

STATE OF NEVADA

Audit Report

Department of Employment, Training
and Rehabilitation
Employment Security Division

2012



Legislative Auditor
Carson City, Nevada

Audit Highlights



Highlights of Legislative Auditor report on the Employment Security Division issued on December 13, 2012. Report # LA12-24.

Background

The Employment Security Division is a division of the Department of Employment, Training and Rehabilitation. The Division provides comprehensive employment and training services to Nevada businesses and workers and oversees the collection of unemployment taxes, pays unemployment benefits, and performs employment services to match job seekers with employers.

The Division's Unemployment Insurance (UI) program is a joint state/federal insurance system that provides temporary partial wage replacement to protect workers against the hardships of unemployment. The UI program provides monetary benefits to individuals who become unemployed through no fault of their own and who meet established qualifications.

The Division has been significantly impacted by the nationwide economic recession. Nevada's unemployment rate has significantly exceeded the national average since 2008. Consequently, average weekly benefit claims increased from about 48,000 in 2008 to a high of more than 142,000 in 2010. To pay these claims, the Division has had to borrow more than \$1.1 billion from the federal government when trust fund reserves and tax collections were insufficient to cover claims. As of September 30, 2012, the state owed about \$676 million and has paid \$46.5 million in interest on amounts loaned to the state.

Purpose of Audit

The purpose of the audit was to determine if certain control activities related to the verification of continued claimant eligibility were adequate to prevent and detect unemployment claim overpayments. This audit included a review of the Division's eligibility activities during fiscal year 2012 and prior fiscal years in certain instances.

Audit Recommendations

This audit report contains 12 recommendations to improve controls over assessing the continued eligibility of claimants who are incarcerated, deceased, collecting workers' compensation, or have returned to work.

The Division accepted the 12 recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on March 13, 2013. In addition, the six-month report on the status of audit recommendations is due on September 13, 2013.

Employment Security Division

Department of Employment, Training and Rehabilitation

Summary

Implementing certain processes can help the Division identify and prevent payments to individuals not meeting ongoing eligibility requirements. Specifically, the Division needs to compare claimant information with external sources such as records of incarceration and death. Furthermore, the Division does not have assurance claimants are not receiving workers' compensation and unemployment benefits concurrently because the Division is not requesting or comparing records with insurance providers as required by statute. Through the development of data comparisons with state and local entities, statute revisions ensuring access to records, and improvements to policies and procedures, the Division can significantly reduce improper payments to these types of ineligible individuals.

Enhancements to current processes in the Division's program to identify claimants who have returned to work can further reduce and identify improper payments to unemployed claimants. Specifically, further application of the U.S. Department of Labor's (DOL) new hire recommended operating procedures and practices used by other states with low improper payment rates could better identify and stop payments to ineligible recipients. Furthermore, policies and procedures and supervisory review enhancements are necessary to ensure the program consistently and properly classifies and processes cases.

Key Findings

We estimate as much as \$5 million in improper payments could have been made to claimants who were incarcerated over the last 3 years. Our review of benefit claims paid in January 2012, identified 67 of the nearly 97,000 unemployment claimants were incarcerated in one local government detention center or a state correctional facility. These claimants received benefits of about \$241,000 during their period of confinement. We provided the Division with information regarding each claimant to allow for claims to be stopped and investigations to be initiated. (page 9)

Division management indicated it does not have specific authority through state or federal law to compel detention facilities to provide records of incarceration. As a result, statutory revisions requiring facilities provide data to the Division are necessary to ensure the Division can compare claims data with incarceration records. (page 12)

We identified eight instances of potential identity theft of claimants' personal identifying information by incarcerated individuals. Division policies should be updated to notify claimants their personal identifying information is being used by another individual. (page 16)

Fifteen deceased claimants were found in the nearly 97,000 UI claimants paid benefits during January 2012. In 12 of 15 instances, benefits were not requested after the claimant's death; however, 3 deceased claimants received payments totaling \$40,417 after they had died. In addition, the Division needs to enhance its claims information system to prevent accounts of deceased claimants from being reopened when deceased individuals are identified. (page 17)

The Division is not requesting data from private insurance carriers regarding individuals receiving disability, temporary partial disability, or rehabilitative services as a result of on the job injuries. NRS 612.265(9) requires private carriers of workers' compensation insurance to provide the Division a monthly list of individuals who received benefits and the Division is required to compare this information with claimant records to identify individuals concurrently receiving both benefits. (page 18)

We identified potential for improper payments continued to exist in 154 of 497, or 31%, of cleared cases where claimants returned to work. Specifically, better scrutiny of earnings reported by claimants is needed, payment stops on claims should be made to ensure benefits are not restarted, claimants should be notified of their return to work status, and the Division needs to record pertinent information into the claims information system. Based on DOL estimates, a reduction in improper payments of 10% would yield savings of \$2.9 million per year. In addition, the Division needs to develop and enhance policies and procedures over the review process and institute a routine review of examiner cases to ensure consistent case resolutions. (page 23)

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
STEVEN A. HORSFORD, *Senator, Chairman*
Rick Combs, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
DEBBIE SMITH, *Assemblywoman, Chair*
Cindy Jones, *Fiscal Analyst*
Mark Krmpotic, *Fiscal Analyst*

RICK COMBS, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

**Legislative Commission
Legislative Building
Carson City, Nevada**

This report contains the findings, conclusions, and recommendations from our completed audit of the Employment Security Division of the Department of Employment, Training and Rehabilitation. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 12 recommendations to improve the Division's controls over improper payments to ineligible claimants for being incarcerated, deceased, or having returned to work. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

Paul V. Townsend, CPA
Legislative Auditor

November 29, 2012
Carson City, Nevada

Employment Security Division Table of Contents

Introduction	1
Background.....	1
Scope and Objective	8
Better Identification of Ineligible Recipients Needed.....	9
Incarcerated Individuals Receiving Benefits	9
Payments Made to Accounts of Deceased Claimants	17
Workers' Compensation Data Comparisons Required	18
Improvements Needed to Further Reduce Inappropriate Payments for Those Returning to Work	20
Federal Initiatives, Program Background, and Division Processes	20
Division Can Benefit From Enhancing Operating Procedures.....	23
Policies, Procedures, and Supervisory Review Not Consistent	28
Appendices	
A. Audit Methodology	32
B. Response From the Employment Security Division	36

Introduction

Background

The Employment Security Division (Division) is a division of the Department of Employment, Training and Rehabilitation. The Division provides comprehensive employment and training services to Nevada businesses and workers and oversees the collection of unemployment taxes, pays unemployment benefits, and performs employment services to match job seekers with employers. The Division's mission is to provide a statewide labor exchange, conduct programs that promptly pay unemployment benefits, improve the employment stability of those collecting unemployment insurance, and administer an effective tax system.

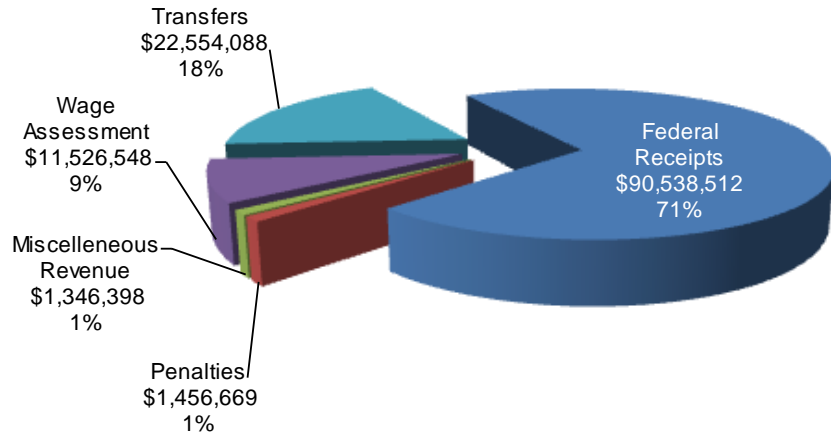
The Division's administrative office is located in Carson City with field audit offices in Carson City, Las Vegas, and Reno. It also operates 11 JobConnect career center offices. The Division operates with 665 employees.

Budget Information

In fiscal year 2012, the Division recorded total revenues of \$127.4 million, the majority of which came from the federal government. The Division's largest category of expenses in fiscal year 2012 were grant expenditures. The Division is in the process of developing a new IT system to replace its antiquated system. Since development of the system is ongoing, the Division can continue to review, integrate, and automate certain functions to achieve efficiencies as noted throughout this report. Exhibits 1 and 2 detail the nature of the Division's revenues and expenditures by type for fiscal year 2012.

**Division Revenues by Type
Fiscal Year 2012**

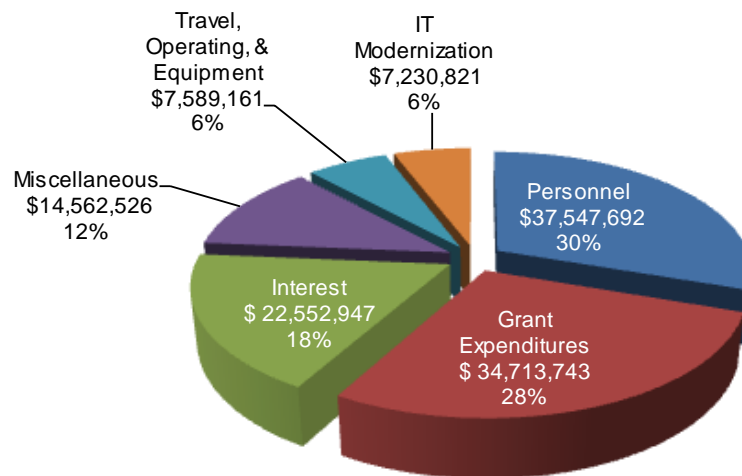
Exhibit 1



Source: State accounting system.

**Division Expenditures by Type
Fiscal Year 2012**

Exhibit 2



Source: State accounting system.

Note: Miscellaneous expenditures include items such as training, utilities, information expenses, and department and statewide cost recoveries.

Unemployment Insurance Program

The Division is organized by its two major program functions, Employment Services and the Unemployment Insurance Program (UI). Employment Services provide job placement and training opportunities that assist businesses in meeting their employment

needs and job seekers in returning to work through the state's workforce investment system.

The Division's UI program is part of a nationwide insurance system established in 1935 by the Federal Unemployment Tax Act. The UI program is a joint state/federal insurance system that provides temporary partial wage replacement to protect workers against the hardships of unemployment. State and federal unemployment taxes are imposed on employers to provide funds for program operations.

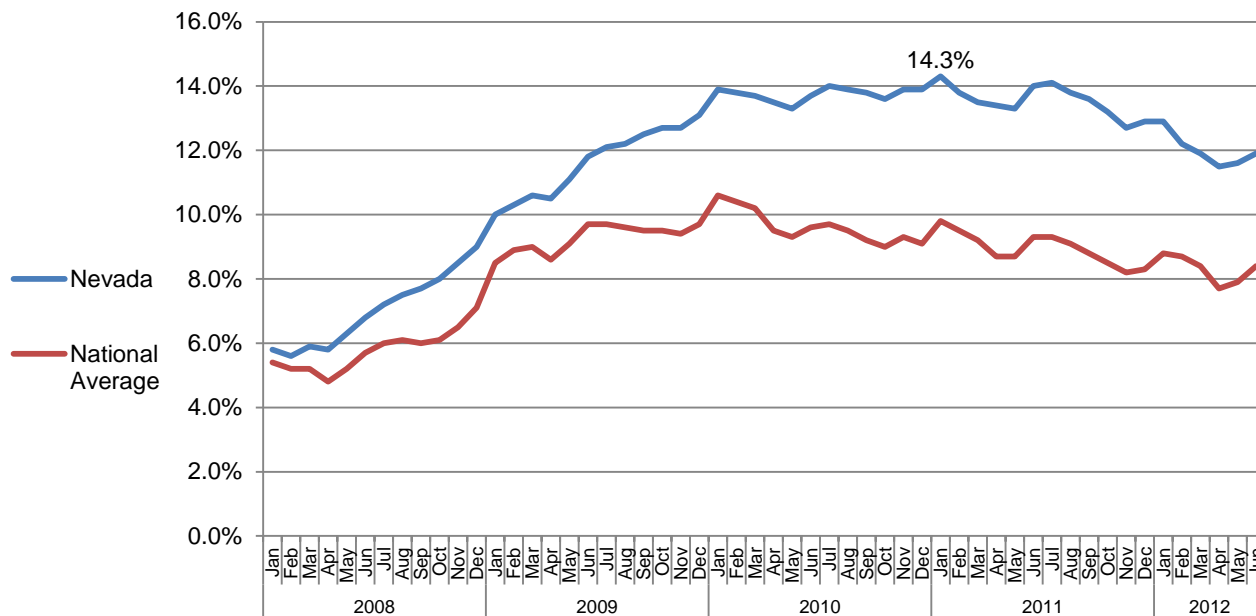
The UI program provides monetary benefits to individuals who become unemployed through no fault of their own and who meet established qualifications. Claims must be filed weekly and participants are required to actively pursue employment and be ready, willing, able, and available for work.

Economic Recession

The nationwide economic recession has significantly impacted Nevada. From 2008 to 2011, Nevada experienced a significant decline in jobs. As a result, the State's unemployment rate rose to a high of 14.3% in January 2011; and has been, on average, 3.2% higher than the national average since January 2008. Exhibit 3 shows the comparison of Nevada's unemployment rate to the national average from January 2008 through June 2012.

**State and National Unemployment Rates
January 2008 to June 2012**

Exhibit 3



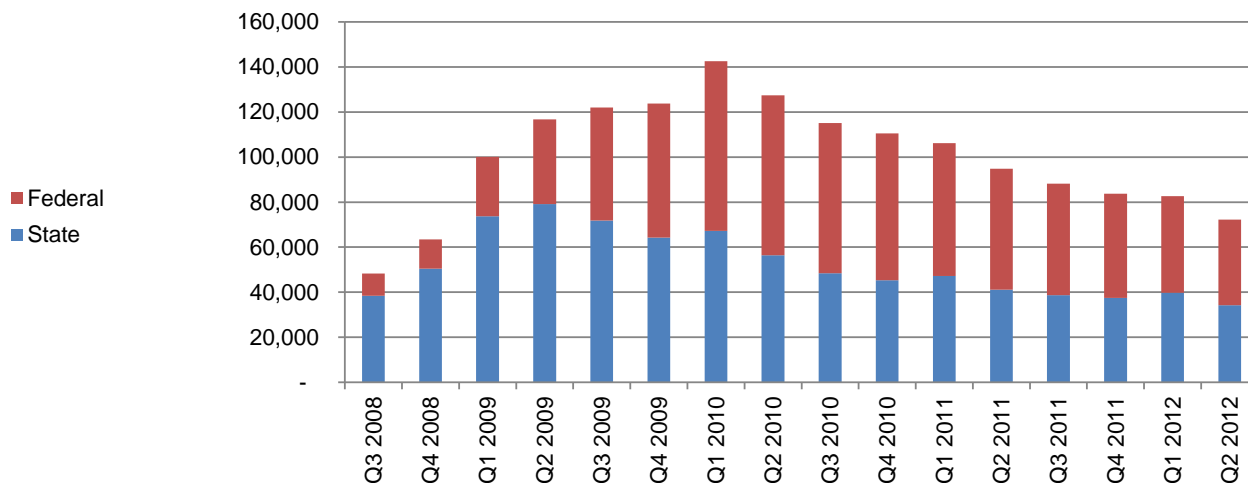
Source: NevadaWorkforce.com.

Note: Figures are not seasonally adjusted.

In response to increased unemployment, state unemployment benefit claims have increased significantly. In addition, Nevada’s decline in employment triggered federal benefit extensions. Federal extended benefits are available to certain eligible workers who have exhausted their regular state unemployment claims. The average number of people receiving unemployment benefits in the State increased from about 48,000 in the third quarter of 2008 to more than 142,000 in the first quarter of 2010. Exhibit 4 shows the average number of claimants receiving state unemployment and federal extended benefits.

**Average Number of Claimants by Quarter
Third Quarter 2008 to Second Quarter 2012**

Exhibit 4



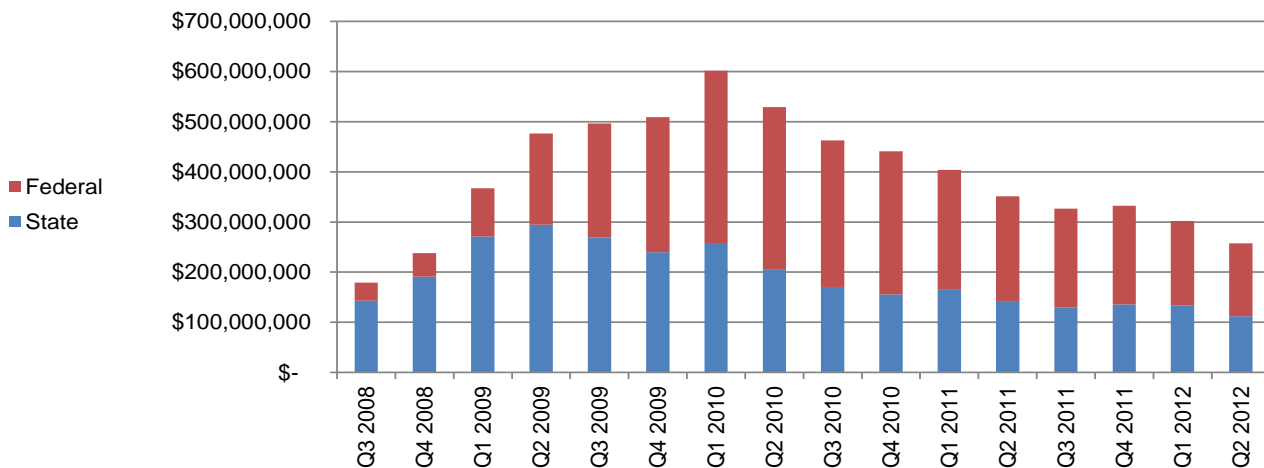
Source: Division records.

Note: Federal extended benefits include Emergency Unemployment Compensation and State Extended Benefits which are funded by the federal government. Information is based on a calendar year.

Similarly, the total benefits paid to claimants increased over the same time period. During this period, nearly \$6.3 billion in benefits have been paid to Nevada’s unemployed. Exhibit 5 shows the total amount of state and federal benefits paid from the third quarter of 2008 to the second quarter of 2012.

**State and Federal Benefits Paid By Quarter
Third Quarter 2008 to Second Quarter 2012**

Exhibit 5



Source: Division records.

Note: Federal extended benefits include Emergency Unemployment Compensation and State Extended Benefits which are funded by the federal government. Information is based on a calendar year.

Unemployment Trust Fund

UI benefits paid to unemployed workers are financed by a payroll tax on employers. The Division collects State Unemployment Taxes (SUTA) from employers and deposits collections in the Unemployment Trust Fund. These funds can only be used to pay unemployment benefits to eligible Nevadans. Administrative funding to operate the State program is provided by the Federal Unemployment Tax (FUTA), through the U.S. Department of Labor. Additionally, FUTA collections are used to pay federal UI administration costs; the federal share of extended benefits; loans to state trust funds when they cannot pay benefits; benefits under federal supplemental and emergency programs; labor exchange services; employment and training for veterans; and some labor market information programs.

Eligible unemployed claimants can qualify for up to 26 weeks of regular unemployment benefits paid from the Unemployment Trust Fund. As a result of the economic recession, additional benefit programs were enacted to extend the total possible weeks claimants could obtain unemployment benefits. The Emergency Unemployment Compensation benefits are funded entirely by the federal government. The State Extended Benefits were historically funded 50% by the federal government and 50% by the state; however, the federal government has funded all extended benefits since 2009. Exhibit 6 details the benefit types, number of weeks available to claim benefits, and applicable program termination dates.

Unemployment Benefits by Program Exhibit 6

Benefit Program	Potential Benefit Weeks	Termination Date
Regular Unemployment Benefits	26	Ongoing
Emergency Unemployment Compensation	53	12/29/12
State Extended Benefits	20	07/07/12
Total Possible Benefit Weeks	99	

Source: Division records.

Note: Emergency Unemployment Compensation and State Extended Benefits are funded by the federal government. Changes in federal legislation could impact termination dates.

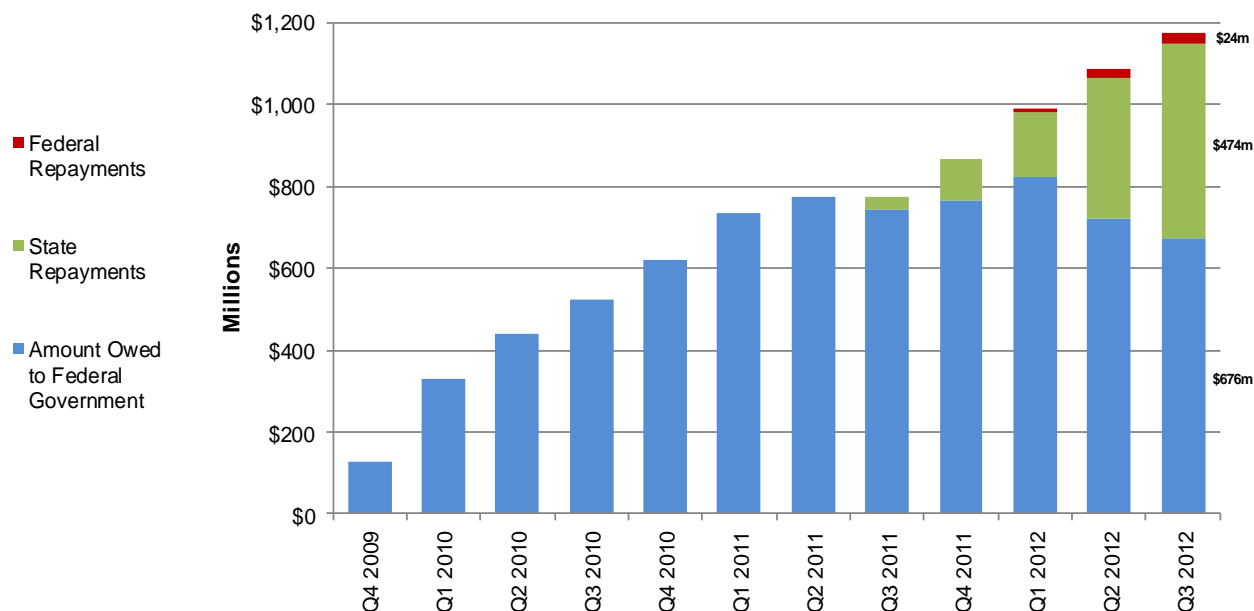
Federal Loans to Pay State Benefits

States can borrow money from the federal government if unemployment trust fund reserves have been exhausted and unemployment tax collections are insufficient to pay benefits. When claims for state benefits exceeded the Division’s trust fund reserves, the Division borrowed funds from the federal government.

Since October 2009, the State has borrowed more than \$1.1 billion from the federal government to pay regular state unemployment claims. Exhibit 7 shows the cumulative balance loaned by the federal government and loan amounts repaid from the fourth quarter of 2009 to the third quarter of 2012.

**UI Loan Amount and State and Federal Repayments
Fourth Quarter 2009 to Third Quarter 2012**

Exhibit 7



Source: Division records.

Note: Figures are cumulative to date information. Federal repayments are made from an increase in the FUTA rate assessed to Nevada employers. Information is based on a calendar year.

Of the more than \$1.1 billion borrowed from the federal government, about \$498 million had been repaid leaving a balance owed of \$676 million as of September 2012. The Division began making repayments in the third quarter of 2011 and has

repaid approximately \$474 million with state funds as of September 30, 2012. In addition, more than \$24 million has been repaid by the federal government through an increase in the FUTA taxes collected from employers.

While the loans can be repaid with unemployment taxes collected in the state, the interest on the loans cannot be paid with unemployment taxes. As of September 30, 2012, the Division has paid \$46.5 million in interest on the amounts loaned to the State.

Scope and Objective

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit included a review of the Division's continued eligibility activities during fiscal year 2012. We expanded our scope to prior fiscal years in certain instances based on the nature of the exceptions identified. Specifically, we reviewed Division control activities related to determining if claimants were incarcerated, deceased, receiving workers' compensation benefits, or had returned to work. The objective of our audit was to determine if certain control activities related to the verification of continued claimant eligibility were adequate to prevent and detect unemployment claim overpayments.

Better Identification of Ineligible Recipients Needed

Implementing certain processes can help the Division identify and prevent payments to individuals not meeting ongoing eligibility requirements. Specifically, the Division needs to compare claimant information with external sources such as records of incarceration, death, and workers' compensation. Our review of benefit claims paid in January 2012, identified 70 of the nearly 97,000 unemployment claimants were either incarcerated or deceased. These claimants received benefits of more than \$280,000 during the period of ineligibility. We estimate as much as \$5 million in improper payments could have been made to claimants who were incarcerated over the last 3 years.

Furthermore, the Division does not have assurance claimants are not receiving workers' compensation and unemployment benefits concurrently because the Division is not requesting or comparing records with insurance providers as required by statute. Through the development of data comparisons with state and local entities, statute revisions ensuring access to records, and improvements to policies and procedures, the Division can significantly reduce improper payments to these types of ineligible individuals.

Incarcerated Individuals Receiving Benefits

The Division has not sufficiently explored ways to ensure claimants who are incarcerated and do not meet "able and available" eligibility requirements are identified. Our comparison of certain data identified 67 claimants who received unemployment benefits while incarcerated during January 2012. These 67 claimants collected about \$241,000 in unemployment benefit payments during the time they were incarcerated. Incarceration periods for these claimants spanned several days to more than 1½ years. Incarcerated individuals are not eligible to receive unemployment benefits. Statutes and Division policies require claimants to be able and available for work to qualify for weekly unemployment benefits. By establishing routine

comparisons of incarceration records against unemployment claimant information, improper payments can be identified and stopped.

Department of Corrections

Several Department of Corrections (DOC) inmates received unemployment benefits during fiscal year 2012. Our comparison of DOC inmate data to claimants receiving unemployment benefits in January 2012 found 31 of about 13,000 inmates received compensation of more than \$208,000 while housed in a state correctional facility. These claimants, unable to search for or accept work, were paid, on average, \$6,700 in benefits over about 20 weeks. Exhibit 8 shows the number of inmates and benefits received by the time period of incarceration.

Claimants Receiving Benefits While Incarcerated at a DOC Facility **Exhibit 8**

Number of Benefit Weeks Paid	Average Period of Incarceration	Number of Inmates	Dollar Total	Average Per Inmate
1 year or more	27.7 months	2	\$ 53,489	\$26,745
6-11 months	10.7 months	10	99,286	9,929
4-5 months	7.4 months	7	34,454	4,922
2-3 months	4.4 months	7	17,946	2,564
2-4 weeks	3.6 months	5	2,999	\$ 600
Totals		31	\$208,174	

Source: DOC and Division records.

Note: Some inmates did not claim or receive benefits in every week they were incarcerated. Because most inmates were still incarcerated when we obtained the information, incarceration periods are likely longer than stated.

In the absence of receiving incarceration information, the Division is unable to readily identify ineligible, incarcerated claimants. In addition, the Division did not always recognize indications of incarceration when it was brought to their attention. For example, notations in the Division’s information system indicated an inmate had discussed his inability to file weekly claims with a claims examiner indicating an acquaintance was supposed to file on his behalf; however, the Division did not recognize the significance of this information and processed the claim without an investigation.

As a result, the inmate received a total of 73 weeks in unemployment benefits, 38 of which were collected after the Division had been informed of improper activity.

Local Government Detention Facility

We also obtained records of individuals incarcerated during January 2012 at a county detention facility. Another 36 unemployment benefit claimants collected more than \$33,000 while detained. For the most part, individuals detained at the local facility collected benefits for a shorter period of time than those identified at DOC. On average, local inmates collected \$925 for approximately 3.5 weeks; however, more claimants were identified at the local detention facility even though the population was roughly 20% of that in DOC. The local facility's records indicated a total of 2,706 individuals were detained at some point during January 2012.

Exhibit 9 shows the number of inmates, duration of incarceration, and benefits paid while housed at the local government facility.

Claimants Receiving Benefits While Incarcerated at a Local Detention Facility

Exhibit 9

Number of Benefit Weeks Paid	Average Period of Incarceration⁽¹⁾	Number of Inmates	Dollar Total	Average Per Inmate
9 weeks or more	13.0 weeks	3	\$10,905	\$3,635
5-8 weeks	7.5 weeks	6	10,693	1,782
3-4 weeks	3.3 weeks	4	4,075	1,019
1-2 weeks ⁽²⁾	1.2 weeks	23	7,621	\$ 331
Totals		36	\$33,294	

Source: Local detention facility and Division records.

Notes: ⁽¹⁾ Claimants did not always claim or receive benefits for all weeks incarcerated.

⁽²⁾ For five claimants in this strata, the claimant was still incarcerated when we obtained information from the local facility. As a result, incarceration durations could be longer than stated.

We provided the Division with information regarding each claimant identified as being incarcerated and receiving unemployment payments. For those claimants currently receiving benefits, the

Division placed a hold on each unemployment claim and began investigative proceedings.

While the Division recognized the risk that some claimants may not meet eligibility requirements due to incarceration, it had not pursued data comparisons with other entities due to unprecedented demand for Division services over the past several years. Even though the Division continues to experience higher than normal activity, we believe establishing a process to timely identify and prevent inappropriate payments to individuals can be beneficial because timely identification reduces the size of overpayments and smaller overpayment balances can be more easily recovered. Furthermore, certain evidence necessary for investigative proceedings may be more easily obtained when inappropriate activity is discovered timely.

As the Division explores data matching opportunities, it will need to develop policies and procedures governing the process. Procedures should include information such as how and when records will be requested, the format of data, data comparisons, and appropriate case resolutions. By implementing a data matching process and establishing detailed policies and procedures, the Division can significantly reduce the amount of improper payments to individuals not meeting weekly eligibility requirements.

We estimate based on the results of our testing, using published jail and correctional facility population information, the amount of unemployment benefits that may have been paid to incarcerated individuals to be as much as \$5 million over the last 3 years. This projection used the number of identified claimants, as well as the average benefit received, and compared that to published populations of remaining detention facilities within Nevada.

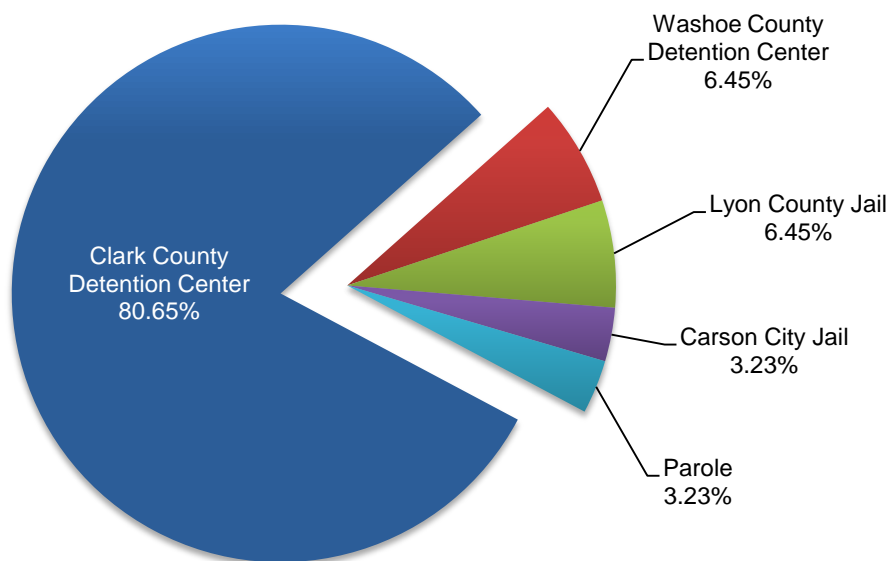
Statutory Revision Needed to Ensure Access to Incarceration Records

Obtaining data from local detention facilities is important because DOC inmates are usually housed at a local detention facility before being transferred to a state facility. Exhibit 10 shows

where inmates originated from for the 31 DOC claimants identified during testing.

Inmate Location of Incarceration Prior to Transfer to DOC Facility

Exhibit 10



Source: DOC incarceration records.

Note: The 31 inmates we identified as receiving improper payments while incarcerated were transferred from these locations to a DOC facility.

By identifying incarcerated claimants at the earliest opportunity, which are local detention facilities, the Division can significantly reduce inappropriate payments. Furthermore, local detention facilities encounter a larger percentage of the population as individuals are typically housed for shorter time periods. Even though the local facility population we reviewed was only about 20% of that of the DOC, we identified more claimants at the local facility than were found in state facilities. Additionally, as shown in Exhibits 8 and 9, most of the inappropriate payments made to claimants housed at the local facility were for less than one month while those incarcerated in state facilities received benefits for much longer time periods. Therefore, receiving and comparing local detention facility data is essential to ensuring claimants continue to meet weekly eligibility requirements and the majority of inappropriate payments are stopped.

The Division’s ability to obtain incarceration information from state and local detention facilities will require cooperation between entities unless a revision to statute is made. Various other states’ employment security agencies are granted access to county and state incarceration records. We surveyed the 13 states who perform cross matches with records of incarceration and found varying ways in which data was obtained. The results of our survey are noted below in Exhibit 11.

Survey of Other States’ Access To Incarceration Records **Exhibit 11**

State	County Jail	State Prison	Legislative Action	Cooperation
Alaska	X	X		X
Arizona		X		X
Colorado	X ⁽¹⁾	X		X
Illinois	X	X	X	
Maine		X	X	
Missouri		X		X
New York	X	X		X
Oregon	X	X	X	
Pennsylvania	X	X		X
Tennessee		X		X
Utah ⁽²⁾	X	X		
Washington	X	X	X	
Wisconsin	X	X		X
Totals	9	13	4	8

Source: Survey responses from other states.

Notes: ⁽¹⁾ Colorado receives county jail records from the five largest counties.

⁽²⁾ Utah uses a private contractor to cross match its benefit records with incarceration data.

Management indicated the Division does not have specific authority through state or federal law to compel agencies to provide records of incarceration. We requested incarceration data, consisting of an individual’s personal identifying information and the date of intake and release from three entities. The Department of Corrections and one local facility provided the data

willingly, while one local detention facility declined our request. Since the Division does not have assurance data will be provided through cooperative means, a statute revision requiring records be provided is necessary.

Specific Policy Enhancements Needed

The Division's policies and procedures do not sufficiently address unemployment benefit eligibility when individuals are part of certain programs administered by the Department of Corrections. Furthermore, policies do not detail how the Division would proceed when data indicates claimants' personal identifying information may have been compromised. Policy enhancements will provide staff with appropriate direction to ensure claimants are treated consistently and appropriately informed.

The DOC has transitional housing and residential confinement programs designed to reintegrate inmates back into society and the workforce. Our analysis of incarceration data found eight claimants were receiving benefits while participating in these programs. In addition, 2 of the 31 DOC inmates identified previously also received unemployment benefits while participating in these programs. Overall, these 10 claimants received about \$32,000 in benefit payments while in these DOC programs.

Updated policies and procedures are needed because current Division policies are silent regarding unemployment eligibility for claimants participating in DOC transitional programs. Division policy documents state if a claimant is incarcerated, he or she clearly does not meet the able and available requirements for unemployment benefits; however, the Division and DOC personnel indicated individuals participating in transitional programs should meet the able and available requirements for employment benefits because inmates are supposed to find employment. Because of this inconsistency, the Division needs to revise policies and procedures to ensure claimants are treated fairly and consistently.

Possible Identity Theft of Claimant Personal Information

Finally, we found indications of possible identity theft from our data comparison. We found 8 instances of the 97,000 January 2012 claimants whose social security numbers were also being used by inmates. Inmates reported a SSN to a detention center that matched that of a UI claimant with a different name and date of birth. Because most of the claimant's social security numbers were verified by the Division's identity verification process with the Department of Motor Vehicles we believe the inmate is using a social security number that is not their own. The match between the Department of Motor Vehicles and the Division assists in detecting and preventing the filing of fraudulent claims.

Current identity theft policies and procedures outline an investigative process if wages in Division records do not appear to belong to the claimant. However, the procedures do not address the need to notify claimants their personal identifying information is being used by another individual. Claimants could benefit from receiving notification regarding indications that certain identifying information may be compromised in order to take appropriate steps to protect their identity.

Recommendations

1. Develop a process to identify ineligible, incarcerated UI benefit recipients and detect or prevent improper UI payments to such individuals.
2. Develop and document policies and procedures regarding data comparisons and investigating ineligible claimants when identified.
3. Request legislation to pursue a statutory change requiring state and local government detention facilities provide incarceration records to the Employment Security Division upon request.
4. Update eligibility policies to address inmates residing in residential confinement and transitional housing facilities.
5. Improve policies and procedures regarding notifying claimants their personal identifying information may be compromised.

Payments Made to Accounts of Deceased Claimants

The Division does not compare claimant information with records of the deceased. We identified improper payments totaling \$40,417 made to accounts of deceased claimants in a comparison of unemployment claim information with death records. In addition, we found improvements are needed to the Division's claims information system to prevent the account of a deceased individual from being reopened. Enhanced control procedures should be implemented to prevent benefits from being paid after a claimant is deceased.

We compared death records from the Office of Vital Records with unemployment claimant data for January 2012 and found 15 deceased individuals among the 97,000 claimants. In 12 of 15 instances, benefits were not requested after the claimant's death; however, 3 deceased claimants received payments totaling \$40,417 after they had died.

In addition to identifying deceased claimants, the Division needs to develop a process to disable deceased claimants' accounts. When the Division is made aware a claimant is deceased, staff note deceased in a specific field in the claims information system. However, the Division's current information system does not permanently disable the account of the deceased. This is important because claims can be reopened over the telephone or internet without reference to the death notice. For instance, weekly benefit claims on a claimant's account stopped in February 2010; but the claim was reopened about 6 months later even though the claimant had died in April 2010. Weekly benefit claims continued for 83 weeks until the deceased's benefits were exhausted and more than \$33,000 was paid. Even though the Division had not been advised the claimant was dead, a file notation would not have prevented subsequent payments.

Because the Division has not developed a data comparison process, it does not have policies and procedures governing the acquisition of death records, matching records with claims data, disabling the benefit accounts of the deceased, and proceeding with the investigation of cases. Policies and procedures will help the Division ensure a timely and consistent comparison with death records occurs.

Recommendations

6. Work with the Office of Vital Records to periodically acquire records of deceased individuals and perform a timely comparison with unemployment claimant information.
7. Develop a process to place permanent stops on accounts of claimants identified as deceased to prevent future unemployment benefits from being paid.

Workers' Compensation Data Comparisons Required

The Division is not requesting data from private insurance carriers regarding individuals receiving disability, temporary partial disability, or rehabilitative services as a result of on the job injuries. Statutes indicate individuals claiming workers' compensation benefits are not considered unemployed. Furthermore, NRS 612.265(9) requires private carriers of workers' compensation insurance to provide to the Division, on a monthly basis, the names of individuals who received benefits. The Division is required to compare this information with claimant records to determine if individuals are improperly receiving benefits concurrently.

The Division does request unemployment claimants to self-report if they are receiving workers' compensation benefits during the initial claim eligibility filing process. If claimants indicate they have received compensation for an on the job injury during the last 18 months, the claimant must disclose the dates of the injury, when benefits began, and when benefits ended. The Division holds the unemployment claim until information is obtained from the providing insurance company verifying the accuracy of the information provided by the claimant.

Division management reported workers' compensation claim information has not been requested since sometime near 1999 when the State transitioned from a government run workers' compensation agency to private carriers. Because this process has not been performed, the Division has not developed policies and procedures dictating how records are to be requested, the format of data, and the comparison of workers' compensation information with unemployment claims data. Policies and

procedures should include procedures regarding data matches and an appropriate follow-up process.

Recommendation

8. Institute a process to request and compare private carriers of industrial insurance information to claimant data in accordance with NRS 612.265 to ensure unemployment insurance and workers' compensation benefits are not being collected concurrently by individuals.

Improvements Needed to Further Reduce Inappropriate Payments for Those Returning to Work

Enhancements to current processes in the Division's new hire program can further reduce and identify improper payments to unemployment claimants. Specifically, further application of the U.S. Department of Labor's (DOL) recommended operating procedures and practices used by other states with low improper payment rates could better identify and stop payments to claimants who have returned to work. For instance, the Division can require claimants to report to the Division before the next continued weekly benefit payment to discuss their new employment. If the Division could reduce the improper payment rate by 10% by enhancing its processes, the state could realize about \$2.9 million in savings each year. Furthermore, policies and procedures and supervisory review enhancements are necessary to ensure the program consistently and properly classifies and processes cases.

Federal Initiatives, Program Background, and Division Processes

Federal Initiatives

Recent federal initiatives have highlighted improper payments made by the UI program. In 2010, the Improper Payment and Elimination Recovery Act was passed to help reduce improper payments across all federal programs. In addition, the Office of Management and Budget designated the national UI program as one of the major benefit entitlement programs with an unacceptable level of improper payments.

According to the DOL, the State has a rate of improper payments associated with claimants that have returned to work that exceeds the national average. The UI program's national improper payment rate for calendar year 2011 was 10.7%; Nevada's was

slightly higher at 11.6%. Additionally, Nevada's improper payment rate associated with claimants that have returned to work was 5.08% compared to a national average of 3.41% in calendar year 2011. The State's estimated improper payment rate was the 10th highest in the nation and represents estimated improper payments of about \$29.5 million per year. As a result, the DOL established goals for states with higher than average rates to achieve reductions in improper payments of 30% in calendar year 2012 and 50% in calendar year 2013. If a reduction of only 10% was achieved, the Division would realize a savings of \$2.9 million each year.

The DOL has required states to prepare a strategic plan to accomplish the goals of reducing improper payments related to claimants returning to work on the "new hire" process. The Division's efforts to reduce improper payments have been focused on educating the public and updating its antiquated system. The Division cited economic conditions, pressures on claimants to make improper claims, lack of employer participation in new hire reporting, and confusion on the part of claimants regarding how to report earnings as part of the difficulty in achieving low error rates.

The Division indicated employer reporting of new hire information is inconsistent and sporadic. This lack of timely and complete reporting by employers results in fewer new hire "hits" than actually occur. A "hit" occurs when a person reported as a new hire matches an unemployment claimant in Division records. The Division continues to inform employers of their reporting responsibilities but staff indicated compliance continues to need improvement. As employer reporting improves, the Division's processes over the review and classification of new hire cases will become more critical to ensuring continued payments are appropriate.

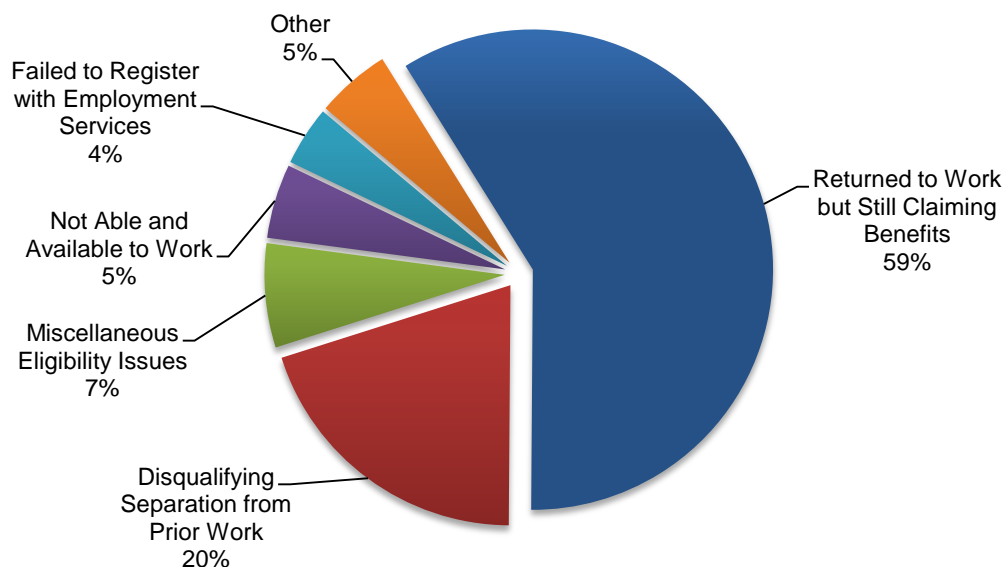
New Hire Program Background

Nationally, the largest category of improper UI payments is for claimants who have returned to work but continue to claim benefits. The DOL has identified the new hire directories as the most effective tool in identifying and preventing these types of overpayments. Exhibit 12 shows the causes of improper UI

program payments for the 3-year period ending June 30, 2011 in Nevada.

**Causes of Improper Payments
Nevada Unemployment Insurance Program
Fiscal Years 2009 to 2011**

Exhibit 12



Source: United States Department of Labor.

The Division collects employment information, as required by federal law, on newly hired individuals. The new hire directory program was originally created for child support enforcement; but has been expanded to verify unemployment claimant eligibility. The Division collects new hire information when an employer, within 20 days of hire, reports certain information to the State Directory of New Hires (State Directory). New hire information recorded in the State Directory is then submitted to the National Directory of New Hires (National Directory). Records from both directories are compared to Division unemployment data to identify claimants who have been hired.

Current Process

The Division compares data to the State Directory on a daily basis while National Directory comparisons are run once a week. “Hits” generated by the Division’s information system are reviewed by

claims examiner staff to identify whether claimants continue to file for unemployment benefits after returning to work. Depending upon the circumstances of unemployment claim information and employer data, the Division performs varying processes in reviewing new hire hits. Cases are generally categorized into the following:

- Wage and Earnings - If a claimant has claimed 4 or less weeks and not reported any earnings after a new hire date, an issue code is applied to the account to stop the claim and the claimant is subjected to an adjudication process.
- For Review - If a claimant claimed 5 weeks or more after the new hire date and reported no earnings, it is generally considered a potential fraud case and forwarded to the Division's Integrity Unit for investigation.
- Warning Letters – A letter is sent to claimants who have been hired by a temporary hiring agency or where no new hire date was reported by the employer, warning them to report any earnings. A warning letter does not stop a claim or require a response.
- Cleared Cases – Cases considered to be of little or no risk by Division staff are cleared from the claims information system. For example, a claimant may have stopped claiming benefits or was disqualified for another reason.

Division Can Benefit From Enhancing Operating Procedures

While the Division does have established processes over the review and classification of new hire cases, the Division can benefit from strengthening controls to ensure benefits allowed are proper and technicians review cases consistently. Specifically, improvements can be made to better scrutinize earnings reported by claimants, place payment stops on claims to ensure benefits are not restarted, notify claimants of their new hire status, and record pertinent information into the claims information system.

We selected 20 days of new hire "hit" sheets to review which resulted in 497 individual cases the Division cleared as not being of significant risk for improper payment. Of the 497 cases cleared by the Division, we identified 154 or 31% where the potential for an improper payment continued to exist. The following are areas of improvement we identified through our analysis.

Reported Earnings Not Sufficiently Scrutinized

The Division does not routinely review wages reported by claimants who continue to file for weekly unemployment benefits while working. Claimants are eligible for benefits if they work less than full-time and are paid less than their weekly benefit amount. In these instances, claimants are required to report wages earned each week when continuing to file. However, our review of claim and wage information indicated amounts reported by claimants may not always be accurate, resulting in payments to claimants that may be excessive or improper.

In 75 of the 154 cases we reviewed, claimants reported earnings after the employer reported new hire date. We identified some reported earnings amounts that appeared unreasonable based on standard living wages and in comparison to employer reported wages when available. As stated earlier, the Division does not review earnings reported by claimants as part of the new hire case review process and accepts any reported amounts as reasonable. As a result, unreasonable claimant earnings are not properly scrutinized.

In one case we reviewed, a claimant reported earnings of \$240 in the week of the new hire date. In subsequent weekly claims, the claimant gradually reduced reported earnings to \$20 per week. The claimant continued to report \$20 per week for at least 12 straight weeks. In another example, a claimant reported multiple weeks of earnings of \$50 per week. Our review of the employer wage file indicated the claimant reported wages significantly less than actual wages. Based on the comparison, the claimant reported 23% of the quarterly earnings the employer reported.

Furthermore, the Division does not routinely conduct a comparison of quarterly wages reported by employers with earnings reported by claimants. The Division does perform a query of reported earnings on a quarterly basis, but this process only identifies a portion of the potential wage and earnings issues. For example, claimants who reported no earnings but whose employer reported wages would not be detected. Six of seven states we surveyed indicated they perform a comparison of employer reported wages to those reported by the claimant. A

system comparing claimant reported earnings with employer reported wages could help identify under reported earnings and reduce improper payments.

As noted above, wage comparisons between claimant reported totals and those reported by the employer are beneficial if the data is available. However, employer wage information is not always available at the time of the new hire hit review. As a result, the Division needs to establish a process to identify unreasonable reported earnings and then obtain information from the claimant and employer to make a timely determination regarding whether claimant reported earnings are accurate. These actions are consistent with the DOL's recommended procedures which include contacting claimants and employers timely regarding new hire information to determine whether earnings are properly reported.

Claim Stops and Record of New Employment Needed

The Division could also improve its new hire process by recording certain information into the claims information system for cleared cases and by placing a stop on claims. We found 51 of the 154 cases were for claimants who stopped filing for benefits after the new hire date and the date of our review, but still had available benefits to claim. These cases were cleared by the Division as being of little risk for improper payment because there was no immediate indication that additional claims would be filed. However, the Division does not document the record of new hire employment in its information system nor does it place a hold on future claims. As a result, claimants can reopen claims through the telephone or internet even though they may not qualify for continued benefits.

While many claimants may honestly self-report their employment in the Division's current process, not all will. For example, our review found one claimant who did not file for 3 weeks following the new hire date and then returned to claim benefits in the 4th week. The claimant did not disclose the intervening employment or wages even though quarterly wages were reported by the employer.

It is not uncommon for individuals to return to claim benefits after a period of employment. However, the Division's current process does not always require a determination to be made regarding whether the intervening employment has ceased and the nature of the separation. This information is important in determining continued eligibility. The DOL recommendations suggest claimants be required to contact the office before the next claim period to discuss the intervening employment with a claims examiner. The Division can require claimants to contact the office by placing a claim stop in the electronic file. Historically, the Division used a field in their system for this purpose. Because there is potential for claimants to receive benefits when not entitled, claim stops are an important control in preventing inappropriate activity from occurring.

Furthermore, the Division does not note the claimants new hire status in the electronic file of the individual. Notations regarding employment are important to ensure claims examiners are appropriately informed when interacting with claimants. Without such information, the claims examiner would not likely request clarification regarding the claimants last employment and the circumstance of the separation, if any.

The implementation of claims stops and recording new hire information in the claims information system for cleared cases will help prevent payments to ineligible recipients. These improvements require claimants who attempt to reopen their claim after a period of employment to address the circumstances of their intervening employment with Division staff.

Certain New Hire Cases Need Additional Review

Finally, some new hire cases cleared by the Division warrant additional consideration. For 28 of the 154 cases reviewed, we identified two types of cases where further review to determine the appropriateness of benefit claims paid was needed. These two areas are:

- 1) Claimant ceased filing for benefits on the week in which the employer reported the claimant began working.

However, the claim reopened subsequent to the initial week and the claimant received additional benefits.

- 2) Claimant received UI benefits on the week reported as the new hire date but claimed no wages associated with that week. The claimant did report some earnings while continuing to receive benefits in subsequent weeks.

When claims are reopened after intervening employment, current Division practices do not require the claimant to disclose employment information. Because claimants are not required to discuss intervening employment when reopening a claim, claimants may continue to receive benefits while employed. In addition, the Division's practice of not scrutinizing claimants who report any earnings within a month of the new hire date may prevent the detection of underreported earnings.

Furthermore, the Division currently clears new hire cases when claimants return to work but report any earnings within a month of the new hire date. The Division's current practice could result in missed opportunities to identify improper payments. Claimants must report wages for the days worked associated with the benefit week in which wages were earned, not paid. If wages earned are not reported until paid, Division policy would consider benefits paid in these weeks to be inaccurate. Because cases proceed with little scrutiny, it is likely claimants are receiving overpayments during the period in which no wages were reported to the Division.

The DOL recommends immediate contact with the claimant after a new hire hit. The purpose of the communication is to make claimants aware the Division knows they have returned to work and inform them of requirements to report earnings. In addition, the notice should inform claimants to contact the Division before they reopen a claim. While not all cleared new hire hits would require such a notification, in cases where claimants return to file at a later date, this control would help ensure employment information is properly vetted with Division staff.

Furthermore, all seven states we contacted indicated they investigate cases where no claim is made the week of the new

hire date but claims are made in subsequent weeks. Under the current Division practice, these claims would not be investigated. If controls are not improved, claims will continue to be reopened without sufficient scrutiny of intervening employment and related earnings, resulting in inappropriate payment.

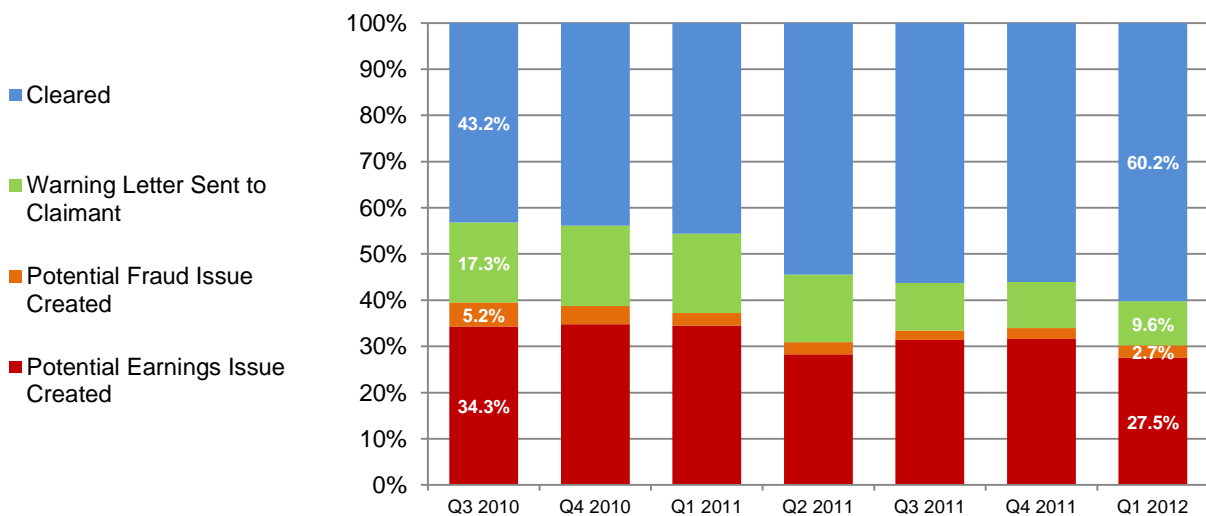
Policies, Procedures, and Supervisory Review Not Consistent

The Division would also benefit from enhancing certain administrative controls over the new hire process. Specifically, the Division needs to develop and enhance policies and procedures over the new hire review process. Furthermore, a routine review of examiner cases can help ensure consistent case resolutions. These controls will provide further assurance cases are adequately reviewed, monitored, and classified.

From the third quarter of 2010 to the first quarter of 2012, the number of new hire “hits” cleared as being of little risk for improper payment has increased significantly as demonstrated in Exhibit 13.

New Hire Review Classifications as a Percentage of Total Cases Q3 2010 to Q1 2012

Exhibit 13



Source: Division records.

Note: Percentages represent the proportion of total cases reviewed for state and national new hire cases by quarter by Division staff. Information is based on a calendar year.

The percentage of cases cleared has risen from 43.2% in the third quarter of 2010 to 60.2% in the first quarter of 2012. Over the same time period, the number of warning letters sent has decreased from 17.3% to 9.6%, fraud issues dropped from 5.2% to 2.7%, and reported earnings issues dropped from 34.3% to 27.5%. The increase in Division cleared cases may be indicative of the need for improved guidance and review processes to ensure new hire cases are being consistently and properly treated.

Policies and Procedures Need Significant Revision

The Division does not have adequate policies and procedures governing the new hire review process. Staff use various policy documents that are either inaccurate, incomplete, or insufficiently detailed. If formalized policies and procedures are developed, the Division would have better control over its process to ensure new hire cases are equitably reviewed to prevent improper payments.

In 2010, the responsibility for performing the review of the new hire process was transferred from the Division's Integrity Unit to its Northern Telephone Information Center. Since that time, some of the control processes have been modified, but changes have not been reflected in the Division's policy documents. In addition, the Division has not developed a formal procedures manual governing the new hire process. Instead, staff used various informal policy statements that address limited aspects of the new hire process.

Policy documents we reviewed were not always consistent with current new hire review practices. The following are examples of inconsistencies between practice and policy documents:

- A policy document indicates new hire technicians place phone calls to claimants to discuss new hire information and create simple overpayment assessments. Neither of these processes occur in practice.
- A policy document indicates a letter is sent to certain new hire cases requiring claimants to respond to the Division. However, this letter is no longer utilized to solicit information immediately following the identification of the new hire case.

- The Division's practice is to assume any reported wages are reasonable. One policy we reviewed indicated the reasonable threshold was at least \$10 per week.

We also found instances where policies were not sufficiently detailed. Further documentation of expected practices and processes are needed. For example:

- The Division does not incorporate or reference the DOL's recommended operating procedures in its policy documents. For example, policies should address timely notification of claimants and employers and requiring claimants to contact the agency before the date of the next claim period.
- Warnings letters are not defined in policy as being sent to claimants hired by temporary hiring agencies.

Procedure documents help technicians properly classify and resolve new hire cases accurately and consistently. Documented policies and procedures guide and assist staff and provide assurance that program missions are attained.

Supervisory Review Process Could Strengthen Controls

Supervisory review over the new hire process is lacking. Current procedures do not include a review of new hire cases processed by technicians. Although summary information is gathered and compiled by the manager over the process, there is no formalized procedure for reviewing cases classified by technicians to ensure consistency. The Division does have review processes for other areas that could be applied to the new hire program. For instance, the Division could select a quarterly sample of new hire cases for review to verify cases were properly classified and claims treated appropriately.

A supervisory review process would help identify cases being cleared when that classification is inappropriate. For example, in our review of new hire cases, we identified two instances where technicians did not recognize claims that should have been stopped and investigated. Supervisory review would help reduce the risk cases like these are cleared when they should be investigated. Considering the increasing percentage of new hire

cases being cleared by the Division as noted in Exhibit 13, supervisory review would help ensure proper classification in the future.

Recommendations

9. Review and implement appropriate practices outlined by the DOL and other states to ensure claimant benefit payments to those identified as having returned to work are appropriate.
10. Develop a process to place claim stops and record new hire information in the information system as appropriate.
11. Implement supervisory review over new hire cases to ensure technicians consistently and accurately classify hits.
12. Define new hire practices in formalized, detailed policies and procedures and make readily available to claims examiners responsible for the new hire review process.

Appendix A

Audit Methodology

To gain an understanding of the Employment Security Division, we interviewed management and staff, reviewed applicable laws, regulations, and policies and procedures significant to the Division. We also reviewed legislative and executive budgets, legislative committee minutes, Interim Finance Committee minutes and publications of the Division. In addition, we reviewed United States Department of Labor publications and audit reports from other states. We identified significant processes relevant to determining claimants' continued eligibility for unemployment benefits, including activities related to new hire classifications, and reviewed controls over these areas.

To determine if the Division had sufficient controls over continued claimant eligibility, we obtained Division claims data from January 2012. We verified the reliability of the Division claims data download by judgementally selecting 20 Reemployment Eligibility Assessment forms from periods in which claimants from January 2012 were reviewed and tracing the claimant information to the data download. Next, we verified pertinent information including payment amount and personal identifying information from other corresponding data to the Division claims download.

In order to determine whether certain individuals were obtaining unemployment benefits even though they did not meet continued eligibility requirements, we compared certain electronic information to that of the Division. Specifically, we requested the Department of Corrections and the two largest county detention facilities provide incarceration records for the month of January 2012. We received records of incarceration from the Department of Corrections (DOC) and one county. Furthermore, we requested death records from the Office of Vital Records for the period January 1, 2007, through January 2012. To assess the accuracy of the records received from the DOC, county, and Office of Vital

Records, we traced personal identifying information from the entity database download to records maintained by the respective entity. We also verified intake and release dates as applicable.

To identify deceased or incarcerated claimants, we performed a comparison of personal identifying information from DOC, county jail, and Vital Records to Division claims data. We calculated total improper payments associated with each case by reviewing claimant accounts and determining the total number of weeks and related payments during the period of incarceration or after the date of death.

We also projected the amount of improper unemployment benefits made to incarcerated claimants over a 3-year period. For DOC records, we identified improper payments made in January 2012 and projected that total over the 3-year period. For the local government detention facility, we calculated the number of exceptions to the population from the data download. We estimated the total number of exceptions by comparing the error rate to local government detention facility inmate populations using U.S. Census information. Furthermore, we determined total payments related to the error rate and multiplied that by our population, then accounted for the 36-month period.

We discussed the results of our analysis with appropriate personnel and Division management. We provided Division management with a complete list of claimant exceptions for both incarcerated and deceased individuals to ensure the Division was able to cease future payments and take appropriate investigative action.

We contacted 13 states known to perform comparisons between incarceration records and unemployment payment information and inquired about data access. We discussed whether data was supplied through legislative authority or other means.

Finally, to determine whether the Division performed the statutorily required comparison of unemployment claimants to individuals receiving workers' compensation benefits, we documented the Division's current process. We also requested the Division

formally discuss its compliance efforts related to the requirements of NRS 612.265(9) with us.

To determine whether the new hire process was sufficient to ensure continued eligibility for unemployment compensation, we surveyed seven states with low published improper payment rates as reported by the DOL. We contacted these states to identify processes and practices related to reviewing new hire information. We also reviewed guidance from the DOL and compared this information to the Division's processes to identify process improvement opportunities.

Next, we reviewed a judgmentally selected sample of 497 new hire hits cleared as non-issues by the Division. Our sample was selected from 20 dates between January 1 and May 14, 2012, where new hire hit records were retained. Judgmental selection was based on the availability of new hire hit records because the Division does not retain this information on an ongoing basis. As a result, we were unable to determine the total population of new hire hits during our scope period. For the 20 days selected, we determined the nature of each case cleared by the Division and identified hits that contained the potential for improper payments. Our review included, when applicable, a review of claims history, notations by claims examiners, and wage information from employers in the Division's unemployment claims information system. We determined whether the Division's dismissal of the new hire hit was appropriate.

We also evaluated the adequacy of the Division's policies and procedures over the new hire process and compared existing policies to actual practices. Further, we documented whether adequate supervisory review of new hire hit processes was occurring.

Finally, we analytically compared Nevada's estimated fraud rate related to improper payments for new hires with the national average for calendar years 2008 to 2011. We calculated the potential savings for Nevada if the Division meets the DOL's improper payment target reductions.

Our audit work was conducted from December 2011 to August 2012. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Administrator of the Employment Security Division. On November 14, 2012, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix B which begins on page 36.

Contributors to this report included:

Dan Crossman, CPA
Deputy Legislative Auditor

Shannon Ryan, CPA
Audit Supervisor

David Steele, CPA, MPA
Deputy Legislative Auditor

Roland Erickson, MPA
Deputy Legislative Auditor

Appendix B

Response From the Employment Security Division

EMPLOYMENT SECURITY
DIVISION

Office of the Administrator



BRIAN SANDOVAL
Governor

FRANK R. WOODBECK
Director

RENEE L. OLSON
Administrator

November 29, 2012

Paul V. Townsend, CPA, Legislative Auditor
State of Nevada Legislative counsel Bureau
Legislative Building
401 South Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Townsend:

The Employment Security Division (ESD) of the Department of Employment, Training and Rehabilitation (DETR) is in receipt of your report that contains the findings, conclusions, and recommendations of your completed audit. ESD accepts the twelve (12) recommendations to improve the Division's control over improper payments to ineligible claimants for being incarcerated, deceased, receiving workman's compensation while concurrently receiving unemployment insurance benefits, or having returned to work. Please find the Division's detailed responses to each recommendation below.

Recommendation #1

Develop a process to identify ineligible, incarcerated UI benefit recipients and detect or prevent improper UI payments to such individuals.

The Division began to address this issue in 2009 by requesting and successfully passing legislation that defined filing a claim for benefits while incarcerated without disclosing the fact of incarceration as fraud.

The project plan for the UInv mainframe redesign details a functional requirement to conduct an automated cross match with data sources. The Division is in communication with the Office of Inspector General, Department of Corrections, relating to obtaining the needed data to automatically cross match inmate populations with those claiming unemployment. The Division has formally requested similar data from the major metropolitan law enforcement agencies in the State. As noted in finding 3, there is nothing that compels their cooperation in statute.

The Division refers all identified cases of filing while incarcerated to the Nevada Attorney General for prosecution.

The current mainframe system does not have the ability to cross match existing cases, all work is conducted manually. With less than 7/100ths of 1 percent of all claims being filed meeting the criteria defined under this finding (67 cases in 97,000 paid), the return on investment to conduct wholesale cross matching to identify these cases is minimal at best.

Paul V. Townsend, CPA, Legislative Auditor
ESD's Response to Audit Recommendations
November 29, 2012
Page 2 of 6

However, the Division does see benefit to such a cross match and has taken early steps to prepare the new system to lend a technology solution to this problem, and is actively pursuing an instant solution to stop this type of fraudulent claim.

Recommendation #2

Develop and document policies and procedures regarding data comparisons and investigating ineligible claimants when identified.

The Division will review existing policies regarding the Availability provisions of Nevada law to determine if any changes need to be made or developed regarding data comparisons and investigating ineligible claimants when identified. Any inconsistencies within current policies will be updated in order to be in compliance with current law.

The UInv project (U.I. modernization) requires the Division review all of its U.I. policies and procedures in relation to tactical and strategic operations. This review will include the development and formulation of daily reports produced from a review "markers" that may indicate claim inconsistencies which will require a daily or weekly audit by operational staff.

Recommendation #3

Request legislation to pursue a statutory change requiring state and local government detention facilities provide (sic) incarceration records to the Employment Security Division upon request.

The Division has submitted all BDR requests for the 2013 biennium but is not opposed to amending existing language if allowed by the Executive branch. In the event this session is untenable, the Division will develop statutory language for the 2015 session. The Division is currently in communication with the Office of Inspector General, Department of Corrections regarding access to the State of Nevada prison population. The dissemination of this data may require an interlocal agreement between the two agencies.

Recommendation #4

Update eligibility policies to address inmates residing in residential confinement and transitional housing facilities.

Paul V. Townsend, CPA, Legislative Auditor
ESD's Response to Audit Recommendations
November 29, 2012
Page 3 of 6

The Division will review existing policies regarding the Availability provisions of Nevada law and coordinate necessary changes with the Department of Labor, Office of Legislation, to insure that any changes do not generate conformity issues with Federal Unemployment Tax Act law. The Division does not anticipate these changes requiring legislation, but may require Administrative Code modifications to reduce the number of legal challenges.

Recommendation #5

Improve policies and procedures regarding notifying claimants their personal identifying information may be compromised.

All claimants who may be the victim of ID theft will be subject to in-person ID validation and interview. The Division will not perform telephonic interviews as there is no way to confirm with whom the Division is interviewing. Claimant compliance through in-person ID verification and interviews is the only way a suspected fraud stop on a claim may be lifted.

Recommendation #6

Work with the Office of Vital Records to periodically acquire records of deceased individuals and perform a timely comparison with unemployment claimant information.

The Division is aware of a very limited number of cases of benefits being improperly claimed after a person is deceased. The audit findings reflect that this amount is 3/1000th of 1 percent of total claims paid (3 cases in 97,000 paid). These cases are typically perpetrated by surviving spouses or other family members who have access to the necessary personally identifying information to file claims for benefits. Existing statute makes filing a claim for unemployment benefits under a name and Social Security Number not belonging to the person filing the claim a felony under Nevada law. This statutory change was implemented in 2009 and persons so identified are prosecuted.

The Division will seek inter-local agreements with the Office of Vital Records to obtain this information in an electronic format and will prioritize a cross match process with the new UInv system after the initial go-live date. This should not require statutory authority as the Death records are considered public.

Paul V. Townsend, CPA, Legislative Auditor
ESD's Response to Audit Recommendations
November 29, 2012
Page 4 of 6

This provision was not accounted for in the original Request for Proposal, and as such is out of scope of the current project. It will be added as an enhancement after go-live date. The Division is completing its interface with UCX (social security interface) to cross match claims with social security records the information will also provide info on deceased SSNs.

Recommendation #7

Develop a process to place permanent stops on accounts of claimants identified as deceased to prevent future unemployment benefits from being paid.

The Division is in process of finalizing the Social Security Cross Match program (UIQ) that carries a death index. This cross match is conducted each time a claim for benefits is filed, and the Division will be advised when a claim for benefits is started or reopened under the name and Social Security Number of a person carried on the index as being deceased.

The Division will add a disqualification code of Deceased to the new mainframe solution after the initial go-live date. This will prevent any future payments; even if an individual is able to successfully bypass the Social Security deceased index process.

Recommendation #8

Institute a process to request and compare private carriers of industrial insurance information to claimant data in accordance with NRS 612.265 to ensure unemployment insurance and workers' compensation benefits are not being collected concurrently by individuals.

In 1991, a bill went into effect allowing the Division to conduct a computer crossmatch with the State Industrial Insurance System (SIIS) to determine if individuals who were receiving Unemployment Insurance (UI) were concurrently receiving workman's compensation. In 1999-2000, SIIS was eliminated, and at that time there were approximately 130 private agencies that provided workman's compensation. Since that time, workers' compensation claim information has not been requested.

Nevada Division of Insurance was contacted, and provided a list of 249 insurance companies that reported workers' compensation direct written premiums in Nevada in 2010. The Division will work with the top ten providers to obtain records to conduct a crossmatch.

Paul V. Townsend, CPA, Legislative Auditor
ESD's Response to Audit Recommendations
November 29, 2012
Page 5 of 6

The Division anticipates that dealing with the largest carriers will cover a substantial portion of the population on "full-time" workman's compensation and lay the ground for a larger initiative. This process may define the extent of the problem, if any.

The Division is in the process of instituting a method to request and compare private carriers of industrial insurance information to claimant data to ensure unemployment insurance and workers' compensation benefits are not being collected simultaneously by individuals. The Division will also develop policies and procedures explaining how records will be requested, formatting of data, and how the information received will be used and the consequences to individuals receiving both types of payment at the same time.

Recommendation #9

Review and implement appropriate practices outlined by the DOL and other states to ensure claimant benefit payments to those identified as having returned to work are appropriate.

The supervisor assigned oversight of the New Hire Process will review the DOL website for information concerning the New Hire Crossmatch. Any new information discovered will be reported to management to determine if it is necessary to implement any new processes. The supervisor will also review the Workforce One Community of Practice website for any information posted by other states concerning the New Hire Crossmatch and report their findings to management. In addition, while monitoring both these sites, the supervisor will provide management with a monthly report on any new information found.

Recommendation #10

Develop a process to place claim stops and record new hire information in the information system as appropriate.

During the New Hire List review, claims examiners will make scratchpad entries into the Division's mainframe system, noting that there was a hit and whether or not an issue is created on the claim.

When the claimant appears on the New Hire List and the employer listed is a temporary employment agency, the claims examiner will place a temporary hold on the claim to prevent the claimant from being able to file a claim for a weekly benefit.

Paul V. Townsend, CPA, Legislative Auditor
ESD's Response to Audit Recommendations
November 29, 2012
Page 6 of 6

The claimant advisory letter will be modified to include a notification that they must contact the Telephone Claims Center to verify their employment status. A wage verification request will be simultaneously sent to the temporary employment agency.

Recommendation #11

Implement supervisory review over new hire cases to ensure technicians consistently and accurately classify hits.

The supervisor assigned oversight of the New Hire Process will conduct a random sample review of all New Hire Hits to ensure consistency. The supervisor will maintain a spreadsheet to indicate the reviewed "hits" and report findings to management, whenever necessary.

Recommendation #12

Define new hire practices in formalized, detailed policies and procedures and make readily available to claims examiners responsible for the new hire review process.

The supervisor assigned oversight of the New Hire Process will develop detailed policies and procedures that will be added to the existing policy manual. The current New Hire Audit Manual is currently on each examiners' desk. Staff will be queried for their suggestions to the subject manuals revisions.

The Division implemented an employer education program several years ago, which includes a section on new hire reporting. The Division has increased its educational efforts by means of the unemployment insurance telephonic call center, the DETR website, and through both claimant and employer correspondence. The Division is working to diminish the number of new hire hits through messaging in conjunction with the daily audit of the new hire list.

If additional information is needed, please do not hesitate to contact me at 775-684-3909.

Sincerely,


Renee L. Olson
Administrator

RLO:bjt

Employment Security Division's Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Develop a process to identify ineligible, incarcerated UI benefit recipients and detect or prevent improper UI payments to such individuals.....	<u>X</u>	<u> </u>
2. Develop and document policies and procedures regarding data comparisons and investigating ineligible claimants when identified	<u>X</u>	<u> </u>
3. Request legislation to pursue a statutory change requiring state and local government detention facilities provide incarceration records to the Employment Security Division upon request	<u>X</u>	<u> </u>
4. Update eligibility policies to address inmates residing in residential confinement and transitional housing facilities	<u>X</u>	<u> </u>
5. Improve policies and procedures regarding notifying claimants their personal identifying information may be compromised.....	<u>X</u>	<u> </u>
6. Work with the Office of Vital Records to periodically acquire records of deceased individuals and perform a timely comparison with unemployment claimant information.....	<u>X</u>	<u> </u>
7. Develop a process to place permanent stops on accounts of claimants identified as deceased to prevent future unemployment benefits from being paid	<u>X</u>	<u> </u>
8. Institute a process to request and compare private carriers of industrial insurance information to claimant data in accordance with NRS 612.265 to ensure unemployment insurance and workers' compensation benefits are not being collected concurrently by individuals.....	<u>X</u>	<u> </u>
9. Review and implement appropriate practices outlined by the DOL and other states to ensure claimant benefit payments to those identified as having returned to work are appropriate.....	<u>X</u>	<u> </u>
10. Develop a process to place claim stops and record new hire information in the information system as appropriate.....	<u>X</u>	<u> </u>
11. Implement supervisory review over new hire cases to ensure technicians consistently and accurately classify hits.....	<u>X</u>	<u> </u>
12. Define new hire practices in formalized, detailed policies and procedures and make readily available to claims examiners responsible for the new hire review process	<u>X</u>	<u> </u>
TOTALS	<u>12</u>	<u>0</u>