021 - 8/3/2021	177	The employer responded to the Department's separation information request on 6/24/2020, stating that the claimant was never an employee. An issue was created in the system on 6/25/2020, but it was auto-adjudicated and allowed. Additionally, the driver's license on the application was invalid. No overpayments have been established as of 9/14/2021.
Claimant #6	-	8,328	-	2/20/2021 - 5/22/2021	3/6/2021 - 8/3/2021	150	The claimant notified the Department that he had not filed the claim, but benefits continued to be paid even after the investigation was completed and the claim was determined to be fraudulent.
Claimant #7	-	6,636	-	8/15/2020 - 3/20/2021	No Investigation	-	
Claimant #8	-	4,050	-	2/20/2021 - 6/19/2021	2/28/2021 - 7/8/2021	130	
Claimant #9	-	10,002	-	1/2/2021 - 6/5/2021	2/7/2021 - 5/20/2021	102	
Claimant #10	-	11,240	-	12/19/2020 - 5/29/2021	1/7/2021 - 6/10/2021	154	
Claimant #11	-	5,567	-	11/7/2020 - 3/13/2021	12/20/2020 - 12/6/2020	-14	According to the Department's benefit system, this investigation was completed prior to being started.

## NEBRASKA DEPARTMENT OF LABOR

## COMMENTS AND RECOMMENDATIONS

(Continued)

2. Unemployment Insurance Benefit Payments (Continued)

Claimant	QC FY2020 Gross UI Benefits	QC FY2021 Gross UI Benefits	QC FY2022 Gross UI Benefits	QC Benefit Weeks Ending Begin Date/End Date	Investigation Begin Date/End Date	Days Investigation was Open	Observations
Claimant #12	-	11,584	-	2/13/2021 - 6/19/2021	3/10/2021 - 7/7/2021	119	The Department requested identity verification from the claimant on 2/3/2021. On 2/5/2021, the claimant responded that she did not file for benefits. However, payments continued to be made through the week ending 6/19/2021. No overpayments have been established as of 9/14/2021.
Claimant #13	-	12,009	-	10/10/2020 - 6/19/2021	2/8/2021 - 7/20/2021	162	
Claimant #14	-	7,840	-	2/13/2021 - 6/19/2021	2/16/2021 - 8/11/2021	176	
Claimant #15	-	9,803	1,010	2/6/2021 - 8/14/2021	2/7/2021 - 7/21/2021	164	The claimant notified the Department that she had not filed the claim, but benefits continued to be paid even after the investigation was completed and the claim was determined to be fraudulent.
Claimant #16	-	5,300	-	11/14/2020 - 2/20/2021	2/7/2021 - 7/22/2021	165	
<b>Totals</b>	<b>\$ 11,087</b>	<b>\$113,937</b>	<b>\$ 1,010</b>				

For 12 of the claimants tested, the claims originally filed appeared to be legitimate. However, after payments stopped being made on these claims, they were later reopened. The claims appear to have been reopened by an individual(s) impersonating the claimant, as the bank accounts on the claims were changed to a new bank account and were frequently changing. For example, Claimant #5 had payments sent to bank accounts in Oklahoma, Massachusetts, Alabama, California, Virginia, and Maine. Similar activity was noted for the other 11 claimants.

Good internal control requires procedures to ensure the timely completion of investigations, the proper adjudication of claims, and the finalization of determinations regarding the eligibility of claimants to receive unemployment benefits.

Without such procedures, there is an increased risk of improper benefit payments to claimants.

***Duplicate Benefit Payments***

We tested 20 claimants who were paid more than \$35,000 in benefits during the period July 1, 2020, through June 30, 2021, to determine if payments were made either in amounts greater than allowed for a single week or from multiple programs in the same week.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Four of the 20 individuals tested received payments from multiple programs for the same week or received multiple benefit payments from the same program during a week, which is not allowed. Furthermore, three of the four claimants either had no overpayment established or an incorrect overpayment balance was established at the time of testing.

Claimant	Program Overpaid	# of Weeks with Multiple Payments	APA Calculated Overpayment	Overpayment Established by the Department	Observations
Claimant #1	UI, FPUC	23	\$ 15,176	\$ -	The Department recouped \$4,768 through overpayment offset, leaving a balance of \$10,408. However, the benefit system did not have an overpayment balance remaining for this claimant.
Claimant #2	PUA, FPUC, LWA	38	27,163	27,163	An overpayment for \$27,163 was established by the Department on 3/5/2021. As of 8/17/2021, \$11,224 had been recaptured, leaving a balance of \$15,939.
Claimant #3	LWA	3	2,700	-	The Department failed to establish an overpayment.
Claimant #4	PEUC, FPUC	8	5,920	-	A \$5,920 overpayment was started in the system; however, as of 8/17/21, the Department had taken no action to finalize or recoup that amount.

In accordance with Unemployment Insurance Program Letter (UIPL) No. 14-21 (March 15, 2021), Attachment I, individuals may only receive benefits under one program for any given week.

Good internal control requires procedures to ensure that claimants do not receive benefit payments from more than one program during the same week or multiple payments from the same program for one week.

Without such procedures, there is an increased risk of making overlapping payments to benefit recipients in contradiction of applicable Federal guidelines.

***Maximum Benefit Amount (MBA) Not Correctly Calculated***

For 1 of 60 claims tested, the MBA was calculated incorrectly. The claim had a reduction due to a separation issue with a previous employer; however, the reduction was not calculated correctly. The separation issue resulted in a disqualification of 14 weeks. The claim's original MBA was \$6,794 and should have been reduced by \$4,172 (\$298 multiplied by 14 weeks) for a maximum benefit of \$2,622. The claimant was paid \$2,980, leading to an overpayment of \$358.

Neb. Rev. Stat. § 48-626 (Cum. Supp. 2020) states, in relevant part, the following:

*(2) For any benefit year beginning on or after October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under circumstances under which he or she was or could have been determined disqualified under*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

*section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (3) of this section, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.*

*(3) For purposes of determining the reduction of benefits described in subsection (2) of this section:*

\* \* \* \*

*(b) If the claimant has been separated from his or her employment under circumstances under which he or she was or could have been determined disqualified under section 48-628.10, his or her total benefit amount shall be reduced by fourteen times his or her weekly benefit amount.*

Neb. Rev. Stat. § 48-628.10(1) (Cum. Supp. 2020) provides the following:

*An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.*

Good internal control requires procedures to ensure that maximum benefit amounts are calculated properly.

Without such procedures, there is an increased risk of improper benefit payments to claimants and noncompliance with State statute.

***Inaccurate Social Security Numbers***

During testing, we noted that the Social Security numbers (SSN) for five claimants were not correct in the benefit system. For three of the claimants, the individuals were paid through the PUA program. Had the SSNs been accurate, however, the three individuals would have been paid regular UI and PEUC instead. The incorrect SSNs prevented the Department from identifying that the claimants had received wages during the benefit base period.

Claimant	Amount Paid From PUA
Claimant #1	\$ 12,548
Claimant #2	25,369
Claimant #3	15,031

The Department had procedures for verifying with the Social Security Administration that a claimant's name agreed with his or her SSN. Nevertheless, the Department was unable to provide support that these five claimants went through the verification process.

Good internal control requires procedures to ensure that Department records, including claimant SSNs, are accurate.

Without such procedures, there is an increased risk of inappropriate or fraudulent payments.

***Improper Employer Charges***

According to Neb. Rev. Stat. § 48-652 (Cum. Supp. 2020), employers are typically charged for benefits paid to former employees. For claims filed on or after March 15, 2020, through August 1, 2020, the Governor's Executive Orders No. 20-4 (March 17, 2020), No. 20-14 (April 2, 2020), and No 20-22 (April 30, 2020) granted employers relief from being charged for benefits paid to individuals eligible for unemployment benefits solely as a result of COVID-19 exposure or illness. Claims filed after August 1, 2020, were chargeable to employers based on normal charging rules.



NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

Claims not charged to employers due to COVID-19 were charged instead to the “Pool Account (COVID-19),” which were paid from the UI trust fund.

During testing of benefit payments, we noted seven of 60 claimants tested, the employer was not properly charged. Three claims were filed after August 1, 2020, but the benefits paid were charged to the “Pool Account (COVID-19).” One claim was filed before August 1, 2020, and neither the employer nor the claimant reported that the separation was due to COVID-19, but the benefits paid were charged to the “Pool Account (COVID-19).” Three claims were filed before August 1, 2020, and, based upon available information, the separations were due to COVID-19; however, the employers were charged.

Claimant	Claim Filed Date	Actual Charges to the Employer	Should Have Charged to the Employer	Observations
Claimant #1	1/7/2021	\$ -	\$ 10,032	Charged improperly to the “Pool Account.”
Claimant #2	3/25/2020	-	3,360	Separation was not reported to be due to COVID-19; therefore, the employer should have been charged.
Claimant #3	4/9/2020	2,131	-	Separation was reported to be due to COVID-19; therefore, the employer should not have been charged.
Claimant #4	3/23/2020	2,705	-	Separation was reported to be due to COVID-19; therefore, the employer should not have been charged.
Claimant #5	6/19/2020	1,522	-	Separation was reported to be due to COVID-19; therefore, the employer should not have been charged.
Claimant #6	3/22/2021	-	2,736	Charged improperly to the “Pool Account.”
Claimant #7	10/29/2020	-	2,675	Charged improperly to the “Pool Account.”

During additional testing of 17 benefit payments, one of the payments was inappropriately charged to the employer. The claim was filed on July 8, 2020, and the employer reported to the Department that the separation was due to COVID-19. However, the employer was still charged \$94.

Good internal control requires procedures to ensure compliance with all applicable directives contained in the Governor’s executive orders. Without such procedures, there is an increased risk of noncompliance with mandatory executive directives.

We recommend the Department implement procedures to prevent the payment of improper unemployment compensation benefits. Those same procedures should also ensure compliance with State and Federal requirements, ensuring the following: 1) procedures are improved for identifying incarcerated individuals, claimants who are deceased, and identifying and assessing whether State employees are eligible for UI benefits; 2) employer responses to requests for separation information are properly adjudicated and followed up on; 3) investigations are properly created and completed in a timely manner; 4) claimants are eligible and paid from the correct program; 5) benefit overpayments are established and recouped in a timely manner; and 6) verification of claimants’ identity and employment or self-employment is performed properly and in a timely



NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Continued)

manner. We also recommend reviewing STC agreements to ensure that program objectives are met, and the employer is compliant with the agreement. Lastly, we recommend the Department implement procedures to ensure that system records, including claimant SSNs, are accurate, and employers are charged or not charged properly. We are referring the information herein to the Nebraska Attorney General.

**Department and APA Responses:**

**Ineligible Payments to Inmates; Benefits Paid to Deceased Claimants; and Improper Unemployment Benefits Paid to State Employees**

*Department Response: The Department recognized issues within the Benefit Payment Control Unit during the pandemic. The employee responsible for performing the crossmatches did not perform them and supervisor follow-up was not done. All supervisors within the unit have been changed and additional employees added. All fraud detection processes have been reviewed and are being revised. The Department has two years to investigate and establish an overpayment due to fraud. New management is going through all crossmatch hits for inmates, deceased claimants, and state employees to ensure they were accurately worked. Referrals for criminal prosecution will be made as appropriate.*

**Benefits Paid to Claimants Under the Age of Sixteen**

*Department Response: The Department disagrees with this conclusion. The age of an unemployment benefit recipient is immaterial in addressing payment accuracy. All of the children were paid under the Pandemic Unemployment Assistance program at a time that relied solely on self-attestation. The sisters mentioned should have been exempt from work search as they had an anticipated return to work date with their father's business.*

**APA Response: The applications for Claimant #2 and #3 both stated that they do not have an expected return to work date; therefore, work searches were required. Based on the lack of work searches performed and the documented job searches for truck driver, plumber, etc., these claims appear to be fraudulent and should be reviewed further by the Department.**

**Adjudication Issues**

*Department Response: The Department acknowledges human error occurred in the adjudication of some claims. Further, there were system issues with work search not working correctly. For reasons not known, not all regular UI claims were picked up when the system was reset to require work search activities effective July 13, 2020. The error was discovered approximately July 13, 2020, and an OPC was entered to correct it. The regular UI claims missed on July 13, 2020, were corrected for all weeks beginning August 2, 2020. The PUA claims were not corrected until October 3, 2020.*

*The Department has two years to investigate and establish an overpayment. That is the only timeliness standard that exists and the APA's assertion that some other timeliness standard applies is misleading. The investigation that was created is not enough information for the Department to flag the claim as fraud. According to USDOL guidance, the mere creation of an investigation is not sufficient for the Department to suspend payments. The Department must investigate a claim and provide the claimant opportunity to respond before stopping or delaying payment. See -- UIPL 04-01, UIPL 1145, UIPL 01-16, and UIPL 01-16, Change I.*

**APA Response: As noted by the Department, the creation of an investigation is not sufficient to suspend payments; therefore, it is critical that investigations be worked timely so that fraudulent payments can be stopped and recouped.**

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

**2. Unemployment Insurance Benefit Payments (Continued)**

**Pandemic Unemployment Assistance (PUA) Issues**

*Department Response: The Department required all PUA claimants to report and provide identity verification beginning in fall of 2020 before identity verification was required by USDOL. UIPL 16-20, Change 4 states for New Applications for PUA that, "individuals filing a new PUA application on or after January 31, 2021, are required to provide documentation within 21 days of application or the date the individual is directed to submit the documentation by the State Agency, whichever is later" [emphasis supplied] and for Continued Claims for PUA that, "individuals who applied for PUA before January 31, 2021 and receive a payment of PUA on or after December 27, 2020 (regardless of which week ending date is being paid) are required to provide documentation substantiating employment or self-employment, within 90 days of application or when directed to submit the documentation by the State Agency, whichever is later." [emphasis supplied] The UIPL required that the agency notify claimants. The code changes for implementing the new requirements were requested in January 2021 upon receiving USDOL guidance. The technology changes were not complete until May 2021 and claimants were notified of the requirement at that time. A separate manual letter was sent in June 2021 to address any potentially missed claimants. Additionally, the Department had other identity verification processes in place. It implemented two-factor authentication for all claimants in January 2021.*

**APA Response: The UIPL providing the requirements to obtain documentation substantiating employment or self-employment was issued in January 2021. The Department did not implement procedures to notify claimants to provide documentation until May 2021. A majority of the claimants would not have been required to submit the documentation until 90 days after, or until July 2021 at the earliest. The PUA program ended in the State of Nebraska on June 19, 2021. Therefore, no payments would have been stopped as a result of this requirement.**

**Short-Time Compensation (STC) Claimants and Claimants with Excessive Wages**

*Department Response: STC eligibility is not based upon weekly earnings. STC eligibility is based upon a reduction in hours worked regardless of income. Since STC claimants continue to work while drawing STC benefits, there will always be wages in the same quarter and only wages earned from other employers would reduce their weekly benefit amount.*

*The Department recognized issues within the Benefit Payment Control Unit during the pandemic. All supervisors within the unit have been changed and additional employees added. All fraud detection processes have been reviewed and are being revised. The Department has two years to investigate and establish an overpayment. According to USDOL guidance, the mere creation of an investigation is not sufficient for the Department to suspend payments. The Department must investigate a claim and provide the claimant opportunity to respond before stopping or delaying payment. See -- UIPL 04-01, UIPL 1145, UIPL 01-16, and UIPL 01-16, Change 1.*

**APA Response: The APA is aware that STC claimants will have wages during the quarter in which benefits are earned. However, as noted in the comment, the individuals tested did not have a corresponding reduction of wages in accordance with their agreement and, in some instances, the wages actually increased. This calls into question whether the STC agreements were being adhered to and whether the Department was performing adequate monitoring of these agreements.**

**Untimely Resolution to Bank Account Fraud Investigations**

*Department Response: The date an investigation is finally closed does not equate to the date payment was stopped and in many of the claims referenced above unemployment benefit payments were stopped for other reasons prior to the conclusion of the fraud investigation. The Department has implemented the data integrity hub's recommended standard for preventing this issue. The Department has two years to investigate and establish an overpayment. According to USDOL guidance, the mere creation of an investigation is not sufficient for the Department to suspend payments. The Department must investigate a claim and provide the claimant opportunity to respond before stopping or delaying payment. See -- UIPL 04-01, UIPL 1145, UIPL 01-16, and UIPL 01-16, Change 1.*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

2. **Unemployment Insurance Benefit Payments** (Concluded)

**APA Response:** As noted by the Department, the creation of an investigation is not sufficient to suspend payments; therefore, it is critical that investigations be worked timely so that fraudulent payments can be stopped and recouped.

**Duplicate Benefit Payments**

*Department Response:* The Department acknowledges human error led to some duplicate payments. These are being reviewed. As stated above the Department has two years to establish these overpayments.

**Maximum Benefit Amount (MBA) Not Correctly Calculated**

*Department Response:* The amount of \$6,794 was based on premonetary calculations, which were not sent to the claimant. Per Nebraska Revised Statute § 48-626(2), the 14-week reduction is only applicable to the wages from the separating employer, and not the total benefits available under the claim. The monetary determination shows a total benefit amount after reduction of \$3,359. The claimant was paid \$2,980 and has no further eligibility on the claim in question. No overpayment exists.

**APA Response:** On August 6, 2021, we inquired with the Department regarding how the MBA was calculated. The Department responded on September 3, 2021, that the reduction was calculated incorrectly; however, no effort was made to explain how it should have been calculated. The APA's subsequent inquiry as to the proper calculation received no response from the Department. Consequently, the APA recalculated the MBA based on the relevant provisions of § 48-626. No answer to the APA's inquiry was received until after the draft audit report was issued, and the Department responded to the comments therein. At this time, the Department has yet to provide sufficient evidence that the MBA was proper or why the contrary response to previous discussions was warranted.

**Inaccurate Social Security Numbers**

*Department Response:* The individuals filing claims provided inaccurate SSN. The Department crossmatches against the SSN provided. Based upon the SSN information provided by the claimant, wage records are provided to the individual and the individual may protest the wage finding. Based upon the initial finding determined on the claimant provided information, the individuals were placed in the PUA program as per the CARES Act.

**APA Response:** The Department should improve procedures to ensure that SSNs are accurate. The crossmatch to which the Department refers should have resulted in an error, as the name of the claimant would not have agreed with the SSN crossmatch. No such error was documented in the system, however.

**Improper Employer Charges**

*Department Response:* The Department agrees these were errors.

3. **Untimely Responses to Records Requests**

While we appreciate all the time spent by Department staff on this attestation, the Department failed to respond timely to several requests for information. There were several instances of failure to comply with Neb. Rev. Stat. § 84-305 (Cum. Supp. 2020), which requires responses to requests by the APA to be made within the three business days and the information sought to be provided within three weeks after the initial request.

The table below provides examples of the Department's belated responses to the APA's information requests:

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

3. Untimely Responses to Records Requests (Continued)

Request	Initial Request Date	Response Received Date	Total Days
Memo on UI COVID Controls – Update by NDOL	6/21/2021	7/20/2021	29
UI Benefit Payment Questions #5	8/2/2021	8/25/2021	23
UI Benefit Payment Questions #6	8/6/2021	9/3/2021	28
Self-Employment Documentation	8/13/2021	9/7/2021	25
UI Benefit Payment Questions #7	8/18/2021	9/10/2021	23
Payment to Deceased Claimants	8/20/2021	9/21/2021	32
UI Journal Entries - Cancelled Payments	8/24/2021	9/27/2021	34
Intrastate Quarterly Crossmatch Investigation	9/10/2021	<b>Note 1</b>	N/A
Revenue Document Support	6/17/2021	7/14/2021	27
State Income Tax Intercept Question	8/16/2021	<b>Note 1</b>	N/A

**Note 1:** As of October 4, 2021, the APA had not received a response to this request.

Delays in responses to the APA's requests for information, such as those detailed above, impede the APA's ability to conduct the attestation in a timely manner. These delays waste the time of both the APA and the Department. In order to ensure expedient testing, our requests for information must be fulfilled timely, precisely, and in accordance with State statute. Given that we were trying to ensure accurate testing and audit results, moreover, it was in the Department's best interest to respond properly. Nevertheless, many of the responses took three weeks or more, nearly a month after the APA inquired or submitted a request to the Department for additional information.

Further, on several occasions, the Commissioner of Labor claimed that the APA had been granted full and complete access to NEworks, the Department's unemployment system, in compliance with § 84-305. On more than one occasion, however, the APA had to ask the Department to expand our scope of access within the system – indicating that, contrary to the Commissioner's prior assertions, APA access to NEworks was not unrestricted. For example, the Commissioner stated on August 30, 2021, that the APA was given full access to all information in NEworks; however, on September 16, 2021, the APA had to request that access be granted to run UI reports and, on September 29, 2021, the APA had to request that access be granted to view Lost Wage Assistance (LWA) self-certifications.

Additionally, there were numerous instances of the Department failing to inform us of its inability to respond to our requests within three business days, as required by State statute.

Section 84-305(1) states the following:

*The Auditor of Public Accounts shall have access to any and all information and records, confidential or otherwise, of any public entity, in whatever form or mode the records may be, unless the auditor is denied such access by federal law or explicitly named and denied such access by state law. If such a law exists, the public entity shall provide the auditor with a written explanation of its inability to produce such information and records and, after reasonable accommodations are made, shall grant the auditor access to all information and records or portions thereof that can legally be reviewed.*

Subsection (2) of that same statute adds, as is relevant, the following:

*Upon receipt of a written request by the Auditor of Public Accounts for access to any information or records, the public entity shall provide to the auditor as soon as is practicable and without delay, but not more than three business*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

3. **Untimely Responses to Records Requests** (Concluded)

*days after actual receipt of the request, either (a) the requested materials or (b)(i) if there is a legal basis for refusal to comply with the request, a written denial of the request together with the information specified in subsection (1) of this section or (ii) if the entire request cannot with reasonable good faith efforts be fulfilled within three business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, and an opportunity for the auditor to modify or prioritize the items within the request. No delay due to the significant difficulty or the extensiveness of any request for access to information or records shall exceed three calendar weeks after actual receipt of such request by any public entity.*

Finally, Neb. Rev. Stat. § 84-305.01 (Cum. Supp. 2020) reads as follows:

*Any person who willfully fails to comply with the provisions of section 84-305 or who otherwise willfully obstructs or hinders the conduct of an audit, examination, or related activity by the Auditor of Public Accounts, or who willfully misleads or attempts to mislead any person charged with the duty of conducting such audit, examination, or related activity shall be guilty of a Class II misdemeanor.*

The Department's failure to respond promptly to information requests not only constitutes a violation of § 84-305 but also interferes with the APA's testing and timely completion of the examination.

We recommend the Department implement procedures to ensure compliance with § 84-305 by responding timely to APA requests for information.

*Department Response: The APA misstates § 84-305. Section 84-305 requires that agencies provide "access" to records. Black's law dictionary defines a record as "A documentary account of past events, usu. designed to memorialize those events; information that is inscribed on a tangible medium or that, having been stored in an electronic or other medium, is retrievable in perceivable form." The Department complied within the Black letter law of Neb. Rev. Stat. § 84-305 NEworks access is managed at a permission group level. At the beginning of the audit, the existing Auditor account group established for record access in prior CAFR audits was updated to include newer UI privileges and reports during the 2021 ACFR. The APA staff were given unlimited access to the expanded file. When additional access was requested, it was provided within 24 hours in most cases and within 3 business days in all known cases. Requests for additional explanation of records are outside the scope of Neb. Rev. Stat. § 84-305*

**APA Response: Neb. Rev. Stat. § 84-305 grants the APA access to “to any and all information and records, confidential or otherwise, of any public entity, in whatever form or mode the records may be . . . .” The words “any and all information” were added specifically to ensure that the APA would have comprehensive and immediate access to anything, including explanatory information, needed to carry out a thorough audit. Moreover, as set out clearly in the report comment, the APA was denied timely access to requested records and correlative explanatory information alike.**

4. **Inadequate Review of Unemployment Insurance (UI) Administrative Expenditures**

Due to the COVID pandemic, the Department entered into several contracts for administrative assistance to handle the influx of UI claims. We noted that the Department did not obtain or review adequate supporting documentation to ensure the propriety of the payments for those services.

2 CFR § 200.403 (January 1, 2021) requires costs charged to Federal programs to be reasonable, necessary, and adequately documented.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

4. **Inadequate Review of Unemployment Insurance (UI) Administrative Expenditures** (Continued)

Additionally, good internal control requires procedures for both maintaining adequate supporting documentation and implementing effective contract-monitoring procedures to ensure the reasonable and proper expenditure of Federal funds.

Without such procedures, there is an increased risk for errors and overpayments to occur.

We noted the following:

Nelnet, Inc.

The Department contracted with Nelnet, Inc., (Nelnet) to provide staffing services to assist in processing the increased number of UI claims. Payments to Nelnet totaled \$10,924,480 for the fiscal year ended June 30, 2021. The contract required each invoice to represent actual hours of services provided by Nelnet. After an inquiry, however, we learned that billings were based upon the number of associates rather than the actual hours worked. Also, per discussion with staff, the Department did not request, receive, or review supporting documentation, such as timesheets, to verify that the amount paid to Nelnet was accurate.

The agreement between the Department and Nelnet states the following, in relevant part:

*Each bi-weekly invoice will represent actual hours of services provided to NDOL by NELNET during the two-week time period covered by the invoice . . . NDOL will be billed for the actual number of hours, up to forty (40) hours per week per individual, for the actual number of individuals, up to two hundred (200) individuals per week.*

We reviewed two payments to Nelnet and noted the following:

- The first payment tested was for work performed from January 1, 2021, through January 15, 2021, totaling \$556,640. We requested five timesheets for workers that represented \$7,000 of the payment. One timesheet reviewed contained leave hours, which were included in the invoice. This resulted in a \$280 overpayment.
- The second payment tested was for work performed from January 18, 2021, through January 29, 2021, totaling \$504,000. We requested five timesheets for workers representing \$6,160 of the payment. Two of the five timesheets contained leave hours, which were included in the invoice. This resulted in a \$435 overpayment.

We reviewed timesheets, totaling \$13,160, and noted overpayments of \$715, a 5.4% error rate. As the Department was not reviewing timesheets, it is likely that additional significant errors could have occurred.

North End Teleservices, LLC

The Department contracted with North End Teleservices, LLC, (NET) to provide data entry services and to answer UI questions from employers and applicants. Payments to NET totaled \$6,153,167 for the fiscal year ended June 30, 2021. The contract rate was \$30 per hour.

The contract between the Department and NET stated the following, in relevant part:

*Since invoices may be submitted by NET at the start of a Service Period, following the first Invoice Date, NET must submit supporting documentation of actual hours of service performed during the previous Service Period. In the event of a discrepancy between the hours of services and the invoiced amount, NDOL may adjust subsequent payments accordingly, and may withhold and/or adjust the final payment under this Agreement until all hours of services are reconciled (subject to the maximum invoice amount and maximum expenditures under this Agreement). Supporting documentation must include, but is not limited to, the position titles and reference number (which are specific to individuals and traceable) that performed services during the applicable Service Period, and actual hours worked by such individuals.*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

4. **Inadequate Review of Unemployment Insurance (UI) Administrative Expenditures** (Continued)

The invoices included full-time equivalent (FTE) identification (ID) reference numbers, number of hours by FTE ID, and hourly rate; however, timesheets to support the number of hours were not provided. The Department did not request, receive, or review supporting documentation, such as timesheets, to verify the accuracy of the hours billed.

We requested five timesheets for workers that were included in the payment for services provided from March 16, 2021, through March 31, 2021, for \$175,975. The five timesheets represented 413 hours of the invoice. We noted that one timesheet was underbilled by 7 hours, and another timesheet was overbilled by 11 hours, resulting in 4 hours, or \$120, overbilled.

As the Department was not reviewing timesheets, it is likely that additional errors could have occurred.

Protiviti Government Services, Inc.

The Benefit Payment Control (BPC) unit is responsible for the detection, investigation, recovery, and prosecution relating to UI overpayments. The Department contracted with Protiviti Government Services, Inc., (Protiviti) to provide additional staffing for the BPC unit. Payments to Protiviti totaled \$1,653,126 for the fiscal year ended June 30, 2021.

The agreement between the Department and Protiviti states the following, in relevant part:

*D. Each monthly invoice must include actual hours of services provided to NDOL by Contractor and actual numbers of Support Staff during the month covered by the invoice.*

\* \* \* \*

*3. NDOL is not responsible for payment of any holiday hours/holiday pay. As stated in the SOW, any overtime (hours in excess of forty (40) hours per week for an individual, must be requested by NDOL, in writing, and/or approved by NDOL, in writing (e-mail request or approval from NDOL's designated POC is acceptable).*

*4. Contractor uses a timekeeping system (TCast), and this will be system of record for tracking hours for the purposes of billing and invoices. Contractor will provide NDOL with a weekly report of number of Support Staff that provided services, and number of hours per Support Staff. NDOL agrees to notify Contractor of any concern/perceived discrepancy in time reported as soon as reasonably possible.*

The invoices included staff names, number of hours by each, and hourly rate; however, timesheets to support the number of hours were not provided. The Department did not request, receive, or review supporting documentation, such as timesheets, to verify that the hours billed were accurate, and no holiday or unapproved overtime hours were paid.

We requested five timesheets for workers included in the payment for February 2021 services provided. The payment tested totaled \$364,755, and the timesheets tested represented \$74,282 of that payment. The APA noted that one individual was overpaid \$367.

As the Department was not reviewing timesheets, it is likely that additional errors could have occurred.

OCIO

The Department of Administrative Services Office of the Chief Information Officer (OCIO) provides technology services to State agencies. We selected five workorders from the May 2021 payment to the OCIO. One of these workorders was related to running the data warehouse and was charged to various business units based on communications between the Department and OCIO staff; however, there was no supporting documentation to ensure that the percentages were accurate or in accordance with Federal cost principles. Payment for the workorder was charged to the following programs:

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COMMENTS AND RECOMMENDATIONS

(Continued)

4. **Inadequate Review of Unemployment Insurance (UI) Administrative Expenditures** (Concluded)

Business Unit	Federal Assistance Listing	% Charged	Total
23000919	Various, agency wide allocation*	10%	\$ 1,582
23208719	Wagner Peyser 17.207	10%	1,582
23370021	UI Administration 17.225	20%	3,164
23370021	UI Administration 17.225	60%	9,491
Total Workorder			\$ 15,819

\*Allocated as indirect cost to various programs per Cost Allocation Plan.

2 CFR § 200.403(d) (January 1, 2021) states, “A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.”

Additionally, 2 CFR § 200.413(a) (January 1, 2021) provides the following:

*Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.*

Without adequate documentation to support the allocation of costs, there is an increased risk for misuse of funds.

We recommend the Department implement procedures to ensure adequate supporting documentation is maintained, contract payments are proper, and Federal requirements are followed.

*Department Response: The data warehouse monthly billing with the OCIO is split across a predefined list of applicable cost centers and business units each month. Charged amounts by the contractor are split based on project assignment and additional ad-hoc requests that are reported by the contractor. The Department was in the midst of a pandemic with record breaking unemployment numbers and staff was not available to conduct an audit of the number of hours billed. The Department relied upon information provided and the fact that all requested work was completed to determine hours billed were reasonable.*

5. **Lack of Documentation for Nebraska Training and Support Cash Fund**

Neb. Rev. Stat. § 48-622.02(2) (Cum. Supp. 2020) provides, in relevant part, the following with regard to the proper use of money in the Nebraska Training and Support Cash Fund:

*Money in the Nebraska Training and Support Cash Fund shall be used for . . . (c) support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers of for-profit and not-for-profit businesses, (d) recruitment of workers to Nebraska, (e) training new employees of expanding Nebraska businesses . . .*

Neb. Rev. Stat. § 48-622.03 (Reissue 2020) created the Nebraska Worker Training Board (Board), which consists of seven members appointed by the Governor and is required to establish an annual program plan and guidelines for the criteria to evaluate requests for the use of money under § 48-622.02.

The Worker Training Program Guidelines (Revised 5/28/20), Training Requirements (pg. 4), contains the following:



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COMMENTS AND RECOMMENDATIONS

(Continued)

5. **Lack of Documentation for Nebraska Training and Support Cash Fund** (Continued)

*Training providers must maintain and make available:*

- a. *records that clearly document all aspects of training and retention related to the training,*
- b. *applicable financial records which document funds received and disbursed,*
- c. *records of attendance of training recipients, and*
- d. *any certificate or documentation of completed training.*

Those same guidelines, “Grant Award and Performance” (pg. 5), state the following:

*The board shall review grant applications recommended by the commissioner for compliance with these guidelines.*

We selected two worker training grant payments for review and noted the following:

Grant 9542 – Becton, Dickinson and Company

In May 2019, Becton, Dickinson and Company, a multinational corporation based in New Jersey, was awarded a worker training grant, through March 2022, to enhance employee skill levels and promote the retention and expansion of the Nebraska workforce. The grantee was paid \$123,024 in fiscal year 2020 and \$112,006 during fiscal year 2021 – for a total payment of \$235,030.

Per the Worker Training Program Guidelines, all training records, including class rosters, attendance records, and billing invoices, must be provided at the completion of a grant. The Department did not perform any interim monitoring or sampling of expenditures to ensure that the \$235,030 paid was proper. Because the grant was still ongoing, the Department did not have supporting documentation on file for the expenditure being tested.

We requested supporting documentation for one training session, for 10 individuals, totaling \$21,419, of the \$112,006 payment. The training expenses included travel, meals, and registration fees. We noted several instances of insufficient documentation and/or unreasonable expenses:

- Nine of 10 items tested did not have a certificate or documentation that training was completed.
- No training agenda was on file for 5 of 10 individuals tested in order to determine if meals were provided.
- Several meals, totaling \$1,386, were purchased and reimbursed without an itemized receipt on file to support that the expenditures were allowable and reasonable.
- Alcohol purchases were reimbursed by the Department. One individual purchased alcohol, including a Long Island iced tea, a margarita, three Bud Lights, and a Yuengling Beer, totaling \$59. Another individual was also reimbursed for alcohol on two meals.
- To determine the reasonableness of meal costs, the APA compared the costs to the U.S. General Services Administration (GSA) per diem rates. We noted several meals over GSA guidelines, including the following:
  - Dinner for two costing \$134, a total of \$82 over the Connecticut GSA rate of \$26 per meal.
  - Dinner in Chicago for two costing \$110, a total of \$42 over the GSA rate of \$34 per meal.
  - Dinner in Chicago for three costing \$178, a total of \$76 over the GSA rate of \$34 per meal.

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COMMENTS AND RECOMMENDATIONS

(Continued)

5. **Lack of Documentation for Nebraska Worker Training and Support Cash Fund** (Continued)

- Several items, totaling \$495, lacked adequate support, such as invoices or receipts. The items included airfare, Uber transportation, gas purchased, and a self-assessed tax.
- One of the events attended was the “K Show,” an international trade fair for plastics and rubber, which took place in Germany. The lodging invoice was in Euros, and there was no support on file showing the conversion rate used to support the amount reimbursed.
- One employee upgraded a flight from Economy Plus for \$77. We were told that Becton, Dickinson and Company’s policy allowed employees to upgrade seats on flights exceeding six hours; however, the policy was not provided for our review. The same employee also left a hotel two nights early but still had to pay for those missed nights, the cost of which totaled \$631. The APA believes that no reimbursement should have been made for the two nights that the employee did not use the hotel.

Good internal control requires procedures to ensure that grant expenditures are reasonable and adequately supported. Those same procedures should require interim monitoring of grants that cover multiple years.

Without such procedures, there is an increased risk for misuse of funds.

Grant 9859 – Nebraska Dev Lab (NeDL)

NeDL, an academic/corporate partnership between Doane University in Lincoln, NE, and Don’t Panic Labs, a software engineering and corporate innovation company also based in Lincoln, was awarded a worker training grant to enhance employee skill levels and promote the retention and expansion of the Nebraska workforce. The grantee was paid \$72,844 during fiscal year 2021.

Per the grant agreement, “The term of this Agreement shall be from the date of execution of this Agreement through 6/30/21.” The Department signed the grant agreement on August 27, 2020.

We noted the following:

- According to the invoice, expenses were billed from October 1, 2019, through June 30, 2020, at \$150 per hour. When questioned about the billing, the Department provided attendance records for July 1, 2020, through October 9, 2020; however, the grant agreement was not in effect until signed on August 27, 2020. Per the attendance records provided, there were only 248 hours, starting August 27, 2020, which at \$150 per hour would total \$37,200.
- We reviewed July 28, 2020, Board minutes, and Grant 9859 was not listed therein as having been approved. The Director of the Department’s Reemployment Services stated that this was a clerical error, and Grant 9859 should have been listed under “remaining grants.”

Good internal control requires procedures to ensure that payments are adequately supported, and Board approval of grant applications is documented in the appropriate meeting minutes.

Without such procedures, there is an increased risk for loss or misuse of funds.

We recommend the Department improve procedures to ensure grant payments are reasonable and adequately supported. We further recommend all grants approved by the Board be documented in the appropriate meeting minutes.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

**5. Lack of Documentation for Nebraska Worker Training and Support Cash Fund (Concluded)**

*Department Response: The Worker Training Program is under new management. The Department is revising Worker Training Program Grant Guidelines to align program design with GSA Travel Management Policies, to include Meal and Incidental (M&IE) Rates and Restrictions, Lodging, and Travel Reimbursement Rates. Additionally, the program has been restructured to include multiple layers of review to ensure grant payments are reasonable and adequately supported, and Worker Training Board meeting minutes are sufficiently documented. In addition, the Department has increased its capacity to monitor the Worker Training Program fiscally and programmatically on a quarterly basis. The standard Grant Agreement will be amended to accurately reflect the Program Grant Guidelines. This amendment will allow for reimbursement of expenses after the grant application is received as currently provided for in the Program Grant Guidelines.*

**6. Lack of Payroll Segregation of Duties**

The State's accounting system does not have an established segregation of duties for payroll processing. Therefore, employees with access to process payroll are able to perform all procedures without a secondary individual being required to approve transactions. Accordingly, the Department should have compensating procedures in place, such as a documented review of the final payroll register, as well as changes to pay rates and other payroll information, by an individual without payroll access, to ensure that no one individual is able to conceal errors or irregularities.

The Department worked with the Department of Administrative Services (DAS) to process payroll through the Shared Services program. The Department prepared the payroll, and DAS was involved in necessary changes and external reviews of the payroll, including certification that the payroll was ready to be posted to the general ledger. However, six Department employees had access to perform all procedures within the system, including one-time overrides of pay rates, hours worked, type of pay paid (such as vacation, sick leave, etc.), and there were no documented procedures to identify unapproved changes by those individuals.

The Department used EnterpriseOne, the State's accounting system, to track employee time worked and leave used. Employees submitted their time worked for each pay period to a supervisor who approved the timesheet prior to payment. Each supervisor could also set up delegates in the system to approve timesheets and leave requests should the supervisor be unavailable. We noted that one employee tested was a delegate for her supervisor. This allowed the employee to approve her own timesheets.

The Department had \$22,945,597 in personal service expenditures during the fiscal year ended June 30, 2021.

A good internal control plan requires an adequate segregation of duties to ensure no one individual is in a position both to perpetrate and to conceal errors or irregularities. This would require someone without payroll access to perform a documented review of payroll – including a review of timesheets and leave usage – to ensure that it is proper. Such a segregation of duties also requires controls to ensure employees are not able to approve their own timesheets.

Without an adequate segregation of duties, there is an increased risk of overpayments, improper payments, and errors or irregularities occurring and not being detected.

A lack of segregation of duties over payroll was also noted in our calendar year 2012 attestation report.

We recommend the Department implement policies and procedures to have an individual without payroll access, or a DAS staff person through the Shared Services program, perform a documented review of the payroll register, timesheets, leave usage, and changes to pay rates for accuracy and reasonableness. We further recommend the Department ensure delegates are proper, and no employee is able to approve his or her own timesheet.

NEBRASKA DEPARTMENT OF LABOR

**COMMENTS AND RECOMMENDATIONS**

(Continued)

**6. Lack of Payroll Segregation of Duties** (Concluded)

*Department Response: The Department utilizes the Enterprise Payroll system in E1 and will work with the Nebraska Department of Administrative Services to explore other options available to state agencies for payroll.*

**7. Improper State Vehicle Usage**

During the fiscal year, the Department paid DAS – Transportation Services Bureau (TSB) \$28,026 for State-owned vehicle usage. Our review of the March payment of \$1,706 revealed the following concerns:

- An employee drove a State vehicle home without agency head approval.
- A TSB vehicle rental was not cancelled timely.
- Mileage appeared excessive based on recorded destinations.
- Travel logs were incomplete.

More detailed information about each of the above issues is provided below.

- One Department employee took a TSB vehicle home. The employee needed to leave for Sidney, NE, early on the morning of February 23, 2021, so she rented the TSB vehicle on February 22, 2021, and drove the vehicle to her home in Elkhorn, NE, resulting in an extra day's rental and an additional 111 miles being driven, for extra charges of \$47. The employee should have checked the vehicle out after 4 p.m. on February 22, 2021, and driven her personal vehicle to pick up the TSB car on the morning of her departure. The employee did not have the required approval of the agency head to drive the TSB vehicle home.
- Five travel logs were incomplete. Each travel log had an entry for the day the vehicle was used; however, entries were lacking for the multiple stops made with each of these rental cars. Both State law and TSB Policies & Procedures require travel logs for State-owned vehicle usage to contain a new entry for each starting and stopping point.
- One TSB rental car was not cancelled timely after it was no longer needed by a Department employee who used a personal vehicle to complete H-2A (Temporary Agricultural Worker) housing inspections in rural western Nebraska. The employee completed multiple inspections from January 19, 2021, through January 22, 2021, and then determined that he needed a four-wheel drive vehicle for the remainder of his inspections. Rather than being returned to the TSB motor pool, the unused State-owned vehicle remained at the Department's office in North Platte for five days. The vehicle was not returned until February 1, 2021, costing the Department \$62.50 for those five idle days. The employee did not request mileage reimbursement for his personal vehicle usage.
- One TSB rental vehicle was driven for H-2A housing inspections between these Nebraska locations: North Platte to Bridgeport, Scottsbluff, Sidney, and then back to North Platte. A total of 455 miles were reported driven; however, according to Google Maps, the entire trip took only 401 miles, a variance of 54 miles, or 13.47%. When the auditor inquired about this discrepancy, it was explained that H-2A housing inspections often take place in extremely rural areas, leading to employees becoming lost while trying to find their destinations. However, neither the travel logs nor any other documentation contained information to support that contention.

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

7. **Improper State Vehicle Usage** (Concluded)

Executive Order # 99-01 (effective date April 19, 1999) states, in relevant part, the following:

*3. No employee will be allowed to drive a state-owned vehicle home except for the reasons set forth below:*

\* \* \* \*

*(b) The agency head approves a vehicle going home for one night, for a specific, scheduled event, e.g., traveling to an out-of-town conference. Agencies are required to report these trips to the Accounting Division of the Department of Administrative Services for submission to the Internal Revenue Service.*

Neb. Rev. Stat. § 81-1025(1) (Reissue 2014) provides the following:

*Each operator of a bureau fleet vehicle shall report the points between which the bureau fleet vehicle traveled each time used, the odometer readings at such points, the time of arrival and departure, the necessity and purpose for such travel, the license number of such vehicle, and the department to which such vehicle is assigned.*

Section 7 (“Official Travel Log”) of the TSB Policies & Procedures contains the following:

*State statutes mandate all travel in state-owned vehicles to be recorded and reported in detail (§81-1025). An entry is defined as a record of the following information required each time the vehicle is stopped and started: date, beginning and ending mileage, number of miles traveled, start time, finish time, from and to destinations, purpose of trip, and the driver's signature.*

Additionally, a good internal control plan requires procedures to ensure compliance with Executive Orders, State statutes, and TSB Policies & Procedures governing the use of State-owned vehicles. In particular, care should be taken to ensure that travel destinations and vehicle mileage are recorded accurately and completely, and TSB rentals are returned timely when not in use.

Without such procedures, there is an increased risk for misuse of State property.

We recommend the Department implement procedures to ensure compliance with Executive Orders, State statutes, and TSB Policies & Procedures governing the use of State-owned vehicles. Particular care should be taken to ensure that travel destinations and vehicle mileage are recorded accurately and completely, and TSB rentals are returned timely when no longer needed.

*Department Response: The employee was new to the Department and was not aware of the policy. Employees of the Department have been reminded of the policy.*

8. **Lack of Employment Services Monitoring**

The Department utilized Employment Services/Wagner-Peyser Federal program funds (Federal Assistance Listing 17.207) to pay the United Way of the Midlands (UWM) for implementation and operation of Jobs for America's Graduates (JAG) in Nebraska. JAG is a set of services designed to keep middle school and high school students in school and assist them in their careers. The Employment Service (ES) program provides job seekers with career services.

We tested a \$65,930 payment to UWM for January 2021 services and noted the following:

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(Continued)

8. **Lack of Employment Services Monitoring** (Continued)

- The agreement required 90% of the students enrolled in the JAG program to be eligible for free/reduced lunch. The January roster showed 7 of 10 schools with less than 90% – with an overall total of 83% – of students eligible for free/reduced lunch. According to Department staff, that requirement was merely a goal, and the contractual language was in error.
- The Department paid UWM as a contractor rather than a subrecipient and did not follow Federal requirements regarding subrecipients. We noted the following characteristics that indicate UWM is a subrecipient: 1) the agreement is for a public purpose; 2) career services provided are the primary objective of the ES program; 3) UWM determines eligibility and is required to adhere to Federal Regulations; 4) UWM is not providing services for the Department's own use but instead to students; 5) the contract with UWM was not competitively bid; and 6) the agreement language states specifically that the agreement will be funded as a subaward.

The Department paid UWM \$610,643 during fiscal year 2021. Of that total, \$442,616 was reimbursed to the Department with Temporary Assistance for Needy Families (TANF) funds from the Department of Health and Human Services, and \$168,027 was paid with Employment Services/Wagner-Peyser funds. For the payment tested, \$54,564 was funded by TANF and \$11,366 by Employment Services.

The agreement between the Department and the UWM states the following, in relevant part:

*I.D.2. In particular, as a minimum, an average of ninety percent (90%) of students enrolled in the Program must be eligible for free/reduced lunch.*

\* \* \* \*

*III. A. Subject to the maximums provided herein, this Agreement will be funded from a subaward of a combination of funds made available to NDOL through a grant of Wagner-Peyser Act Employment Service funds from the United States Department of Labor (NDOL Funds), and a grant of Temporary Assistance to Needy Families funds (TANF Funds). The TANF Funds are being provided to NDOL from the Nebraska Department of Health and Human Services (DHHS) . . . .*

\* \* \* \*

*III. G. The parties understand that use of state and/or Federal funding sources for services provided under this Agreement will require compliance with applicable funding source requirements. In addition to requirements included in this Agreement, UWM agrees that such funding will be used only as permitted by the applicable Federal funding agency, as well as applicable law, regulation, and policy . . . .*

*III. H. UWM may invoice NDOL for actual Eligible Costs at a rate not to exceed Seven thousand Fifty-Eight Dollars and Thirty -three cents (\$7,058.33) per month per participating school . . . .*

\* \* \* \*

*XXXIX. A. Both NDOL Funds and TANF Funds require compliance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirement. UWM agrees to compliance with such requirements.*

(Emphasis added.) 2 CFR § 200.331 (January 1, 2021) provides, in part, the following:

*(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See definition for Subaward in §200.1 of this part. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:*

NEBRASKA DEPARTMENT OF LABOR

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(Continued)

8. **Lack of Employment Services Monitoring** (Continued)

*(1) Determines who is eligible to receive what Federal assistance;*

*(2) Has its performance measured in relation to whether objectives of a Federal program were met;*

*(3) Has responsibility for programmatic decision-making;*

*(4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and*

*(5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.*

*(b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See the definition of contract in §200.1 of this part. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:*

*(1) Provides the goods and services within normal business operations;*

*(2) Provides similar goods or services to many different purchasers;*

*(3) Normally operates in a competitive environment;*

*(4) Provides goods or services that are ancillary to the operation of the Federal program; and*

*(5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.*

Requirements for pass-through entities are detailed in 2 CFR § 200.332.

2 CFR § 200.403 (January 1, 2021) requires costs charged to Federal programs to be reasonable, necessary, and adequately documented.

Additionally, good internal control requires procedures to ensure costs are allowable and in accordance with Federal requirements and contract provisions.

Without such procedures, there is an increased risk for loss or misuse of funds and noncompliance with Federal regulations.

We recommend the Department implement procedures to ensure adherence to all provisions of grant agreements. We also recommend the Department adequately monitor contracts/subawards to ensure expenditures are allowable and in accordance with Federal regulations. Lastly, we recommend the Department review Federal subrecipient regulations and comply with all requirements.

*Department Response: The Department disagrees. The Department purchased services from United Way of the Midlands (UWM) in administering the JAG program. The JAG program is not a federal program and the services provided by UWM do not "carry out a part of a federal program." (2 CFR §200.74). There is no federal program eligibility requirement for UMW to implement. With respect to the UWM contract, the Department does not meet the definition of a pass through agency as defined in 2 CFR §200.74. There is no reference in the CFRs that would*

NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

8. **Lack of Employment Services Monitoring** (Concluded)

*make determinations of participants in accordance with a contractual agreement a subaward. The services purchased under the contract are by any fair reading of 2 CFR §200.22, contractual services and the suggestion that it merits a finding is unfounded and not supported in the Uniform Guidance. Because of additional funding sources that will be available to the JAG program in FY22, the Department plans to treat all funds awarded or paid to UWM as a subaward going forward. The Department is developing both fiscal and programmatic monitoring guides, as well as standardized monitoring schedules, for all grants awarded to non-federal entities in which the Department serves as a pass-through entity.*

**APA Response: UWM was paid with Employment Services/Wagner-Peyser Federal program funds (Federal Assistance Listing 17.207) and the Department did meet the definition of a pass through entity as defined in Federal regulations. Despite the Department’s denial of both the subaward status of the payments to UWM and its own function as a pass-through entity, the agreement between the two parties states plainly that it will be “funded from a subaward of a combination of funds made available to NDOL through a grant of Wagner-Peyser Act Employment Service funds from the United States Department of Labor (NDOL Funds), and a grant of Temporary Assistance to Needy Families funds (TANF Funds).”**

9. **Lack of Workforce Innovation and Opportunity Act Subrecipient Monitoring**

We tested one payment for \$253,774 to Heartland Workforce Solutions (HWS), a subrecipient of the Department and recipient of Workforce Innovation and Opportunity Act (WIOA) funds. We noted that the Department had not performed financial monitoring of HWS for fiscal year 2021. The subrecipient had a Single Audit performed for fiscal year 2020, with WIOA as a major program; however, the 2021 audit for the subrecipient was not yet completed.

The request for reimbursement from HWS for the payment tested was a summary of expenses and income statements from the subrecipient. No detailed supporting documentation, such as payroll registers, timesheets, invoices, etc., was on file. Therefore, the APA requested that additional documentation be obtained to support that the expenditures were allowable and in accordance with Federal requirements.

We noted the following:

- HWS used two allocations, based on the number of customers served and the square footage of the service facility, to charge expenses to various programs. The APA requested documentation to support the allocation basis, and HWS responded that detailed support was not obtained for the number of customers served.
- Three invoices, totaling \$4,244, were not allocated using the current allocation basis and/or were not mathematically correct.
- HWS subawards funds to its own subrecipients. Included in the payment to HWS was \$212,249 for the personnel and operating costs of the HWS subrecipients. HWS provided the APA with documentation of its subrecipient monitoring, which consisted of reviewing timesheets and verifying allocation of expenditures. Comprised of only a summary with no detailed support or timesheets, however, that documentation was insufficient to support that expenditures were allowable and within the period of performance. The APA attempted to tie the payroll register to the requested personnel expenses but was unable to do so. Personnel costs totaled \$81,456.

Payments to HWS totaled \$3,151,830 for fiscal year 2021.



NEBRASKA DEPARTMENT OF LABOR

COMMENTS AND RECOMMENDATIONS

(Continued)

9. **Lack of Workforce Innovation and Opportunity Act Subrecipient Monitoring** (Concluded)

2 CFR § 200.403 (January 1, 2021) requires costs charged to Federal programs to be reasonable, necessary, and adequately documented.

Additionally, good internal control requires proper subrecipient monitoring procedures to ensure that the expenditure of grant funds is reasonable and in accordance with Federal regulations

Without such procedures, there is an increased risk for errors or misuse of funds.

We recommend the Department improve monitoring procedures, including periodically testing a sample of expenditures to ensure compliance with Federal cost principles.

*Department Response: The Department's monitoring unit integrated fiscal monitoring in October 2021. Every local workforce development area will be fiscally monitored on an annual basis to ensure compliance with Federal cost principles, in addition to existing programmatic monitoring.*

10. **Untimely Refund**

To recoup overpayments paid out to claimants, the Department can intercept claimant tax refunds to apply towards the overdue balances. We tested State income tax intercepts for 25 claimants. For one claimant, we noted that the Department had established an overpayment of \$5,400. A tax intercept recouped \$1,200 in February 2021 and was applied towards that balance. The claimant filed and won an appeal on May 21, 2021, at which time the overpayment of \$5,400 was adjusted by the Department. On June 30, 2021, we inquired as to why the \$1,200 had not been refunded to the claimant. The \$1,200 was subsequently refunded to the claimant on July 14, 2021, after the APA's inquiry.

Good internal control and sound business practices require procedures to ensure that refunds are made in a timely manner.

Without such procedures, there is an increased risk for errors causing a hardship for the claimant.

We recommend the Department implement procedures to ensure all refunds are paid to claimants in a timely manner.

*Department Response: The Department acknowledges the refund should have been issued in a more timely manner.*

11. **Fines & Penalties Incorrectly Coded**

During fiscal year 2021, the Department deposited \$45,762 in fines received to the Temporary School Fund rather than to the Common School Fund. Per Neb. Rev. Stat. § 48-2907(1) (Cum. Supp. 2020), the Department "may issue a citation to a contractor when an investigation reveals that a contractor has violated the Employee Classification Act."

Article VII, § 5(1), of the Nebraska Constitution provides, in relevant part, the following:

*[A]ll fines, penalties, and license money arising under the general laws of the state . . . shall belong and be paid over to the counties respectively where the same may be levied and imposed . . . All such fines, penalties, and license money shall be appropriated exclusively to the use and support of the common schools in the respective subdivisions where the same may accrue . . .*

NEBRASKA DEPARTMENT OF LABOR

**COMMENTS AND RECOMMENDATIONS**

(Continued)

**11. Fines & Penalties Incorrectly Coded** (Concluded)

The Common School Fund has been designated to receive funds under Article VII, § 5(1). Compliance with Article VII, § 5(1), requires the Department's fines to be deposited to the Common School Fund (61270), not the Temporary School Fund.

We recommend the Department review procedures to ensure fines and penalties are deposited to the correct school fund.

*Department Response: The Department has corrected this going forward.*



## NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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### NEBRASKA DEPARTMENT OF LABOR

### INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Department of Labor  
Lincoln, Nebraska

We were engaged to examine the accompanying Schedule of Revenues, Expenditures, and Changes in Fund Balances of the Nebraska Department of Labor (Department) for the fiscal year ended June 30, 2021. The Department's management is responsible for the Schedule of Revenues, Expenditures, and Changes in Fund Balances based on the accounting system and procedures set forth in Note 1. Our responsibility is to express an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances based on conducting the examination in accordance with attestation standards established by the American Institute of Certified Public Accountants.

The Department was unable to provide timely and accurate records of the Unemployment Compensation Fund (Fund). Monies for the Fund are maintained outside of the Nebraska State Treasurer in separate bank accounts. Journal entries are prepared to record the activity in the State accounting system, EnterpriseOne. Our testing noted numerous errors and we proposed adjustments, totaling nearly \$1.3 billion. The Department agreed with the proposed adjustments; however, due to the inability of the Department to provide accurate and complete accounting records we were unable to determine whether any further adjustments may have been necessary.

Because of the limitation on the scope of our examination discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances for the fiscal year ended June 30, 2021, is based on the accounting system and procedures prescribed by the State of Nebraska Department of Administrative Services, as set forth in Note 1, in all material respects.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; noncompliance with provisions of laws, regulations, contracts, or grant agreements that have a material effect on the Schedule of Revenues, Expenditures, and Changes in Fund Balances; fraud that is material, either quantitatively or qualitatively, to the Schedule of Revenues, Expenditures, and Changes in Fund Balances; and any other instances that warrant the attention of those charged with governance. We are also required to obtain and report the views of management concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We were engaged to express an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Revenues, Expenditures, and Changes in Fund Balances or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed certain findings that are required to be reported under *Government Auditing Standards*, and those findings, along with the views of management, are described in the Comments Section of the report.

The purpose of this report is described in paragraph one above. Accordingly, this report is not suitable for any other purpose. This report is a matter of public record, and its distribution is not limited.

A handwritten signature in black ink, appearing to read "C. J. Janssen", with a long horizontal flourish extending to the right.

December 8, 2021

Charlie Janssen  
Auditor of Public Accounts  
Lincoln, Nebraska

**NEBRASKA DEPARTMENT OF LABOR**  
**SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended June 30, 2021

	State General Fund 10000	Employment Security Special Contingent Cash Fund 22320	Contractor & Professional Employer Organization Registration Cash Fund 22330	Sector Partnership Program Cash Fund 22385
<b>REVENUES:</b>				
Appropriations	\$ 562,289	\$ -	\$ -	\$ -
Intergovernmental	-	-	-	-
Sales & Charges	23,080	1,090	533,210	-
Miscellaneous	-	543,736	22,854	10,623
Unemployment Insurance Contributions	-	-	-	-
<b>TOTAL REVENUES</b>	<b>585,369</b>	<b>544,826</b>	<b>556,064</b>	<b>10,623</b>
<b>EXPENDITURES:</b>				
Personal Services	495,417	-	333,390	106,258
Operating	62,596	15,425	236,033	166,066
Travel	3,086	-	897	1
Capital Outlay	1,190	3,192,468	957	2,015
Government Aid	-	-	-	-
Unemployment Insurance Benefits	-	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>562,289</b>	<b>3,207,893</b>	<b>571,277</b>	<b>274,340</b>
Excess (Deficiency) of Revenues Over (Under) Expenditures	23,080	(2,663,067)	(15,213)	(263,717)
<b>OTHER FINANCING SOURCES (USES):</b>				
Sales of Assets	-	-	-	-
Adjustments to Fund Balances (Note 6)	-	(1,582)	-	-
Deposit to General Fund	(23,080)	-	-	-
Deposit to Common Fund (Note 7)	-	-	-	-
Operating Transfers In	-	-	-	300,000
Operating Transfers Out	-	(285)	-	-
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>(23,080)</b>	<b>(1,867)</b>	<b>-</b>	<b>300,000</b>
Net Change in Fund Balances	-	(2,664,934)	(15,213)	36,283
<b>FUND BALANCES, JULY 1, 2020</b>	<b>310</b>	<b>5,772,603</b>	<b>1,446,950</b>	<b>528,780</b>
<b>FUND BALANCES, JUNE 30, 2021</b>	<b>\$ 310</b>	<b>\$ 3,107,669</b>	<b>\$ 1,431,737</b>	<b>\$ 565,063</b>
<b>FUND BALANCES CONSIST OF:</b>				
General Cash	\$ -	\$ 3,110,241	\$ 1,431,737	\$ 565,063
Insufficient Funds Items	-	1,202	-	-
Deposits with Vendors	310	-	-	-
Accounts Receivable Invoiced	-	-	-	-
Due From Other Funds	-	1,090	-	-
Due From Other Government	-	-	-	-
Due to Vendors	-	(3,774)	-	-
Accounts Payable and Accrued Liabilities	-	-	-	-
Claims Payable	-	-	-	-
Tax Refunds Payable	-	-	-	-
Deposits	-	-	-	-
Due to Fund	-	(1,090)	-	-
Due to Government	-	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>\$ 310</b>	<b>\$ 3,107,669</b>	<b>\$ 1,431,737</b>	<b>\$ 565,063</b>

(Continued)

**NEBRASKA DEPARTMENT OF LABOR**  
**SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended June 30, 2021

	Nebraska Training and Support Cash Fund 22390	Employment Services Administration Fund 42300	Employment Security Administration Fund 42310	Occupational Safety & Health Administration Fund 42320
<b>REVENUES:</b>				
Appropriations	\$ -	\$ -	\$ -	\$ -
Intergovernmental	-	5,198,952	767,463	575,379
Sales & Charges	-	336	-	-
Miscellaneous	48,249	1,480	12,383	87
Unemployment Insurance Contributions	-	-	-	-
<b>TOTAL REVENUES</b>	<b>48,249</b>	<b>5,200,768</b>	<b>779,846</b>	<b>575,466</b>
<b>EXPENDITURES:</b>				
Personal Services	92,962	3,809,177	658,694	494,317
Operating	14,674	1,310,465	79,763	67,428
Travel	2,046	26,129	(1,972)	11,629
Capital Outlay	1,007	2,015	40,958	2,092
Government Aid	683,741	-	-	-
Unemployment Insurance Benefits	-	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>794,430</b>	<b>5,147,786</b>	<b>777,443</b>	<b>575,466</b>
Excess (Deficiency) of Revenues Over (Under) Expenditures	(746,181)	52,982	2,403	-
<b>OTHER FINANCING SOURCES (USES):</b>				
Sales of Assets	-	-	3,104	-
Adjustments to Fund Balances (Note 6)	-	1,582	-	-
Deposit to General Fund	-	-	-	-
Deposit to Common Fund (Note 7)	-	-	-	-
Operating Transfers In	1,089,957	-	-	-
Operating Transfers Out	(335,858)	-	-	-
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>754,099</b>	<b>1,582</b>	<b>3,104</b>	<b>-</b>
Net Change in Fund Balances	7,918	54,564	5,507	-
<b>FUND BALANCES, JULY 1, 2020</b>	<b>3,395,677</b>	<b>44,595</b>	<b>801,558</b>	<b>-</b>
<b>FUND BALANCES, JUNE 30, 2021</b>	<b>\$ 3,403,595</b>	<b>\$ 99,159</b>	<b>\$ 807,065</b>	<b>\$ -</b>
<b>FUND BALANCES CONSIST OF:</b>				
General Cash	\$ 3,403,595	\$ 99,068	\$ 800,511	\$ -
Insufficient Funds Items	-	-	-	-
Deposits with Vendors	-	-	1,135	-
Accounts Receivable Invoiced	-	91	7,259	-
Due From Other Funds	-	-	-	-
Due From Other Government	-	-	-	-
Due to Vendors	-	-	-	-
Accounts Payable and Accrued Liabilities	-	-	-	-
Claims Payable	-	-	-	-
Tax Refunds Payable	-	-	(8)	-
Deposits	-	-	(1,832)	-
Due to Fund	-	-	-	-
Due to Government	-	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>\$ 3,403,595</b>	<b>\$ 99,159</b>	<b>\$ 807,065</b>	<b>\$ -</b>

(Continued)

**NEBRASKA DEPARTMENT OF LABOR**  
**SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended June 30, 2021

	Disabled Veterans Outreach Program & Local Veterans Employment Representatives Fund 42330	Workforce Investment Act Greater Omaha Fund 42340	Workforce Innovation & Opportunity Act Fund 42350
<b>REVENUES:</b>			
Appropriations	\$ -	\$ -	\$ -
Intergovernmental	888,612	-	6,407,826
Sales & Charges	-	-	-
Miscellaneous	128	4,162	2,282
Unemployment Insurance Contributions	-	-	-
<b>TOTAL REVENUES</b>	<b>888,740</b>	<b>4,162</b>	<b>6,410,108</b>
<b>EXPENDITURES:</b>			
Personal Services	701,411	-	1,300,602
Operating	176,775	-	509,137
Travel	6,667	-	9,300
Capital Outlay	3,887	-	899
Government Aid	-	-	4,590,170
Unemployment Insurance Benefits	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>888,740</b>	<b>-</b>	<b>6,410,108</b>
Excess (Deficiency) of Revenues Over (Under) Expenditures	-	4,162	-
<b>OTHER FINANCING SOURCES (USES):</b>			
Sales of Assets	-	-	-
Adjustments to Fund Balances (Note 6)	-	-	-
Deposit to General Fund	-	-	-
Deposit to Common Fund (Note 7)	-	-	-
Operating Transfers In	-	-	-
Operating Transfers Out	-	-	-
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>-</b>	<b>-</b>	<b>-</b>
Net Change in Fund Balances	-	4,162	-
<b>FUND BALANCES, JULY 1, 2020</b>	<b>-</b>	<b>269,754</b>	<b>100,103</b>
<b>FUND BALANCES, JUNE 30, 2021</b>	<b>\$ -</b>	<b>\$ 273,916</b>	<b>\$ 100,103</b>
<b>FUND BALANCES CONSIST OF:</b>			
General Cash	\$ -	\$ 273,847	\$ 81,011
Insufficient Funds Items	-	-	-
Deposits with Vendors	-	-	2,370
Accounts Receivable Invoiced	-	69	16,694
Due From Other Funds	-	-	-
Due From Other Government	-	-	28
Due to Vendors	-	-	-
Accounts Payable and Accrued Liabilities	-	-	-
Claims Payable	-	-	-
Tax Refunds Payable	-	-	-
Deposits	-	-	-
Due to Fund	-	-	-
Due to Government	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>\$ -</b>	<b>\$ 273,916</b>	<b>\$ 100,103</b>

(Continued)

**NEBRASKA DEPARTMENT OF LABOR**  
**SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended June 30, 2021

	Reed Act Fund 42380	Unemployment Insurance Administration Fund 42390	Temporary School Fund 61360	State Unemployment Insurance Trust Fund 62310
<b>REVENUES:</b>				
Appropriations	\$ -	\$ -	\$ -	\$ -
Intergovernmental	2,042,474	41,912,195	-	-
Sales & Charges	-	675	-	-
Miscellaneous	2,594	10,225	45,762	3,156,837
Unemployment Insurance Contributions	-	-	-	-
<b>TOTAL REVENUES</b>	<b>2,045,068</b>	<b>41,923,095</b>	<b>45,762</b>	<b>3,156,837</b>
<b>EXPENDITURES:</b>				
Personal Services	-	14,953,369	-	-
Operating	233,609	22,832,146	-	-
Travel	-	5,047	-	-
Capital Outlay	1,811,285	3,482,184	-	-
Government Aid	-	398,712	-	-
Unemployment Insurance Benefits	-	-	-	-
<b>TOTAL EXPENDITURES</b>	<b>2,044,894</b>	<b>41,671,458</b>	<b>-</b>	<b>-</b>
Excess (Deficiency) of Revenues Over (Under) Expenditures	174	251,637	45,762	3,156,837
<b>OTHER FINANCING SOURCES (USES):</b>				
Sales of Assets	-	-	-	-
Adjustments to Fund Balances (Note 6)	-	(226,082)	-	-
Deposit to General Fund	-	-	-	-
Deposit to Common Fund (Note 7)	-	-	(45,762)	-
Operating Transfers In	-	36,144	-	-
Operating Transfers Out	-	-	-	(1,089,957)
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>-</b>	<b>(189,938)</b>	<b>(45,762)</b>	<b>(1,089,957)</b>
Net Change in Fund Balances	174	61,699	-	2,066,880
<b>FUND BALANCES, JULY 1, 2020</b>	<b>160</b>	<b>286,849</b>	<b>-</b>	<b>69,724,192</b>
<b>FUND BALANCES, JUNE 30, 2021</b>	<b>\$ 334</b>	<b>\$ 348,548</b>	<b>\$ -</b>	<b>\$ 71,791,072</b>
<b>FUND BALANCES CONSIST OF:</b>				
General Cash	\$ 59,552	\$ 287,300	\$ -	\$ 71,791,072
Insufficient Funds Items	-	-	-	-
Deposits with Vendors	-	-	-	-
Accounts Receivable Invoiced	-	2,030	-	-
Due From Other Funds	-	-	-	-
Due From Other Government	-	-	-	-
Due to Vendors	-	-	-	-
Accounts Payable and Accrued Liabilities	-	-	-	-
Claims Payable	-	-	-	-
Tax Refunds Payable	-	-	-	-
Deposits	-	-	-	-
Due to Fund	(59,218)	59,218	-	-
Due to Government	-	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>\$ 334</b>	<b>\$ 348,548</b>	<b>\$ -</b>	<b>\$ 71,791,072</b>

(Continued)



**NEBRASKA DEPARTMENT OF LABOR**  
**SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES**  
For the Fiscal Year Ended June 30, 2021

	Income Tax Setoff Fund 72310	Unemployment Insurance Benefits Administration Fund 72320	Unemployment Compensation Fund	Totals (Memorandum Only)
<b>REVENUES:</b>				
Appropriations	\$ -	\$ -	\$ -	\$ 562,289
Intergovernmental	-	-	733,724,867	791,517,768
Sales & Charges	-	-	-	558,391
Miscellaneous	-	-	10,895,724	14,757,126
Unemployment Insurance Contributions	-	-	65,932,177	65,932,177
<b>TOTAL REVENUES</b>	<b>-</b>	<b>-</b>	<b>810,552,768</b>	<b>873,327,751</b>
<b>EXPENDITURES:</b>				
Personal Services	-	-	-	22,945,597
Operating	-	-	-	25,704,117
Travel	-	-	-	62,830
Capital Outlay	-	-	-	8,540,957
Government Aid	-	-	-	5,672,623
Unemployment Insurance Benefits	-	-	605,920,646	605,920,646
<b>TOTAL EXPENDITURES</b>	<b>-</b>	<b>-</b>	<b>605,920,646</b>	<b>668,846,770</b>
Excess (Deficiency) of Revenues Over (Under) Expenditures	-	-	204,632,122	204,480,981
<b>OTHER FINANCING SOURCES (USES):</b>				
Sales of Assets	-	-	-	3,104
Adjustments to Fund Balances (Note 6)	-	-	296,242,317	296,016,235
Deposit to General Fund	-	-	-	(23,080)
Deposit to Common Fund (Note 7)	-	-	-	(45,762)
Operating Transfers In	-	-	7,853,936	9,280,037
Operating Transfers Out	-	-	(4,554,847)	(5,980,947)
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>-</b>	<b>-</b>	<b>299,541,406</b>	<b>299,249,587</b>
Net Change in Fund Balances	-	-	504,173,528	503,730,568
<b>FUND BALANCES, JULY 1, 2020</b>	<b>466</b>	<b>(252)</b>	<b>6,382,271</b>	<b>88,754,016</b>
<b>FUND BALANCES, JUNE 30, 2021</b>	<b>\$ 466</b>	<b>\$ (252)</b>	<b>\$ 510,555,799</b>	<b>\$ 592,484,584</b>
<b>FUND BALANCES CONSIST OF:</b>				
General Cash	\$ 224,429	\$ 4,651	\$ 454,597,111	\$ 536,729,188
Insufficient Funds Items	-	-	-	1,202
Deposits with Vendors	-	-	-	3,815
Accounts Receivable Invoiced	-	-	48,615,383	48,641,526
Due From Other Funds	-	-	40,343,463	40,344,553
Due From Other Government	-	-	-	28
Due to Vendors	-	-	-	(3,774)
Accounts Payable and Accrued Liabilities	-	-	(2,616,750)	(2,616,750)
Claims Payable	-	-	(16,850,229)	(16,850,229)
Tax Refunds Payable	-	-	-	(8)
Deposits	(158,850)	(2,657)	-	(163,339)
Due to Fund	(65,113)	(2,246)	(1,294,355)	(1,362,804)
Due to Government	-	-	(12,238,824)	(12,238,824)
<b>TOTAL FUND BALANCES</b>	<b>\$ 466</b>	<b>\$ (252)</b>	<b>\$ 510,555,799</b>	<b>\$ 592,484,584</b>

(Concluded)

NEBRASKA DEPARTMENT OF LABOR

NOTES TO THE SCHEDULE

For the Fiscal Year Ended June 30, 2021

1. Criteria

The accounting policies of the Nebraska Department of Labor (Department) are on the basis of accounting, as prescribed by the State of Nebraska Department of Administrative Services (DAS).

Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2014), the duties of the State of Nebraska's Director of DAS include:

*The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes[.]*

In accordance with Neb. Rev. Stat. § 81-1111(1) (Reissue 2014), the State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public.

The financial information used to prepare the Schedule of Revenues, Expenditures, and Changes in Fund Balances was obtained directly from the general ledger and fund balance information maintained on EnterpriseOne. EnterpriseOne is not an accrual accounting system; instead, accounts are maintained on a modified cash basis. As revenue transactions occur, the agencies record the accounts receivable and related revenues in the general ledger. As such, certain revenues are recorded when earned, regardless of the timing of related cash flows. State Accounting does not require the Department to record all accounts receivable and related revenues in EnterpriseOne; as such, the Department's schedule does not include all accounts receivable and related revenues. In a like manner, expenditures and related accounts payable are recorded in the general ledger as transactions occur. As such, the schedule includes those expenditures and related accounts payable posted in the general ledger as of June 30, 2021, and not yet paid as of that date. The amount recorded as expenditures on the schedule, as of June 30, 2021, **does not** include amounts for goods and services received before June 30, 2021, which had not been posted to the general ledger as of June 30, 2021.

Other liabilities (primarily in the Distributive Fund Type) are recorded in accounts entitled Accounts Payable and Accrued Liabilities, Claims Payable, Tax Refunds Payable, Deposits, Due to Fund, and Due to Government for the Department. The assets in these funds are being held by the State as an agent and will be used to pay those liabilities to individuals, private organizations, other governments, and/or other funds. The recording of those liabilities reduces the fund balance/equity.

The Department had accounts receivable included in the Schedule for unemployment insurance benefit overpayments. The Department also had accounts receivable, for unemployment insurance, not included in the Schedule. Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

The following fund types are established by the State and used by the Department:

**10000 – General Fund** – accounts for activities funded by general tax dollars and related expenditures and transfers.

**20000 – Cash Funds** – account for revenues generated by specific activities from sources outside of State government and the expenditures directly related to the generation of the revenues. Cash funds are established by State statutes and must be used in accordance with those statutes.

# NEBRASKA DEPARTMENT OF LABOR

## NOTES TO THE SCHEDULE

(Continued)

### 1. Criteria (Continued)

**40000 – Federal Funds** – account for the financial activities related to the receipt and disbursement of funds generated from the Federal government as a result of grants and contracts. Expenditures must be made in accordance with applicable Federal requirements.

**60000 – Trust Funds** – account for assets held by the State in a trustee capacity. Expenditures are made in accordance with the terms of the trust.

**70000 – Distributive Funds** – account for assets held by the State as an agent for individuals, private organizations, other governments, and/or other funds.

**Unemployment Compensation Fund** – an enterprise fund used to account for unemployment insurance contributions, payments of benefits and earnings. This fund was established to be separate from all public money or funds of the State for the exclusive purposes of the Employment Security Law.

The following major revenue account classifications are established by State Accounting and used by the Department:

**Appropriations** – Appropriations are granted by the Legislature to make expenditures and to incur obligations. The amount of appropriations reported as revenue is the amount of expenditures.

**Intergovernmental** – Revenue from other governments in the form of grants, entitlements, shared revenues, payments in lieu of taxes, or reimbursements.

**Sales & Charges** – Income derived from sales of merchandise and commodities, compensation for services rendered, and charges for various licenses, permits, and fees.

**Miscellaneous** – Revenue from sources not covered by other major categories, such as investment income.

The following major revenue account classification is used by the Unemployment Compensation Fund:

**Unemployment Insurance Contributions** – The share of combined tax that is paid by employers quarterly and credited to the State's account in the Unemployment Compensation Fund. Contributions together with State Unemployment Insurance Tax make up the combined tax.

The following major expenditure account classifications are established by State Accounting and used by the Department:

**Personal Services** – Salaries, wages, and related employee benefits provided for all persons employed by the Department.

**Operating** – Expenditures directly related to a program's primary service activities.

**Travel** – All travel expenses for any State officer, employee, or member of any commission, council, committee, or board of the State.

**Capital Outlay** – Expenditures that result in the acquisition of or an addition to capital assets. Capital assets are resources of a long-term character, owned or held by the government.

# NEBRASKA DEPARTMENT OF LABOR

## NOTES TO THE SCHEDULE

(Continued)

### 1. Criteria (Concluded)

**Government Aid** – Payment of Federal and/or State money to governmental subdivisions, State agencies, local health and welfare offices, individuals, etc., in furtherance of local activities and accomplishment of State programs.

The following major expenditure account classification is used by the Unemployment Compensation Fund:

**Unemployment Insurance Benefits** – Payments to individuals for unemployment claims.

Other significant accounting classifications and procedures established by State Accounting and used by the Department include the following:

**Assets** – Resources owned or held by a government that have monetary value. Assets include cash accounts, Insufficient Funds items, deposits with vendors, and receivable accounts. Accounts receivable are recorded as an increase to revenues resulting in an increase to fund balance on the schedule. Cash accounts and deposits with vendors are also included in fund balance and are reported as recorded in the general ledger.

**Liabilities** – Legal obligations arising out of transactions in the past that must be liquidated, renewed, or refunded at some future date. Accounts payable transactions are recorded as expenditures, resulting in a decrease to fund balance. Other liabilities recorded in the general ledger for the Department's funds at June 30, 2021, included amounts recorded in Accounts Payable and Accrued Liabilities, Claims Payable, Tax Refunds Payable, Deposits, Due to Fund, and Due to Government. The activity of these accounts is not recorded through revenue and expenditure accounts on the Schedule of Revenues, Expenditures, and Changes in Fund Balances.

**Other Financing Sources** – Operating transfers, adjustments to fund balances, deposit to General fund, deposit to Common fund, and proceeds from the sales of assets.

### 2. Reporting Entity

The Department is a State agency established under and governed by the laws of the State of Nebraska. As such, the Department is exempt from State and Federal income taxes. The schedule includes all funds of the Department included in the general ledger.

The Department is part of the primary government for the State of Nebraska.

### 3. Totals

The Totals "Memorandum Only" column represents an aggregation of individual account balances. The column is presented for overview informational purposes and does not present consolidated financial information because interfund balances and transactions have not been eliminated.

### 4. General Cash

General cash accounts are under the control of the State Treasurer or other administrative bodies, as determined by law. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State's Investment Council, which maintains an operating investment pool for such investments. Interest earned on those investments is allocated to funds based on their percentage of the investment pool. General cash accounts for the Unemployment Compensation Fund are maintained outside the State Treasurer in bank accounts under the control of the Commissioner of Labor per Neb. Rev. Stat. § 48-618 (Cum. Supp. 2020).

# NEBRASKA DEPARTMENT OF LABOR

## NOTES TO THE SCHEDULE

(Continued)

### 5. Capital Assets

Capital assets include land, buildings, equipment, improvements to buildings, construction in progress, and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items). Under State Accounting policies, expenditures for such capital assets are not capitalized as an asset in the funds used to acquire or construct them. Rather, costs of obtaining the capital assets are reflected as expenditures in the general ledger and are reported as such on the Schedule.

However, State Accounting does adjust such expenditures and reports the capital assets as assets for the State of Nebraska in the Annual Comprehensive Financial Report (ACFR). In addition, the Department takes an annual inventory, recording in the State Accounting System all equipment that has a cost of \$1,500 or more at the date of acquisition, and all computers.

For the ACFR, the State requires the Department to value all capital assets at cost where historical records are available and at estimated historical cost where no historical records exist. Donated capital assets are valued at their estimated fair market value on the date received. Generally, equipment that has a cost of \$5,000 or more at the date of acquisition and has an expected useful life of more than two years is capitalized. Substantially, all initial building costs, land, and land improvements are capitalized. Building improvements and renovations are capitalized if a substantial portion of the life of the asset has expired and if the useful life of the asset has been extended as a result of the renovation or improvement. Depreciation expenses are reported in the ACFR in the funds used to acquire or construct them for the State of Nebraska. The cost of normal maintenance and repairs that does not add to the value of the asset or extend the asset's life is not capitalized.

Buildings and Equipment are depreciated in the ACFR using the straight-line method. The following estimated useful lives are used to compute depreciation:

Buildings	40 years
Equipment	3 to 10 years

Capital asset activity of the Department recorded in the State Accounting System for the fiscal year ended June 30, 2021, was as follows:

	Beginning Balance	Increases	Decreases	Ending Balance
Capital Assets				
Land	\$ 374,000	\$ -	\$ -	\$ 374,000
Buildings	5,869,722	-	-	5,869,722
Equipment	1,092,953	291,530	207,516	1,176,967
Total	<u>\$ 7,336,675</u>	<u>\$ 291,530</u>	<u>\$ 207,516</u>	<u>\$ 7,420,689</u>
Less accumulated depreciation for:				
Buildings				\$ 3,243,178
Equipment				789,503
Total				<u>4,032,681</u>
Total capital assets, net of depreciation				<u>\$ 3,388,008</u>

Capital outlay on the financial schedule also includes approximately \$8 million in construction in progress.

NEBRASKA DEPARTMENT OF LABOR

**NOTES TO THE SCHEDULE**

(Concluded)

**6. Adjustments to Fund Balance**

Adjustments to Fund Balance transactions are those recorded directly to a fund's asset account or equity account rather than through a revenue or expenditure account. Included within the adjustments is a reversal of a fiscal year 2020 entry corrected by the Department of Administrative Services.

**7. Deposits to Common Funds**

Per Neb. Rev. Stat. § 48-2907 (Cum. Supp. 2020), the Department may issue an administrative penalty to a contractor that violates the Employee Classification Act, of not more than five hundred dollars per misclassified individual for the first offense and not more than five thousand dollars per misclassified individual for each second or subsequent offense. These penalties were deposited to the Temporary School Fund 61360.

**8. Unemployment Overpayments and Write-Offs**

During fiscal year 2021, the Department established \$50,748,768 in overpayments. Of that amount, \$11,507,347 had been written off, cancelled, or waived as of November 8, 2021. Additionally, as of November 8, 2021, 593 cases, totaling \$2,126,163 from claims filed prior to June 30, 2021, were flagged as potentially fraudulent in the benefit system and in need of review by the Department for a final determination.

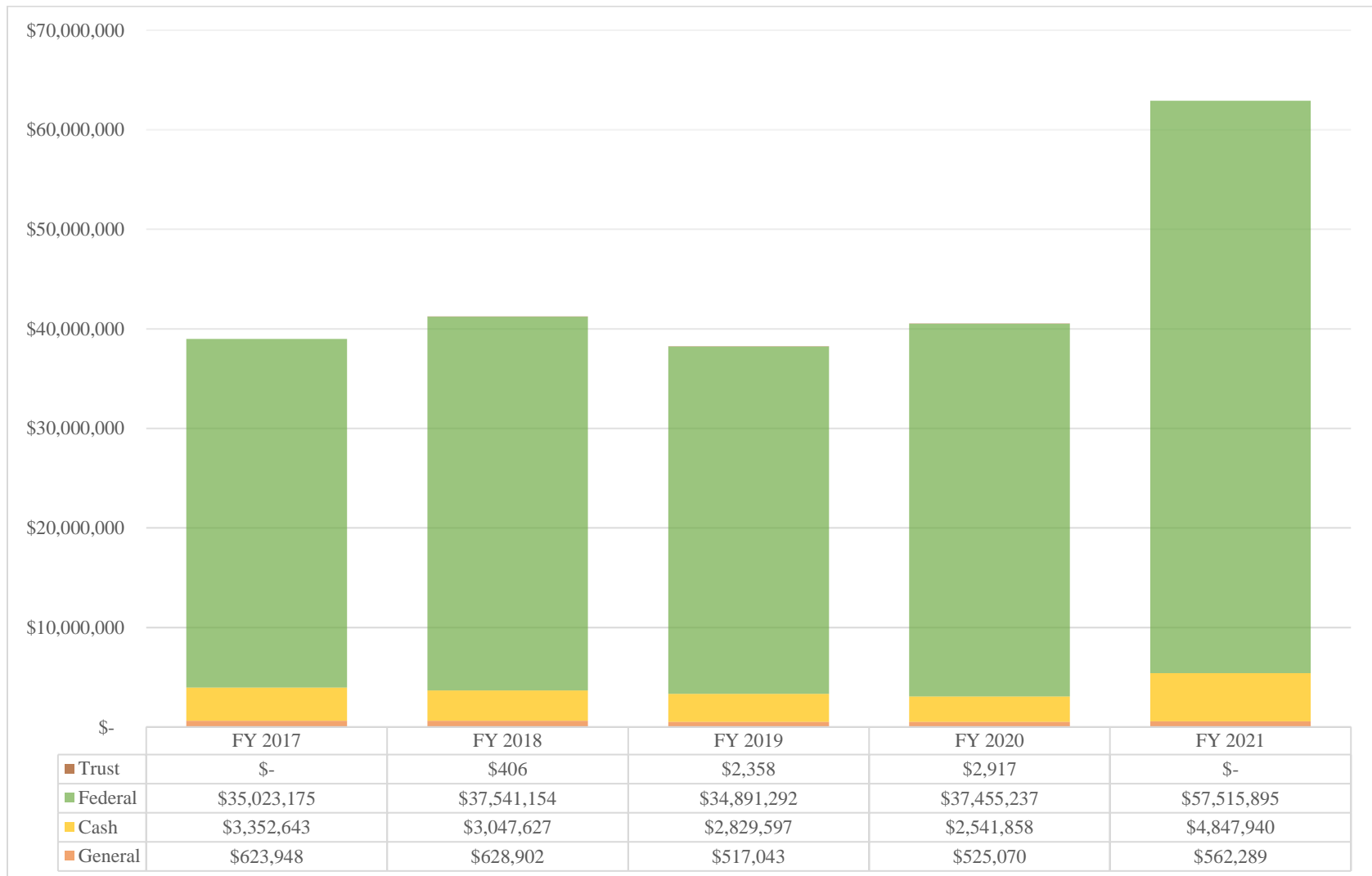
NEBRASKA DEPARTMENT OF LABOR

**SUPPLEMENTARY INFORMATION**

Our examination was conducted for the purpose of forming an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Supplementary information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the Schedule of Revenues, Expenditures, and Changes in Fund Balances, and, accordingly, we express no opinion on it.

NEBRASKA DEPARTMENT OF LABOR  
**EXPENDITURES BY FUND TYPE (EXCLUDING BENEFIT CLAIMS)**  
 Fiscal Years 2017 through 2021

**Exhibit A**

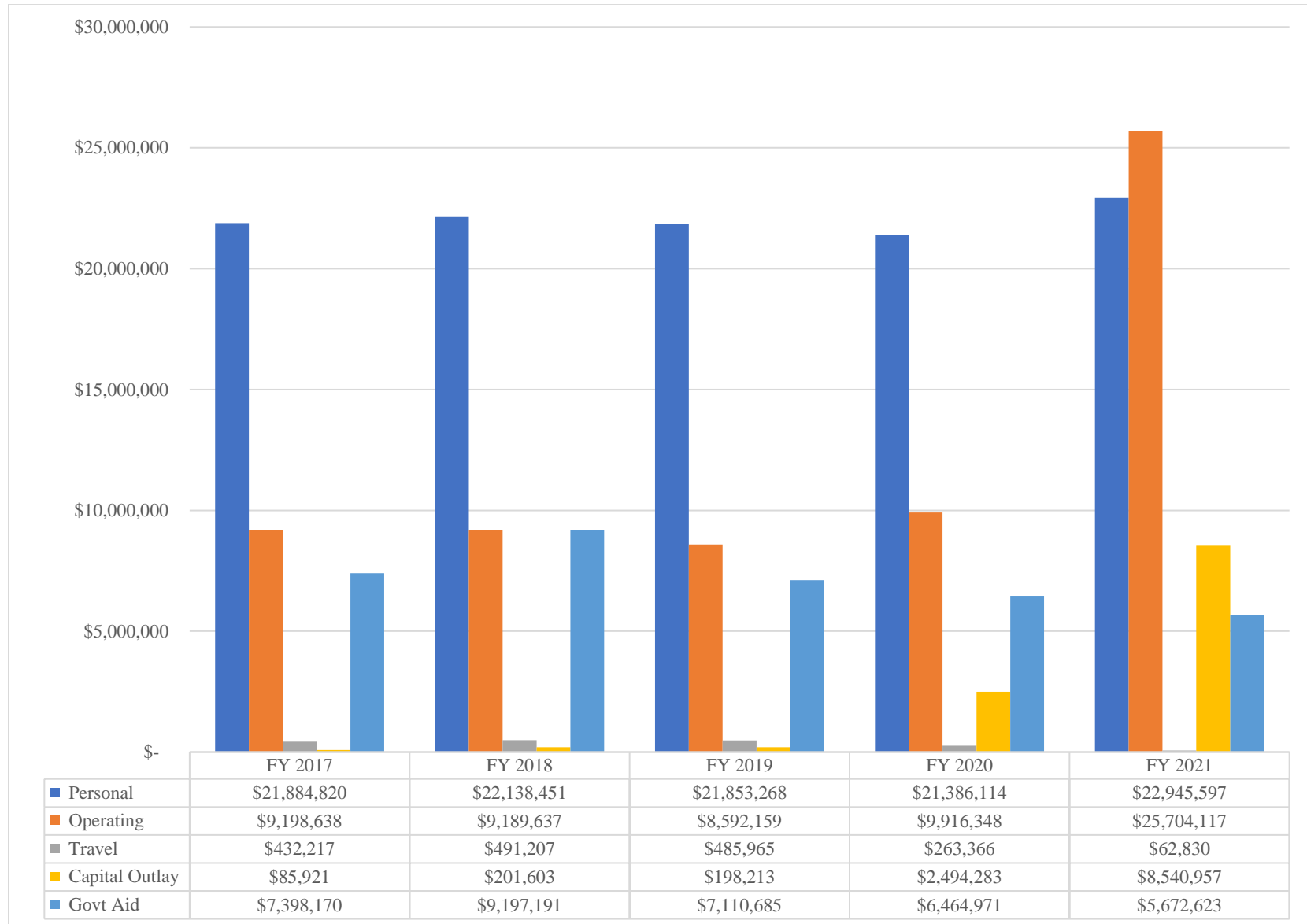


Source: State Accounting System



**NEBRASKA DEPARTMENT OF LABOR**  
**EXPENDITURES BY MAJOR ACCOUNT (EXCLUDING BENEFIT CLAIMS)**  
Fiscal Years 2017 through 2021

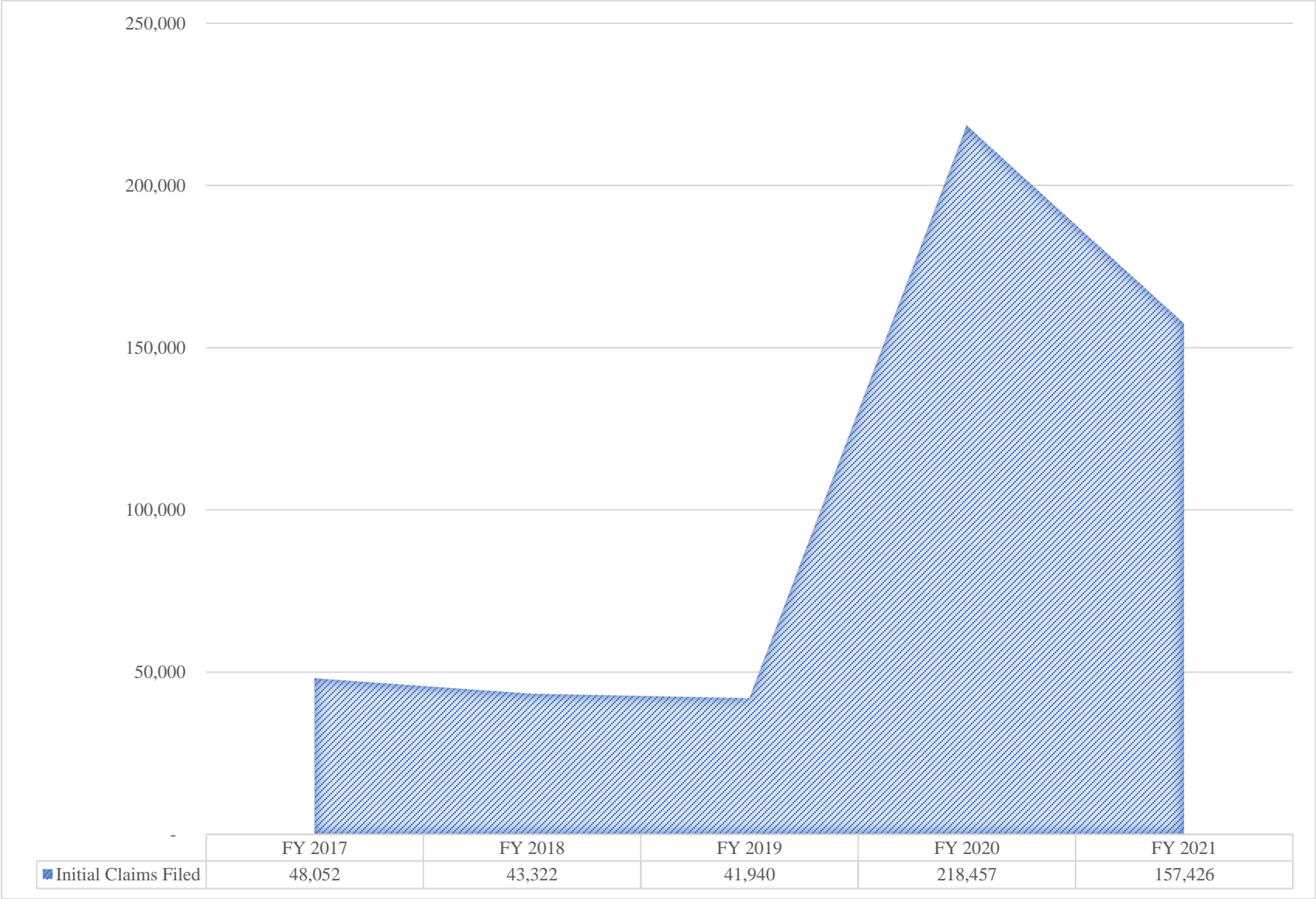
**Exhibit B**



Source: State Accounting System

NEBRASKA DEPARTMENT OF LABOR  
**INITIAL BENEFIT CLAIMS FILED**  
Fiscal Years 2017 through 2021

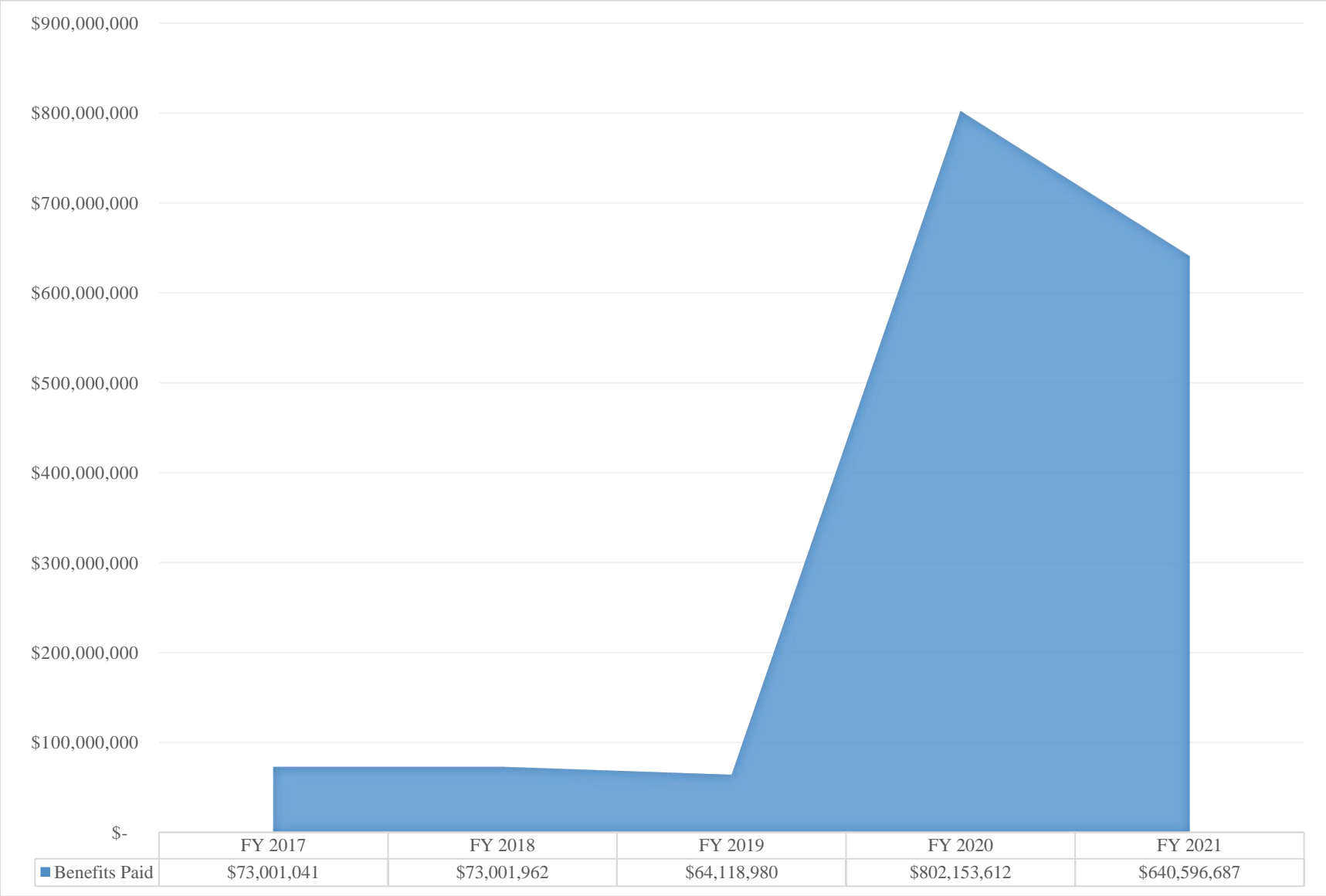
**Exhibit C**



Source: Legislative Guide and Department website

NEBRASKA DEPARTMENT OF LABOR  
**BENEFIT CLAIMS PAID**  
 Fiscal Years 2017 through 2021

**Exhibit D**



Source: Schedule of Expenditures of Federal Awards