NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
auditors.nebraska.gov

December 18, 2024

Katie Thurber, Interim Commissioner
Nebraska Department of Labor
550 South 16th Street
Lincoln, Nebraska 68509

Dear Interim Commissioner Thurber:

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State), as of and for the year ended June 30, 2024, and the related notes to the financial statements, which collectively comprise the State's basic financial statements, and have issued our report thereon dated December 18, 2024. In planning and performing our audit of the financial statements, we considered the State's system of internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our audit as described above, we noted certain internal control or compliance matters related to the activities of the Nebraska Department of Labor (Department) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Department's management, are intended to improve internal control or result in other operating efficiencies.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. We consider Comment Number 1 (Reoccurring Accounting Errors) and Comment Number 2 (Unemployment Insurance Benefit Issues) to be material weaknesses.

These comments will also be reported in the State of Nebraska's Statewide Single Audit Report Schedule of Findings and Questioned Costs.

Draft copies of this management letter were furnished to the Department to provide 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 management letter. *Government Auditing Standards* require the auditor to perform limited procedures on the responses. The responses were not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2024.

1. Reoccurring Accounting Errors

Despite modified opinions for the Unemployment Insurance (UI) Fund for the fiscal years 2020 through 2022 audits and material weaknesses reported in the fiscal year 2023 audit, the Department continued to lack procedures to ensure the fair and accurate presentation of the UI Fund financial statements in the Annual Comprehensive Financial Report (ACFR).

After each of the last four audits, the Auditor of Public Accounts (APA) recommended the Department work closely with the Department of Administrative Services – State Accounting Division (State Accounting) to establish procedures sufficient for calculating and reporting the UI Fund activity for the ACFR. However, both the Department and State Accounting failed to implement the recommendations, as only minimal oversight was provided by State Accounting to assist the Department in its preparation of the UI Fund financial statements.

Also included in the prior audits was a recommendation for the Department to establish procedures to ensure a proper review of documentation, including the trial balance, and to reconcile the Department's separate tax and benefit system, NEworks, to the State's accounting system to identify discrepancies between the systems. The UI Funds were maintained in separate, outside bank accounts, which differed from most State funds that are maintained by the State Treasurer. The Department prepared manual entries to record financial activity from NEworks and its bank to the State's accounting system, which was used to generate the State's financial statements.

Though improvements were noted, it is apparent from the number and dollar amount of adjustments and errors identified in the table below, that the Department failed to implement our prior recommendations. The financial statements required significant material adjustments due to incorrect entries and the lack of an adequate reconciliation of the financial activity recorded in NEworks to the State's accounting system. The significant errors and adjustments again required a substantial amount of additional time and work by the APA.

The table below summarizes over $10 million in errors made by the Department for the fiscal year ended June 30, 2024. The APA proposed, and State Accounting posted, these adjustments to correct the financial statements.

Account	Description	Amount
Tax Contributions Receivable	Two errors affected the tax contribution receivable. The first was the Department's incorrect entry in fiscal year 2024 to record a prior year adjustment that was already recorded in the prior year. The second error was related to the Department's failure to record properly all receivable activity as of fiscal year end.	$ 4,208,985
Overpayment & Penalty Receivable	Eight errors affected the overpayment and penalty receivable accounts and their related allowances for doubtful accounts. These errors included the Department's incorrect recording of a prior year adjustment in the current year, errors in the Department's calculation of the related allowances for doubtful accounts, errors in the Department's monthly adjustment of its receivable, the duplication of write-off entries, mistakes in recording entries in the accounting system, and an unsupported ending balance in the account as of June 30, 2024.	$ 3,465,917

Account	Description	Amount
Due To Funds	Penalties and interest on employer contributions are due to the Employer Security Special Contingent Fund per State statute. There were four errors affecting the amounts to this Fund. The Department reported the incorrect ending balance to State Accounting, which subsequently recorded the incorrect balance in the accounting system. The Department also failed to record necessary entries and included an ending balance that was not fully supported by documentation.	$ 1,188,695
Due From Funds	Two errors affected the due from funds accounts in the Other Special Revenue Fund and the General Fund. The Department failed to report properly to State Accounting a due from the UI Fund to the General fund. Because of this error, State Accounting incorrectly eliminated the due to fund balance, which had to be reversed. Additionally, after accounting for the due to fund errors noted in the Due to Funds account in the UI Fund above, the corresponding due from fund balance did not agree to the new due to fund balance, requiring adjustment.	$ 928,635
CWC Errors	Combined Wage Claims (CWC) are unemployment claims for claimants with wages in multiple states. When payments are made, the state that made the claim is entitled to reimbursement from the other states. There were seven errors affecting the CWC receivable and payable accounts. These errors included the failure to include all necessary activity in the accounts as of year-end, the duplication of amounts recorded in the account, and improperly recording year-end activity to the payable account rather than the receivable account, or vice versa.	$ 590,751
Miscellaneous Adjustment	The Department incorrectly recorded a prior year adjustment in the current year.	$ 242,619
Benefits Payable	Seven errors affected the benefits payable account. These errors included recording unnecessary adjustments to the account for adjustments that had already been recorded, mistakes in recording entries to the accounting system, an NEworks system error that resulted in not all activity for the year being properly recorded in the accounting system, and the lack of agreement between amounts recorded in the accounting system to supporting documentation from the Department's system.	$ 196,914
	Total Adjustments	**$ 10,822,516**

In total, 31 separate adjustments were necessary to correct the financial statements for fiscal year 2024.

The APA identified other accounting issues and financial statement errors that did not require adjustments to the financial statements due to their relative insignificance; nevertheless, these were errors and are detailed in the table below:

Error	Description	Dollar Error
1	The Department claimed to have discretion in the use of a Federal fund balance of $916,802; however, documentation to support that assertion was not provided, nor was an explanation describing how the balance was accumulated.	$ 916,802
2	The Department uses a suspense account to serve as the holding account for unreconciled amounts between the bank and NEworks. During fiscal year 2024, the Department failed to perform an analysis of the $219,251 balance in the holding account on June 30, 2024, to determine the proper disposition of those amounts.	$ 219,251
3	The Department recorded a fiscal year 2023 adjustment to correct the balance in the claims payable account again in fiscal year 2024, resulting in fiscal year 2024 expenditures being overstated by $168,328.	$ 168,328

Error	Description	Dollar Error
4	The Department's allowance for doubtful accounts related to employers' accounts receivable (employer UI taxes owed), including penalties and interest receivable, included $149,660 that should not have been included based on the Department's own criteria for inclusion as an allowance.	$ 149,660
5	Employer account activity from one day in fiscal year 2024 was not recorded in the accounting system. This resulted in an overstatement of $95,160 in tax contributions receivable and an understatement of $197 in tax contributions payable.	$ 95,357
6	The Department recorded a fiscal year 2023 adjustment to correct the reimbursable receivable allowance for doubtful accounts again in fiscal year 2024, resulting in fiscal year 2024 revenue being understated by $83,986. The reimbursable receivable is related to those employers who do not pay UI taxes, but who reimburse the Department for claims paid.	$ 83,986
7	In its preparation of the ACFR, State Accounting annually reviews entries identified as prior period transactions and recorded within three months after the fiscal year end. Due to differences between the timing of the Department's entries into the accounting system and the timing of State Accounting's annual review, multiple prior period transactions, totaling $219,254, were not reviewed for inclusion in the current fiscal year. Additionally, the Department incorrectly recorded $186,248 in entries for fiscal year 2024 as prior period transactions, which then prompted State Accounting to make a beginning balance adjustment. The net result of these two errors resulted in $33,006 of activity being recorded in the incorrect fiscal year.	$ 33,006
8	The reimbursable receivable account was overstated by $26,287 due to the Department's failure to record April 2024 employer payments recorded in NEworks to the accounting system.	$ 26,287
9	The Department failed to consider $11,722 in negative charges to reimbursable employers that occurred in fiscal year 2025 for periods prior to July 1, 2024. This resulted in the balance in reimbursable receivable being overstated by $11,722.	$ 11,722
10	Due to the use of old versions of the reports supporting the claims payable at June 30, 2024, the Department's entry was understated by $10,691.	$ 10,691
11	The Department lacked support for $7,906 of the $2,072,625 benefits payable account balance at June 30, 2024. The amounts are likely related to benefit payments that failed to deposit in the claimants' bank account and were returned to the Department's bank. The Department lacked support for the amounts of returned payments.	$ 7,906
12	In March 2024, the Department received an extra $2,810 CWC payment from the state of Idaho that was not recorded as a receivable. At that time, the payment was recorded as a reduction to the CWC receivable, which incorrectly reduces the receivable.	$ 2,810
13	In January 2024, the Department recorded two different entries to one employer account balance that resulted in a negative tax contribution receivable for that employer. Both entries reduced the tax contributions receivable balance by $2,809, leaving an incorrect negative balance due of $2,809 in NEworks.	$ 2,809
14	The balance in child support payable as of June 30, 2024, was understated by $187.	$ 187
15	From April to June 2023, the Department collected $449,465 in penalties and interest, but $449,602 was remitted to the Employment Security Special Contingent Fund, a $137 difference.	$ 137

Error	Description	Dollar Error
16	The Department's calculation of the overpayment receivable expected to be established within 90 days after June 30, 2024, was not reasonable. First, the calculation included the average overpayments established between July and September for the last nine years, which assumes that all overpayments established during that time were from the previous fiscal year. However, some of those overpayments could be for payments made during the current fiscal year. Second, the calculation neglected to include overpayments established from October to June for payments made in the previous fiscal year.	$ -
17	The Department failed to reduce the balance in due from the federal government for $334 received in February 2024. This error was eliminated by an entry made by State Accounting, resulting in no required adjustment. However, as the State Accounting entry will reverse in fiscal year 2025, the Department will need to record an entry to reduce properly the balance in due from the federal government going forward.	$ -
18	While reviewing the employer balances as of June 30, 2024, the APA noted multiple billed interest receivable balances in the accounting system that could not be traced to NEworks. Per the Department, the error was caused by the method to record adjustments by the vendor to employer balances in NEworks.	$ -
	Total Unadjusted Errors	**$ 1,728,939**

A proper system of internal control requires procedures to ensure accurate information is included in the State's accounting system for the proper presentation of the State's financial statements.

Without such procedures, there is an increased risk of not only material misstatements occurring and remaining undetected but also improper payments being made.

> We continue to recommend the Department implement procedures to ensure its accounting transactions are recorded properly in the State's accounting system. This would include a timely reconciliation between the Department's system and bank to the State's accounting system and an adequate review and documentation of all activities and balances recorded. Without the resolution of these repeated findings, the APA's ability to audit the UI financial statements might be compromised.

Department Response: The Department recognizes that the Auditor of Public Accounts (APA) has recommended stronger internal controls and procedures multiple times. The Department has recognized previous errors and continues to work to improve their accounting practices. Based off previous findings from the APA, the Department has completely re-established its accounting processes over the past two years. The Department has a new accounting team, that is working in response to the APA's findings to establish and solidify sound accounting practices. The average years of experience of the Department's financial reporting team at the time of books close for ACFR FY24 was 1.5 years. The Department acknowledges the changes in process and staff has caused the APA to spend substantial time investigating balances. The Department has and continues to express gratitude to the APA. The Department is in a better position today than it was and continues to make progress. Compared to the prior audit year, the accounting resulted in far fewer errors that required correction. With the hard work of the Department, the depth of experience has grown despite the fewer years of experience by the accounting team. This audit is additionally an improvement upon the prior year with 56% fewer dollars in identified material findings. The Department continues to improve internal controls and procedures. The Department has a strong partnership with the Department of Administrative Services and will continue to work with state accounting to ensure that balances and accruals are recorded accurately and properly.

2. <u>Unemployment Insurance Benefit Issues</u>

The Department paid $87,552,659 in UI benefits to 20,356 claimants between July 1, 2023, and June 30, 2024.

Our testing included a random sample of 40 payments, totaling $17,624, and resulted in $2,983 in questioned costs. Based on the sample tested, the dollar error rate for the sample was 16.93% ($2,983/$17,624), which estimates the potential dollars at risk for fiscal year 2024 to be $14,822,665.

The APA also found an additional $38,000 of questioned costs during other testing procedures.

Similar findings have been noted since the fiscal year 2020 audit.

The following table summarizes the questioned costs, which are explained in detail below:

	Questioned Costs FY 2024
Random Sample Adjudication Issues	$ 2,983
Claimants with Excessive Wages	$ 20,524
Improper UI Benefits Paid to State Employees	$ 17,476
Total	**$ 40,983**

A proper system of internal controls requires procedures to ensure that UI claimants are eligible, and benefit payments are proper.

Per 2 CFR § 2900.4 (January 1, 2024), the U.S. Department of Labor adopted the Office of Management and Budget (OMB) Uniform Guidance as its policies and procedures for financial assistance administration.

2 CFR § 200.403 (January 1, 2024) requires costs charged to Federal programs to be reasonable, necessary, and adequately documented.

2 CFR § 200.302 (January 1, 2024) requires states to expend Federal awards in accordance with state laws.

Random Sample Adjudication Issues

Adjudication of Employer Responses

When a claimant files for UI benefits, the Department sends a "Separation Information Request" to the claimant's previous employers to provide certain 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) (Reissue 2021).

For 3 of the 40 randomly selected claimants tested, the Department failed to adjudicate properly the most recent separating employer responses because the employers provided information that required additional information for accurate adjudication.

Claimant	Claimant Response	Employer Response	Benefit Paid for Weeks Ending	Questioned Costs	Total Payments	Adjudication Issue
#1	**Note 1**	Terminated/Fired	5/18/2024 - 6/29/2024	$ 464	$ 2,906	For each claimant, the employer responded that the claimant was either "Terminated/Fired" or "Fired/Discharged". In each case, the Department failed to follow up and obtain additional information on the specifics of the separation from the employer. If the cause of separation was due to misconduct, the claimant may have been ineligible for benefits. The questioned costs include only the payment tested by the APA.
#2	Fired/ Discharged	Fired/ Discharged	6/10/2023 - 11/25/2023	$ 5	$ 7,829	
#3	Terminated/Fired	Terminated/Fired	10/21/2023 - 4/13/2024	$ 514	$ 13,364	
			Totals	**$ 983**	**$ 24,099**	

***Note 1**: Claimant did not report this employer on the application. However, the Department was aware of the employment at the time the claim was filed and sent a Separation Information Request to the employer.*

Neb. Rev. Stat. § 48-628.10 (Reissue 2021) 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.*

The Employment and Training Administration (ETA) Handbook 301, 5th Edition (July 2005), page V-11, states, in relevant part, the following:

> *A request for information which is returned by the claimant, employer or interested party with insufficient or missing information is not considered a reasonable attempt. The SWA [State Workforce Agency] must attempt to obtain the needed information.*

A proper system of internal control requires procedures to ensure that the Department adjudicates properly each claimant's last separation from employment.

Without such procedures, there is an increased risk of not only benefit payments being made to ineligible claimants but also noncompliance with State statute.

<u>Issues Regarding Separation Information Requests</u>
The APA also found issues and questioned costs related to the Department's failure to send Separation Information Requests. The following table explains the issues noted:

Claimant	Claimant Response	Benefit Paid for Weeks Ending	Questioned Costs	Total Payments	Adjudication Issue
#4	Still Employed	6/3/2023 - 8/5/2023	$ 288	$ 2,880	The Department failed to send the last separating employer a Separation Information Request. The questioned costs include only the payment tested by the APA.
#5	Not Working	12/23/2023 - 3/23/2024	$ 514	$ 7,196	
		Totals	**$ 802**	**$ 10,076**	

Per Neb. Rev. Stat. § 48-632(1) (Revised 2021), employers must respond to the Separation Information Request within 10 days, as follows:

> *An employer shall provide information to the department in respect to the request for information within ten days after the mailing or electronic transmission of a request.*

ETA Handbook 301, 5th Edition (July 2005), page V-13, contains the following:

> *Employer information is essential on eligible voluntary quit, discharge, refusal-of-work, and certain deductible income cases. Also, the employer must be given the opportunity to be heard and to refute information which could be adverse to the interests of the business.*

A proper system of internal controls requires procedures to ensure that Separation Information Requests are sent to the last separating employer.

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

Adjudication of Claimant Responses

The APA also found issues and questioned costs related to the Department's failure to adjudicate or verify properly information provided by the claimant.

Claimant	Claimant Response	Employer Response	Benefit Paid for Weeks Ending	Questioned Costs	Total Payments	Adjudication Issue
#1	Note 6	Terminated/Fired	5/18/2024 - 6/22/2024	Note 3	$ 2,906	The claimant reported on his application that he would be attending school, 8:00 a.m. to 5:00 p.m. Monday through Friday, while claiming unemployment benefits. Under Neb. Rev. Stat. § 48-628.03 (Reissue 2021), individuals are not eligible for benefits while attending school.
#4	Still Employed	N/A	6/3/2023 - 8/5/2023	Note 4	$ 2,880	The claimant reported on her application that she was employed by an educational institution, that she had separated on May 17, 2023, and expected to return to work in August 2023. Under Neb. Rev. Stat. § 48-628.06 (Reissue 2021), individuals are ineligible for benefits if those benefits are based on services performed for an educational institution, and the weeks claimed are between two successive academic years or terms (i.e., summer break).
#6	Terminated/Fired	Did not Respond	11/11/2023 - 2/17/2024	$ 514	$ 7,218	The claimant did not complete the required work searches even though he had reported that he was a member in good standing with a labor union, which would waive the work search requirements. The Department failed to confirm this fact with the union.
#7 Note 5	Resigned/Quit	Resigned/Quit	4/18/2024 - 8/24/2024	$ 492	$ 9,840	The claimant reported to the Department that he had voluntarily resigned/quit his employment to take care of his sick father. While this would qualify as good cause for voluntarily quitting under Neb. Rev. Stat. § 48-628.13 (Reissue 2021), the Department did not obtain documentation to verify the claimant's statement.
			Totals	**$ 1,006**	**$ 22,844**	

Note 2*: The questioned costs include only the payment tested by the APA.*

Note 3*: Questioned costs were not reported here to avoid duplication. For the questioned costs, see the* ***Adjudication of Employer Responses*** *table.*

Note 4*: Questioned costs were not reported here to avoid duplication. For the questioned costs, see the* ***Issues Regarding Separation Information Requests*** *table.*

Note 5*: Total payments are as of August 24, 2024. Claimant was still eligible for additional payments at that time.*

Note 6*: Claimant did not report this employer on the application. However, the Department was aware of the employment at the time the claim was filed, so a Separation Information Request was sent to the employer.*

Neb. Rev. Stat. § 48-628.03 (Reissue 2021) provides the following:

(1) An individual shall be disqualified for benefits for any week of unemployment if such individual is a student unless the major portion of his or her wages for insured work during his or her base period was for services performed while attending school. Attendance at a school, college, or university for training purposes, under a plan approved by the commissioner for such individual, shall not be disqualifying.

(2) For purposes of this section, student means an individual who is registered for full-time status at and regularly attends an established school, college, university, training facility, or other educational institution or who is on vacation during or between two successive academic years or terms.

Neb. Rev. Stat. § 48-628.06 (Reissue 2021) states, in relevant part, the following:

An individual shall be disqualified for benefits for any week of unemployment if claimed benefits are based on services performed:

* * * *

(2) In any other capacity for an educational institution, if such week commences during a period between two successive academic years or terms, such individual performs such services in the first of such academic years or terms, and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms.

Neb. Rev. Stat. § 48-627 (Reissue 2021) states, as is relevant, 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.

Employment and Training Administration (ETA) Handbook 301, 5th Edition (July 2005), page V-14, states the following:

Often it is necessary to get relevant information from parties other than the claimant or the employer. "Others" includes, but is not limited to, physicians, <u>union officials</u>, school officials, public transportation officials, licensing agencies and other governmental agencies such as Welfare, Workers' Compensation, Employment Service (ES), and the United States Citizenship and Immigration Services (USCIS).

(Emphasis added.) Neb. Rev. Stat. § 48-628.12 (Reissue 2021) 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.

According to the Nebraska Supreme Court, "In voluntary termination cases the burden of proof is on the employee to prove that the leaving was for good cause." *McClemens v. United Parcel Service*, 218 Neb 689, 691, 358 N.W.2d 748, 750 (1984).

A proper system of internal control requires procedures to ensure that the Department adjudicates properly each claimant's last separation from employment. This would include following up on potentially disqualifying information provided by the claimants.

Without such procedures, there is an increased risk of not only benefit payments being made to ineligible claimants but also noncompliance with State statute.

<u>Weekly Benefit & Maximum Benefit Amount Issues</u>

The base period of a claim is the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year. The benefits paid on a claim are based on the wages reported within the claimant's base period.

For 2 of the 40 randomly selected claims tested, the claimants' wages did not agree to the base period wages on the claims. This resulted in both the Weekly Benefit Amounts (WBA) and Maximum Benefit Amounts (MBA) being incorrect.

Claimant	Original Base Period Wages	Revised Base Period Wages	Questioned Costs	Original WBA	Revised WBA	Description
#8	$ 24,377	$ 23,714	$ 24	$ 286	$ 262	The claimant submitted a wage protest to the Department on 3/14/2023, as she believed her base period wages were incorrect. Due to this, the Department reached out to the claimant's employer, who reported to the Department that the claimant had earned $23,714 in wages between 10/1/2021 and 9/30/2022. When making this change in the system, the Department incorrectly used the 10/30/2022 - 12/31/2022 wages for the 7/1/2022 - 9/30/2022 period. This resulted in the claimant's WBA being overstated by $24. In total, the claimant was overpaid $528 between the weeks ended 3/11/2023 and 8/5/2023. The questioned costs include only the payment tested by the APA.
#9	$ 19,887	$ 11,993	$ 168	$ 404	$ 236	The claimant's base period originally included $7,894 in wages that were not earned by him, and instead were for other individuals. The employers of these other individuals had incorrectly reported these wages to the Department under the claimant's social security number (SSN). The adjudicator failed to realize this error when reviewing the claim, so the claimant's WBA was overstated by $168. In total, the claimant was overpaid $2,632 between the weeks ending 9/9/2023 and 12/30/2023. The questioned costs include only the payment tested by the APA.
Totals	**$ 44,264**	**$ 35,707**	**$ 192**	**$ 690**	**$ 498**	

Neb. Rev. Stat. § 48-626(3) (Cum. Supp. 2024) states, in relevant part, the following:

> *For any benefit year beginning on or after July 21, 2022, 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[.]*

Neb. Rev. Stat. § 48-624 (Reissue 2021) provides the following, as is relevant:

> *For any benefit year beginning on or after January 1, 2018:*
>
> > *(1) An individual's weekly benefit amount shall be one-half of his or her average weekly wage rounded down to the nearest even whole dollar amount, but shall not exceed one-half of the state average weekly wage as annually determined under section 48-121.02;*
> >
> > *(2) For purposes of this section, an individual's average weekly wage shall equal the wages paid for insured work in the highest quarter of the base period divided by thirteen[.]*

A proper system of internal control requires procedures to ensure that claimant wages and, therefore, the claim's WBA and MBA, are correct prior to benefit payments being issued.

Without such procedures, there is an increased risk of not only benefit payments being made for amounts greater than allowable but also noncompliance with State statute.

Overpayment Establishment Errors

The APA also found issues regarding the establishment of overpayments, or lack thereof, by the Department.

Claimant	Description
#9	In addition to the error noted in the **Weekly Benefit & Maximum Benefit Amount Issues** table for this claimant, when the Department attempted to correct that error, it mistakenly established an overpayment for more than the difference between the claim's original and revised MBA. The original MBA on the claim was $6,629, which the claimant was paid. However, with the revised wages, this was reduced to $3,997, a difference of $2,632. The Department established an overpayment of $2,853, which is $221 more than the expected overpayment.
#10	The claimant had reported to the Department that she received a vacation payment of $1,880 on 8/10/2023 that was for 10 days of vacation (or 80 hours). The Department did not prorate these wages properly to future benefit weeks, resulting in the Department failing to establish an overpayment of $349 for benefit week ended 8/19/2023. The APA did not question costs, as this was not the payment tested.

Neb. Rev. Stat. § 48-626(1) (Cum. Supp. 2024) states, in relevant part, the following:

> *For any benefit year beginning before July 21, 2022, 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[.]*

Neb. Rev. Stat. § 48-628.02 (Reissue 2021) states, 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:*
>
> * * * *
>
> *(b) Vacation leave pay, including that received in a lump sum or upon separation from employment;*
>
> * * * *
>
> *(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 proper system of internal control requires procedures by the Department to ensure that overpayments are established in a timely manner and for the correct amount.

Without such procedures, there is an increased risk of not only overpayments being established for the incorrect amount or in an untimely manner but also noncompliance with State statute.

Claimants with Excessive Wages Issues

The APA tested five claimants who earned over $350,000 in wages during the period July 1, 2023, through June 30, 2024, and an additional five claimants who earned over $75,000 in wages – all of whom received over $6,000 in unemployment benefits during the period.

Benefits paid to 3 of the 10 claimants tested were inappropriate, as detailed below:

Claimant	FY 2024 Wages	FY 2024 Questioned Costs	Description of Issue
#1	$ 262,676	$ 8,736	The claimant separated from her employer in January 2024 and received benefits from March 2024 through June 2024. The claimant reported a $115,000 severance payment from her employer. The Department failed to review the reported severance payment. Likewise, no attempt was made to contact the claimant or the employer regarding it. Had the severance payment been applied properly to the claim, the claimant would have been ineligible to receive benefits until July 2024. The claimant was paid $8,736 for weeks ended 3/9/2024 to 6/22/2024, which is considered questioned costs.
#2	$ 93,100	$ 3,598	The claimant separated from his employer in May 2023, and received benefits covering weeks ended in June 2023 to January 2024. The claimant reported receiving $12,000 in vacation pay and $19,000 in severance pay from his employer upon separation. The Department failed to prorate properly the reported earnings to future weeks. Had the vacation and severance pay been applied properly to the claim, the claimant would have been ineligible to receive benefits until August 2023. The claimant was paid $3,598 for weeks ended 6/24/2023 to 8/5/2023, which is considered questioned costs.
#3	$ 79,586	$ 8,190	The claimant separated from his last employer on January 9, 2024, and received his first benefit payment on March 13, 2024. However, based on wage records available to the Department, the claimant was reemployed during the period January 1, 2024, to March 31, 2024, and received $20,350 in wages from a new employer during that period, while also receiving $2,184 in unemployment benefits. The claimant also received $32,811 in wages from the new employer for the period April 1, 2024, to June 30, 2024, and received $6,552 in unemployment benefits during this same time. It is likely that the claimant fraudulently certified his wages to the Department and was ineligible to receive UI benefits. The Department lacked sufficient procedures to ensure that benefit payments made to claimants are not made while the claimant is also receiving disqualifying wages. The $8,190 paid to the clamant is considered questioned costs.
Totals	**$ 435,362**	**$ 20,524**	

Neb. Rev. Stat. § 48-628.02 (Reissue 2021) provides 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;*
> >
> > * * * *
>
> *(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 proper system of internal control requires procedures to ensure that unemployment benefits are paid properly to claimants in accordance with State statute and Federal regulations, and all claims, including supporting documentation, are adequately reviewed for indicators of potential fraud.

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

Improper Benefits Paid to State Employees

The APA compared a list of unemployment benefit claimants to the State's employee management system to identify State of Nebraska (State) employees who had also received unemployment benefits during the fiscal year ended June 30, 2024. The APA then compared the weeks these individuals were paid UI benefits to the weeks they were paid wages from the State.

In total, the APA identified 28 State employees who received UI benefits for weeks they were also employed with the State. We selected six of those employees to test. During fiscal year 2024, the Department paid $17,476 in improper unemployment benefits to State employees for three of six claimants tested. All three claimants failed to report any wages, as detailed in the table below:

Claimant	Wages per State Accounting System	Benefits Paid	APA Calculated Benefits to be Paid	Amount Overpaid	Overpayments Established by NDOL	Unrecorded Overpayments
#1	$ 4,904	$ 1,542	$ -	$ 1,542	$ -	$ 1,542
#2	$ 14,674	$ 7,710	$ -	$ 7,710	$ 5,140	$ 2,570
#3	$ 12,800	$ 8,224	$ -	$ 8,224	$ 8,224	$ -
Total Overpayments				**$ 17,476**	**$ 13,364**	**$ 4,112**

In addition to the above overpayments, the APA noted the following adjudication issues related to two of the six individuals tested:

Claimant	Adjudication Issue Noted by APA
#1	The employer responded that the claimant was "Terminated/Fired" and provided a letter outlining 11 separate instances that resulted in the claimant's termination. The Department failed to follow up with the employer to obtain additional information on the specifics of the separation. If the cause of separation was due to misconduct, the claimant may have been ineligible for benefits.
#4	The Department failed to send the last separating employer a Separation Information Request.

Active State workers may be eligible for unemployment benefits if: 1) their work hours were reduced; b) they were terminated from other employment; or c) their hours from another job were reduced. In these instances, the employee would be required to report his or her wages earned from the State to determine both eligibility and benefit amount.

Neb. Rev. Stat. § 48-625(1) (Cum. Supp. 2024) provides, in relevant part, the following:

> *[E]ach 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 (Reissue 2021) states, 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.

Neb. Rev. Stat. § 48-628.10 (Reissue 2021) 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.

The Employment and Training Administration (ETA) Handbook 301, 5th Edition (July 2005), page V-11, states, in relevant part, the following:

A request for information which is returned by the claimant, employer or interested party with insufficient or missing information is not considered a reasonable attempt. The [State Workforce Agency] SWA must attempt to obtain the needed information.

Per Neb. Rev. Stat. § 48-632(1) (Revised 2021), employers must respond to the Separation Information Request within 10 days, as follows:

An employer shall provide information to the department in respect to the request for information within ten days after the mailing or electronic transmission of a request.

ETA Handbook 301, 5th Edition (July 2005), page V-13, contains the following:

Employer information is essential on eligible voluntary quit, discharge, refusal-of-work, and certain deductible income cases. Also, the employer must be given the opportunity to be heard and to refute information which could be adverse to the interests of the business.

A proper system of internal control requires procedures sufficient to identify improper or questionable benefits for further investigation and proper resolution.

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

The APA also identified the following issues that did not result in questioned costs.

Wage Crossmatch Issues

According to 20 CFR § 603.23(b) (April 1, 2024), the Department is required to perform a quarterly wage crossmatch to verify the claimant's reported wages against the wages reported by the employer and accumulated in the Department's wage database to determine whether a claimant met the Department's criteria for further investigation. If the criteria were met, an automatic investigation should be created that would include sending a wage audit request to the employer to obtain the wages earned for each week that the claimant was receiving benefits.

The APA selected a separate random sample of 40 claimants who received UI benefit payments during calendar year 2023 to test the fiscal year 2024 wage crossmatch control process. From this separate sample, four claimants met the criteria; however, an investigation was not created.

The following table details the wages of these four claimants for the quarter tested, the amounts self-certified by the claimants, and the benefits paid to the claimants. The APA determined that two of the four payments were unsupported, as the Department failed to send the employer a wage audit request for the weeks in question and the wages reported by the claimant for the quarter were not within a reasonable amount of the wages reported by the employer for the quarter.

Claimant	Quarter Ending	Benefits Paid for the Quarter	Wages Paid for the Quarter	Wages Certified by Claimant	Payment Tested	Unsupported Payments	Wage Audit Sent?
#1	3/31/2023	$ 2,436	$ 1,221	$ 2,619	$ 984	$ -	No
#2	3/31/2023	$ 3,328	$ 4,924	$ 30	$ 490	$ 490	No
#3	3/31/2023	$ 3,736	$ 887	$ 360	$ 514	$ -	No
#4	3/31/2023	$ 996	$ 2,282	$ -	$ 498	$ 498	No

The Department stated that, for the quarter ended March 31, 2023, the system failed to create investigations based on criteria in place at the time. The crossmatch for this quarter was run in August 2023. A ticket has been filed with the Department's vendor to research this system failure.

Our testing included payments, totaling $19,092, and resulted in $988 in unsupported payments. The benefit payments for calendar year 2023 totaled $74,606,261. Based on the sample tested, the dollar error rate for the sample was 5.17% ($988/$19,092), which estimates the potential dollars at risk for calendar year 2023 to be $3,857,144.

In addition to the errors noted above, the Department's wage crossmatch criteria appear unreasonable. The parameters used by the Department to create wage crossmatch investigates are set up in a way that there is a potential for overpayments not to be caught.

A proper system of 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.

> We recommend the Department implement procedures to prevent the payment of improper UI benefits by ensuring compliance with applicable State and Federal requirements. At a minimum, those procedures should ensure the following: 1) proper adjudication actions – including wage crossmatches, investigations into suspect separation from employment information, separation information requests being sent to employers, ensuring wages are appropriately applied, and verifying that overpayments are established appropriately – are undertaken; and 2) neither ineligible State employees nor other ineligible claimants receive benefit payments.

Department Response:

Random Sample Adjudication Issues

Adjudication of Employer Responses

The Department acknowledges the APA's findings and recognizes that these were adjudication errors. The Department has been working to improve its quality and has coached the adjudication team on ETA requirements for follow-up with employers. To further stress the importance, the Department has made changes to its review process related to employer responses. Separation issues as a cause of improper payment under our BAM review decreased from 3.17% in FY 2023 to 3.04% in FY 2024. The Department recognizes this needs to improve and is committed to improving our processes to prevent similar errors in the future.

Issues Regarding Separation Information Requests

The Department acknowledges the APA's finding regarding the failure to send the Separation Information Request to employers. The Department stressed the importance of quality this year and has been making changes to its review process to catch and prevent errors earlier. Additionally, the Department continues to work with our vendor to have the system properly send Separation Information Requests as expected.

Adjudication of Claimant Responses

The Department acknowledges the APA's findings and recognizes that these were adjudication errors. The Department is committed to improving our processes to prevent similar errors in the future. While the Department acknowledges several errors, the Department respectfully disagrees with the APA's finding related to receiving benefits while attending school. The APA is correct that an individual must be able and available to work, but this specific individual stated that they were willing and able to accept full-time work. The education program at issue allowed the individual to be available for work. The program advertises that, "many such courses are designed for working professionals."

Weekly Benefit and Maximum Benefit Amount Issues

The Department acknowledges the APA's findings regarding the claimants' wages impacting the weekly benefit and maximum benefit amounts. The Department stressed the importance of quality this year and has been making changes to its review processes to catch and prevent errors earlier.

Overpayment Establishment Errors

The Department acknowledges the APA's findings related to overpayment establishment. The Department has established procedures to address the timely establishment of overpayments. The Department will continue to refine our processes to ensure that overpayments are established promptly and in accordance with all applicable regulations. We will continue to monitor the implemented procedures and make improvements as necessary to ensure that overpayments are established accurately and timely.

Claimants with Excessive Wages

The Department acknowledges the APA's findings and recognizes that these were adjudication errors. The Department is committed to improving our processes to prevent similar errors in the future. These errors will be brought to the appropriate individual's attention, and they will be provided with the necessary guidance and support. The Department acknowledges that there are areas where continued improvement is necessary.

Improper Benefits Paid to State Employees

The Department acknowledges the APA's findings related to improper benefits paid to state employees. The Department agrees that the crossmatch findings should have been prioritized in a timelier manner, and we have trained more staff on this type of investigation in response to this finding. The Department recognizes the need for improvement in this area and is focusing on the prioritization of crossmatches to ensure more timely action moving forward.

Wage Crossmatch Issues
The Department acknowledges the APA's findings related to the wage crossmatch issues. The Department continues to work extensively with their vendor to address and resolve the issues related to wage crossmatches. The Department agrees that there are areas where continued improvement is necessary, and we will continue refining our processes to reduce the errors. The Department has stressed the importance of prioritizing crossmatches and are providing additional training to more staff so they can effectively handle these tasks.

APA Response:

Adjudication of Claimant Responses: As previously stated, State statute states that an individual shall be disqualified from benefits if such individual is a student. Per the claimant's application, the claimant was attending school from 8:00 a.m. to 5:00 p.m. Monday through Friday. Though there may be circumstances where an individual can obtain a full-time job and be a student at the same time, in this situation the claimant is clearly a full-time student per his application and should have been disqualified per State statute.

3. Changes to Banking Information - NEworks

The Department lacked procedures to ensure its changes to bank account information in NEworks were formally reviewed and approved by a separate employee. NEworks is the Department's case management system for Federal programs, including unemployment insurance.

Claimants have the ability to change their bank account information within NEworks. A claimant encountering difficulties may contact the Department for assistance in updating the banking information. If the claimant is still unable to update the information, a staff member will contact the claimant, gather the banking information, and change the information in NEworks. In fiscal year 2023, the APA determined seven users (in addition to a system ID) had access to change bank account information. In fiscal 2024, the number of users with this access increased to 30.

During fiscal year 2024, the Department implemented a two-step process to verify bank account information changes made by Department employees. The process required employees to forward the request to a supervisor who would verify the information with the claimant. The supervisor would then forward the change request to the UI Benefits Administrator to verify the information again and enter the change into NEworks. However, since multiple users have access to change bank account information in NEworks, it is possible to circumvent this process.

The APA obtained a listing of all bank account information changes from July 1, 2023, through May 8, 2024. There were 460 claims for which Department staff had made changes to banking information. Of the 460 claims with changes, 99 of these claims had benefits paid during fiscal year 2024, totaling $381,551.

Of the 99 claims, 58 claims, totaling $275,388, included changes by Department staff when creating new claims or changing the payment method. None of these claims were required to go through the two-step process. The other 41 claims, totaling $106,163, were changes made by staff on existing claims that were supposed to go through the two-step process. However, only 2 of the 99 claims, totaling $2,051, followed the two-step process.

The following table summarizes the changes made that had benefits paid during fiscal year 2024.

Reason	# of Claims	Benefits Paid in FY2024
Department staff entered a new claim or changed payment method	58	$ 275,388
Department staff updated bank account information on an existing claim	41	106,163
Totals	**99**	**$ 381,551**

Further, the following table summarizes the 41 bank changes by job position.

Position	# of Claims	Benefits Paid in FY2024
UI Manager	25	$ 64,435
UI Claim Specialist	9	18,953
UI Benefit Integrity Unit - Office Specialist	1	13,364
Workforce Coordinator	2	4,994
UI Adjudicator	2	2,366
UI Benefits Administrator	2	2,051
	41	**$ 106,163**

Moreover, during review of six claims with bank account information changes, it was noted that these six changes did not follow the two-step verification process, and no information was forwarded to the UI Benefits Administrator for his review.

A proper system of internal control requires procedures to ensure that access to change banking information within NEworks is proper, and all changes are verified by someone other than the employees responsible for making them.

Without such procedures, there is an increased risk of loss, misuse, or theft of State funds due to fraudulent activity within NEworks.

A similar comment has been noted since the fiscal year 2021 ACFR audit.

> We recommend the Department strengthen procedures for ensuring the accuracy of banking information in NEworks. Such improved procedures should include a secondary approval of <u>all</u> banking information changes performed by Department staff. Such approval could be required at the time the change is being made in the system or during a periodic review of banking changes to ensure they are reasonable and appropriate.

Department Response: The department acknowledges the APA's findings related to the need for a process to ensure the accuracy of banking information in NEworks and has implemented procedures to address this concern. We have and will continue to stress the importance of ensuring the accuracy of changes made to banking information. The Department also recognizes the importance of refining our procedures and are committed to continue to review the process for banking changes, especially during subsequent stages, to ensure that the changes are reasonable and appropriate.

* * * * *

It should be noted that this letter is critical in nature, as it contains only our comments and recommendations and does not include our observations on any strengths of the Department.

Our audit procedures were designed primarily to enable us to form an opinion on the Basic Financial Statements. Our audit procedures were also designed to enable us to report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with *Government Auditing Standards* and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Department and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Department.

The purpose of this letter is solely to describe the scope of our testing of internal control over financial reporting and compliance and the result of that testing, and not to provide an opinion on the effectiveness of State's internal control over financial reporting or compliance.

This communication is intended solely for the information and use of management, the Governor and State Legislature, others within the Department, Federal awarding agencies, pass-through entities, and management of the State of Nebraska and is not suitable for any other purposes. However, this communication is a matter of public record, and its distribution is not limited.

Kris Kucera

Kris Kucera, CPA, CFE
Assistant Deputy Auditor