

# Wyoming Legislative Service Office Program Evaluation Report



## Wyoming Unemployment Insurance Program

Management Audit Committee  
December 15, 2010

**A**s they work to allocate tax dollars effectively and make government more efficient, legislators and administrators need objective information. Program evaluation reports from the Legislative Service Office (LSO) are a source for timely, accurate, and unbiased information on state government performance. These reports assist the Legislature in performing its function of oversight: decisionmakers need to understand the operations of state government in order to make informed decisions on the laws they pass and the financial decisions they make.

Wyoming's legislative evaluation activities began in 1971 with the creation of LSO and establishment of the legislative auditor to examine agencies' accounts and operations. In subsequent years, the Legislature changed the section's orientation from financial to sunset auditing, and then to program evaluation. These reviews compare what a program is accomplishing to what the Legislature intended the program to accomplish. W.S. 28-8-107 through 113 authorizes the program evaluation function.

The Management Audit Committee chooses state government programs for review and approves the final reports for release. An eleven-member bi-partisan committee, it has representation from the Senate and the House of Representatives.

LSO program evaluators research, analyze, and write reports on the assigned topics. The reports assess effectiveness and efficiency, examine whether intended results are being achieved, and include non-binding recommendations for change in administrative policies as well as for statutory changes.

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## Wyoming Legislative Service Office

# EXECUTIVE SUMMARY

## Wyoming's Unemployment Insurance Program

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Program Evaluation Section

December 23, 2010

### Purpose

On February 4, 2010, the Management Audit Committee (Committee) directed staff to undertake an audit of unemployment insurance (UI) program administered by the Wyoming Department of Employment (DOE).

The UI Program is authorized federally by the Social Security Act, originally passed in 1935. When the act was originally signed, the term "Social Security" covered unemployment insurance. However, as it was amended, the Act encouraged individual states to adopt unemployment insurance plans.

In Wyoming, the program is authorized under Title 27 (Labor and Employment) of the Wyoming Statutes and is named Wyoming Employment Security Law (W.S. 27-3-101 through 706). However, federal rules are promulgated by the United States Department of Labor, Employment, and Training Administration (ETA). States work in conjunction with ETA to ensure compliance with federal law. Basically, with the exception of recent extensions of benefits, recipients receive benefits for a maximum of 26 weeks.

The Committee's primary concerns about the UI benefit program include: whether UI benefit claims and appeals are processed in a timely and quality fashion; how customer service is rendered by the UI division; how effective and customer friendly the piloted

ReliaCard (debit card) payment program functions; and whether the program's quality control methods effectively identify, manage, and collect on improper benefit payments to UI claimants.

Our primary focus is on the UID, since this division primarily handles the benefits side of the program. However, the Committee also requested we review limited information on the Employment Tax Division (ETD) related to the detection, tracking, and management of delinquent UI employer tax accounts.

Overall, the Legislature needs to know that the UI program is being administered in an efficient and effective manner to adequately serve Wyoming workers and employers.

### Background

The UI program's main focus for staff is paying benefits to eligible unemployed workers. To do so, the system maintains an integrated chart of accounts for revenues (UI assessed taxes) and expenditures, which include administrative and claimants' benefit payments.

It should also be noted that under the state's current program funding structure, the only monies that are monitored through the State's WOLFS accounting system are the federal grant funds allocated to the DOE to cover UI program administration.

Since BFY 2003 (toward the end of the economic recession earlier this decade), the UID has paid out over \$515 million in benefits. However, this total should be considered in context with the most recent recession and the resulting unemployment spike around the nation (December 2007 through June 2009). Benefits for BFY 2009 account for more than half (52%) of the total benefits paid during the last eight fiscal years.

### **Results in Brief**

The UI program, as administered through the DOE, is still highly reliant on manual and paper processing for claims, appeals, and tax collection. Though the UID has worked to modify and provide for incremental information technology solutions to assist performing its respective functions, many of these solutions have provided for easier customer submission processes (i.e. internet claims application), without sufficiently easing the manual work processing of agency staff. In fact, backlogs occur frequently.

Currently, the UID and ETD use a network of different data systems to accomplish various tasks for managing the benefits and tax program data and documents. Both divisions use a mainframe data system built on the same technology platform (COBOL) from the mid-1980s. The benefits system was built in 1985 and the tax system was built shortly thereafter. The divisions have not yet completed a modification to their systems, as requested by the Legislature in 2003.

One of the primary ways in which the UID gauges the UI program quality and performance of its staff is through the Benefit Accuracy and Measurement (BAM) program. This program is mandated by the DOL-ETA and functions by reviewing weekly a random sample of paid and denied claims to see if case processing was

conducted correctly to make the appropriate (paid or denied) decisions. Decisions or process found to be incorrectly conducted are termed errors for the claims and these errors may or may not substantively impact follow-up decisions from the review.

Yet due to recent years' claims volume and administrative decisions, the UID has chosen not to systemically review these errors with other sections of the Division through the formerly designated Quality Control Team. Therefore, identified errors may not be addressed in a consistent manner to lessen potential faulty processes and decisions in the future.

UID has been proactive in providing surveys to claimants, employers, and appellants since 2001, which is a practice not required by the U.S. DOL, but should be continued. Although UID does not routinely analyze responses, there is great potential for the use of these surveys in conjunction with the defunct Quality Control Team. Response rates over the year have ranged from 21% to 44%.

Beginning in 2005, the UID began considering a move toward electronic payment of UI benefits to claimants. It studied the issue internally, forming a staff committee and even surveying claimants on their preferences. However, even after this internal study resulted in recommendations to implement both a debit card and direct deposit forms of benefit payment, the UID chose to only implement a debit card payment platform. This is known as ReliaCard as designated by the contractor, U.S. Bank.

With inconsistency concerning the creation of the Department of Workforce Services in 2001, as well as federal grant programs and legislation, Wyoming is not in a position to

provide the federal “one-stop philosophy” encouraged through the Workforce Investment Act (1998).

In addition, actions taken by DOE to consolidate its field staff into the Casper claims center also moved Wyoming away from the federal philosophy. As a result of these actions, it is difficult for the state to conduct workforce services for Wyoming employers and workers in line with the federal “one-stop philosophy”, which may be precluding delivery of effective and efficient services.

As a result of not actively managing delinquent accounts, the division is owed over \$9.4 million with active employers holding about 38 percent of these obligations. Also, 53% of these obligations are older than 4 years. It should also be noted that ETD has no way currently of breaking out collections, interests, or penalties with respect to delinquent accounts.

Several states have shown progress within their claims taking process, payment methods, and agency websites. However, UID continues to use its data system from the 1980s, which does not allow the particular features that other states currently operate. Rather than allowing direct deposit payments to take over the paper check process, the agency continues printing, counting, and mailing checks in each payment week.

Wyoming has not implemented innovative techniques to engage and educate the public through its website, nor has it begun to translate significant materials into alternate languages. If the agency continues prolonging these critical functions, it will have to catch up later, wasting time and valuable resources.

## **Principal Findings**

There are seven significant finding areas and related recommendations discussed in more detail in the report:

1. UI claims and appeals processing remains highly manual while minimal claimant education impacts customer service delivery. (Chapter 2);
2. UI program’s fragmented information technology systems and inconsistent staff training do not effectively support program functions. (Chapter 3);
3. The UID does not systematically review and act on quality control program results including BAM errors, customer service surveys, and overpayments (Chapter 4);
4. UID has not prioritized its electronic benefit payment program in line with federal guidance and not all UI program funding is tracked in the State’s WOLFS accounting system. (Chapter 5);
5. Streamlined and consistent workforce services to employers and workers may not be occurring in Wyoming. (Chapter 6);
6. The ETD does not systematically monitor or oversee field staff audit and collections activities or write-off uncollectible accounts. (Chapter 7); and
7. Even under federal guidance, states have discretion to manage and implement their own program requirements and processes. (Chapter 8).

## **Agency Comments**

The Wyoming Department of Employment takes no stance on the recommendation addressed to the Management Audit Committee with respect to seeking federal review of a UI program confidentiality exception for state audit agencies. However, the DOE does agree with six (6) and partially agrees with eleven (11) additional

recommendations. Finally, the DOE disagrees with two recommendations.

Specifically, the DOE disagrees with the recommendation regarding providing proactive contact of appellants during appeals hearings when appellants forget to provide more current telephone numbers before scheduled hearings.

Also, the DOE disagrees with studying the impact of federal and state legislative initiatives on providing adequate services to Wyoming workers and employers, particularly regarding services and programs outside the scope of the unemployment insurance program (i.e. – job placement, training, etc.).

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*Copies of the full report are available from the Wyoming Legislative Service Office. If you would like to receive the full report, please fill out the enclosed response card or phone 307-777-7881. The report is also available on the Wyoming Legislature's website at [legisweb.state.wy.us](http://legisweb.state.wy.us)*

## Recommendation Locator

Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
OSM	N/A	The Management Audit Committee may wish to consider requesting that the U.S. Senate Committee on Health, Education, Labor, and Pensions request that the Government Accountability Office (GAO) review confidentiality provisions within the SSA and related CFRs to determine if a State audit exception is needed to ensure appropriate and independent State oversight of UI programs across the nation.	xi	Management Audit Committee	N/A
2	1	The UID should thoroughly review its current manual work steps for processing applications and appeals and work with its information technology staff on solutions to lessen paper and manual task for staff. Immediate emphasis can be placed on moving toward making less or no staff reviews required on internet applications and can expand to other processes after management review.	30	UID	Partially Agree
2	2	The UID should transfer the administrative functions, including scheduling of hearings, currently performed by the Chief Hearing Officer to section clerical staff. The Chief Hearing Officer should be scheduled to conduct hearings, particularly in times of increased workload.	31	UID	Agree
2	3	The UID should continue to revise its website and Claimant Handbook to provide more thorough information on significant topics including required claimant audits and reviews, the ReliaCard program, appeals processing, and appeals hearings.	38	UID	Agree

<b>Chapter Number</b>	<b>Recommendation Number</b>	<b>Recommendation Summary</b>	<b>Page Number</b>	<b>Party Addressed</b>	<b>Agency Response</b>
2	4	The Unemployment Insurance program should initiate translating UI program website information and the Claimant Handbook into Spanish. In addition, UID should pursue bi-lingual staff hires when possible.	39	UID	Partially Agree
2	5	The Commission should require hearing officers to call appellants at the beginning of hearings with the most current contact information from the appealing parties.	48	Commission	Disagree
2	6	The UID should look into providing a supplement to the Claimant Handbook that provides more extensive and thorough information on the appeals process, particularly with respect to how hearings are conducted and how appealing parties must comply with hearing requirements.	48	UID	Partially Agree
3	7	The UID and ETD should scope out a long-term IT plan for the Legislature to detail how and when the agency can expect to meet the Legislature's BFY 2003 requirement to re-write the tax and benefit mainframe data systems. This should include integrating functions performed by the current add-on system components.	56	UID and ETD	Partially Agree
3	8	The DOE needs to keep the Legislature and A&I ITD informed of the progress on the current AWIN project and to detail, when it becomes known, potential funding and implementation requirements and deadlines that may require the Legislature's and A&I ITD assistance.	57	DOE	Agree
3	9	The UID should develop a minimum and standard written training curriculum for new staff hires in each of its sections, particularly for staff in the claims center and appeals sections. UID supervisors should be instructed to evaluate staff during their probationary period based on the specific skill-set established by these written standards.	61	UID	Partially Agree



Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
3	10	The UID should develop refresher training for longer-term staff and revisit its training curriculum periodically to formally incorporate or eliminate emergency changes as implemented through its e-mail staff notification process.	62	UID	Partially Agree
4	11	The UID should reinstitute the Quality Control Team and begin monthly review and monitoring of BAM-identified errors to provide for a more coordinated and consistent feedback loop for section managers to work through necessary policy and procedures changes.	72	UID	Agree
4	12	The UID should establish a more formal and active method for reviewing, analyzing, and using survey feedback.	79	UID	Agree
5	13	The UID should prioritize its current work to set up the electronic direct deposit payment method for UI claimant beneficiaries. It should also set project planning and implementation benchmarks including deadlines for testing and full program implementation.	89	UID	Partially Agree
5	14	UID should work with U.S. Bank to provide additional program information to which debit card claimants have easy and continual access when they use benefits and provide more program information on the DOE-UI website and Claimant Handbook.	89	UID	Partially Agree
5	15	The UID and ETD should combine current UI program reporting to the Legislature and provide a more detailed and comprehensive report of the UI program statistics-finances as well as reporting requested under 2009 Laws, Chapter 161 to encompass both tax and benefit issues.	94	UID	Partially Agree
6	16	DOE should study the impact of federal and state legislative	104	DOE	Disagree

Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
		initiatives since the late 1990s, to determine whether its current condition of providing services is adequate. It should also include any problems related to its current organizational structure and make its results available to the Management Audit Committee for further consideration.			
6	17	The DOE should revisit its 2003 MOU agreement with DWS and revise the cooperation and collaborative requirements necessary to better identify and implement UI program information tracking requirements and meet today's customer service expectations of Wyoming's unemployed workforce.	111	DOE	Partially Agree
6	18	The DOE should hold more formal, periodic coordination and planning meetings with the DWS to discuss and address the issue outlined in the January 2010 DOL-ETA consultant memorandum. These meetings should set specific goals and deadlines for how to better meet the intent of the memo's recommendations.	112	DOE	Agree
7	19	ETD needs to better incorporate automated data tracking fields to collect and summarize field staff delinquency collections activities for both active and closed employers. It should also modify its mainframe data tracking system to run reports on delinquent accounts greater than four years (16 quarters old) to allow ETD staff to periodically review long-term active and closed employers' delinquent accounts and collections progress. Finally, ETD should work to develop a process to routinely generate account activity by employer.	126	ETD	Partially Agree

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# List of Acronyms and Definitions

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## Wyoming Unemployment Insurance Program

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### Administration:

**ARRA:** American Recovery and Reinvestment Act; federal 2009 stimulus funding received by states for UI administrative and claimants' benefit payments.

**BAM:** Benefit Accuracy and Measurement; required by the federal Department of Labor, Employment and Training Administration to cover part of the unemployment insurance quality control regimen.

**CFDA:** Catalog of Federal Domestic Assistance; federal catalog defining grant assistance available to states (or other grantees) for various programs; it summarizes eligibility standards, reporting requirements, funding formulas (if necessary), etc. for awarding federal grants to eligible grantees.

**DOE:** Wyoming Department of Employment.

**DOL-ETA:** U.S. Department of Labor, Employment and Training Administration; federal UI program oversight agency; Wyoming is overseen by Region 4 based out of Dallas, Texas.

**DWS:** Wyoming Department of Workforce Services.

**Employment Security Revenue Account:** Wyoming Fund 501 as established by W.S. 27-3-207 to be used for supplementary unemployment insurance program administrative funding.

**ESF, Employment Support Fund:** State-level fund established by W.S. 27-3-211 to be used to pay unemployment insurance benefits or for state workforce services administrative costs by the Wyoming Department of Employment or the Wyoming Department of Workforce Services.

**ETD:** Employment Tax Division of the Wyoming Department of Employment.

**Federal UI Trust Fund:** Trust fund for the unemployment insurance program managed by the U.S. Treasury. Each state has a separate account dedicated to receiving employers' tax revenue, accumulating interest, and for dispensing funds back to the states to pay for unemployment insurance benefits to claimants.

**FUTA:** Federal Unemployment Tax Act.

**Reed Act Grant:** These administrative grant monies are enhancement funds periodically allocated to states to be used for either benefit payment or administrative purposes for operating unemployment insurance and other workforce programs; these funds are in addition to states' annual administrative grant allotments from the U.S. Department of Labor, Employment and Training Administration.

**SSA:** Social Security Act.

**State Unemployment Insurance Trust Fund:** State-level trust fund established by W.S. 27-3-209 to pay for unemployment insurance benefits to claimants; these funds cannot be used unless Wyoming's federal trust fund becomes insolvent.

**UI, UID:** Unemployment insurance (program); Unemployment Insurance Division of the Wyoming Department of Employment.

**UIC:** Unemployment Insurance Commission as established by W.S. 27-3-601; this commission promulgate all state-level rules and regulations for administering the unemployment insurance program in Wyoming.

**WOLFS:** Wyoming Online Financial System; State of Wyoming accounting system run by the State Auditor's Office.

**Wyoming Employment Security Law:** This is the Wyoming law that defines the administrative structure, program definitions, benefit structure and taxing structure for Wyoming's unemployment insurance program.

## **Benefits:**

**Additional Benefits:** Benefits payable under state law to exhaustees due to high unemployment conditions or other special factors and totally financed by any state.

**Adjudication:** The process by which an Unemployment Insurance Division claims staff member researches and decides on problems (termed "issues") with a claim to award or deny benefits to a claimant.

**Base Period:** The number of calendar quarter used for calculating unemployment insurance program eligibility and benefit levels for program claimants; in Wyoming, the base period equal the first four of the last five completed calendar quarters.

**Benefit Year:** A claimant may claim up to 26 weeks or 30% of their base period wages within their benefit year; the benefit year begins the Sunday preceding the date a claimant files an initial unemployment insurance claim and ends on a Saturday 52 weeks from the beginning effective date of a claim.

**Combined Wage Claim:** A claim where a claimant has eligible program wages in more than one state; a claimant may only file an unemployment insurance claim with a state in which wages were earned (not necessarily the state where a claimant resides).

**Continuing Claim:** After submitting an initial claim, unemployment insurance claimants file bi-weekly pay orders to continue claiming program benefits; by filing these pay orders, claimants certify they continue to meet the program eligibility requirements (i.e. – looking for work and being able and available for work, etc.).

**Exhaustee:** An unemployment insurance program claimant beneficiary that has been paid all required and eligible benefit payments according to program specifications.

**Extended Benefits:** Benefits payable to an individual for weeks of unemployment in his eligibility period once regular benefits have been exhausted.

**IVR:** Interactive Voice Response telephone system; used by claimants to file claims with the Unemployment Insurance Division.

**Maximum Benefit:** The total amount of benefits to which an unemployment insurance claimant is eligible to receive from their initial and continued claim for regular benefits; in Wyoming the maximum amount of regular benefits is the lesser of 26 weeks at the weekly benefit amount or 30 percent of eligible base period wages

**Regular Benefits:** Unemployment insurance benefit payments to claimants paid during a claimant's initial and continued claims; see *weekly benefit amount* and *maximum benefit* for information on how benefits are calculated.

**ReliaCard:** Name of the U.S. Bank debit card program contracted by the Unemployment Insurance Division to provide for electronic payment of benefits to eligible claimants.

**UI Taxable Wages:** Wages paid to employees on which employers must pay their prescribed unemployment insurance tax rate to the Employment Tax Division of the Wyoming Department of Employment; Wyoming's unemployment insurance tax structure allows taxable wages to fluctuate to a maximum as prescribed by a formula in W.S. 27-3-503 and program rules.

**WBA:** Weekly benefit amount paid to claimants while claiming and maintaining eligibility for the unemployment insurance program; in Wyoming the weekly benefit amount is equal to 4% of base period wages; this amount is used to pay extended benefits if a claimant is eligible for extended benefits.

## **Unemployment Insurance Taxes:**

**Benefit Ratio:** The quotient of total benefits charged to an employer's account and paid during the preceding experience period divided by total taxable wages payable by the employer for that

experience period excluding any portion of wages for which contributions were not paid as of July 31 of the preceding calendar year.

**Certificate of Good Standing:** A document generated by the Employment Tax Division of the Wyoming Department of Employment certifying an employer as current or out of compliance with its unemployment insurance tax obligations as prescribed by the Wyoming Employment Security Law.

**Contributory Employer:** Employers paying an experienced-based unemployment insurance tax rate on taxable wages of its program covered employees.

**Experience Period:** The thirty-six (36) consecutive month period or, in the case of a new employer not previously subject to this act the twenty-four (24) consecutive month period, ending June 30 of the preceding year on which an employer's primary unemployment insurance tax rate is calculated.

**Fund Adjustment Factors:** Fund adjustment factors are used to account for program benefit costs that cannot be attributed directly to employers; non-charged and ineffectively charged adjustment factors are used to adjust all employers' tax rates depending whether the federal trust fund maintains a health or distressed funding level as prescribed under W.S. 27-3-505.

**Reimbursing Employer:** Employers, generally government and non-profit employers, that pay dollar-for-dollar to the Employment Tax Division the amount of benefit payments paid to the employers' eligible unemployment insurance claimants; these employers do not pay taxes directly into the program on a continuing bases.

**TPS:** Tax Performance System; required by the federal Department of Labor, Employment and Training Administration to cover part of the unemployment insurance quality control regimen.

**UI Delinquency:** An employer is delinquent on its unemployment insurance tax (or reimbursing) obligations if it does not provide a quarterly tax report, wage list, or quarterly tax remittance to the Employment Tax Division of the Wyoming Department of Employment on the last day following the end of the previous calendar quarter (i.e. – quarter 1 ends March 31 – delinquency occurs on May 1)

**WIRE:** Wyoming internet reporting for employers; reporting system used by the Employment Tax Division so employers can electronically submit quarterly unemployment insurance tax reports and wage lists.



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# INTRODUCTION

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## Objective, Scope, and Methodology

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### Introduction

During its February 4, 2010 meeting, the Management Audit Committee (Committee or MAC) directed the Program Evaluation Section within the Legislative Service Office (LSO) to conduct an audit of the Unemployment Insurance Program, within the Wyoming Department of Employment (DOE), Unemployment Insurance Division (UID).

The UI Program is authorized federally by the Social Security Act, originally passed in 1935. When the act was originally signed, the term “*Social Security*” covered unemployment insurance. However, as it was amended, the Act encouraged individual states to adopt unemployment insurance plans. Wisconsin was the first state to adopt an unemployment insurance plan.

Currently, all 50 states, as well as Puerto Rico and Washington, D.C. have adopted unemployment insurance plans. To create revenue for the program, Congress passed the Federal Unemployment Tax Act (FUTA) in 1939. FUTA authorized the Internal Revenue Service (IRS) to collect an annual federal employer tax, which was used to fund states’ unemployment benefits.

The finer points of employer taxing and worker benefit eligibility criteria are annotated through federal and state laws and regulations. In Wyoming, the program is authorized under Title 27 (Labor and Employment) of the Wyoming Statutes and is named Wyoming Employment Security Law (W.S. 27-3-101 through 706). However, federal rules are promulgated by the United States Department of Labor, Employment, and Training Administration, which work in conjunction with states’ programs. Basically, with the exception of recent extensions of benefits, recipients receive benefits for a maximum of 26 weeks.

The Wyoming law covers both the benefit and taxing sides of the program. The program is intended to be a self-funded program where employer tax revenues pay into a federally managed trust fund, from which eligible unemployed workers can receive temporary benefits between jobs. The program goes through cycles (termed counter-cyclical to the economy) where during low unemployment (economic growth), the trust fund increases in value so that during times of high unemployment (economic decline or recession) there are funds to pay for increased unemployed workers' benefits.

Though Wyoming's DOE provides staff and administrative support for the program, the program rules are promulgated by the Unemployment Insurance Commission (UIC) as required by state statute. The UIC also acts as the higher level appeal authority for the program before cases can be appealed through Wyoming's courts.

Legislative Question(s)

The Committee's primary concerns about the UI benefit program include: 1) whether UI benefit claims and appeals are processed in a timely and quality fashion; 2) how customer service is rendered by the UI division; 3) how effective and customer friendly the piloted ReliaCard (debit card) payment program functions; and 4) whether the program's quality control methods effectively identify, manage, and collect on improper benefit payments to UI claimants.

Our primary focus is on the UID, since this division primarily handles the benefits side of the program. However, the Committee also requested we review limited information on the Employment Tax Division (ETD) related to the detection, tracking, and management of delinquent UI employer tax accounts.

Finally, the Committee expressed concerns about the DOE's use of only one field office in Casper (called the central claims/call center) to handle all UI benefit claims and whether there is potential for scams or other problems associated with moving toward full implementation of the ReliaCard for benefit disbursement.

## Objective

W.S. 28-8-107(b) authorizes the Legislative Service Office to conduct program evaluations, performance audits, and analyses of policy alternatives. Generally, the purpose of such research is to provide a base of knowledge from which policymakers can make informed decisions.

The overall objective of this audit is to determine whether the UI program is functioning in an effective and efficient manner, given the recent years (2008 to present) increase in unemployment claims in this state (and across the nation). Strains on program funding across most states, the immense increase in the number of workers' (eligible "claimants") claims, and the continued federally authorized benefit extensions has contributed to this program's high public profile during the 2008 and 2009 national recession.

As directed by the Committee's concerns, this report addresses various audit objectives derived from the February 4, 2010 scoping paper. More specifically, questions from the scoping paper include the following:

1. Overall, are the systems used by the Division effective in providing timely and accurate payments to individuals filing for and receiving unemployment benefits? Including processing of appeals?
2. Given the Unemployment Insurance Payment Model, what are the Division's responsibilities to provide services that assist claimants with limited English proficiency or limited literacy skills in obtaining benefits? What services does the Division provide that increase skills such as using a bank account; is there potential or realized scams related to the use of ReliaCard by beneficiaries?
  - a. Does the Division need additional authority to successfully implement such programs?
  - b. How does the Division accommodate claimants with limited English proficiency or basic literacy skills?
3. How can the Division ensure better response rates among surveyors to receive more accurate information about the

- user-friendliness of its claim systems?
4. Does the Division continually review complaint logs and appeals decisions for ideas to improve the process, especially given the recent economic recession? How does the Division track or investigate complaints or issues where claimants may receive inaccurate information from Division staff leading to non-payment or overpayment of benefits?
  5. What steps does the Unemployment Tax Division take to ensure the collection of delinquent UI taxes? Also, what are the trends with respect to collection rates, and how well are its accounts receivables managed?
  6. How well does the Division's Benefits Accuracy & Measurements Program (BAM) determine the type and causes of improper payments in the UI system and does it make suggestions for improvement?

Additional questions from Committee discussion and approval of the topic:

7. How has the UI Division evaluated its move to one central office location both before and since 2002 related to tangible costs, as well as impacts to claims processing and customer service? For example, what are the benefits and drawbacks of co-locating field offices with other like agencies (i.e. – Workforce Services, other DOE-program field offices, etc.)?

## **Scope and Methodology**

This audit was conducted according to statutory requirements and professional standards and methods for governmental audits. The research was primarily performed from June 2010 through November 2010. The general time frame for which we included information for this report is BFY 2005 through BFY 2011 (unless otherwise noted).

Research methods included:

### Interviews

1. We interviewed officials and personnel from both the UID and the ETD with responsibility for programmatic and financial functions of the program.
2. Interviewed members of the Unemployment Insurance

Commission with respect to policy issues that are promulgated into rules by the UIC.

#### Observations

1. Accompanied UID claims center staff while they took phone calls and claims applications. LSO also shadowed UID adjudication staff as they tried to resolve outstanding issues on claims for final award or denial-of-benefits determinations.
2. Observed multiple lower authority claims appeals hearings with UID hearing officer staff.
3. Observed one UIC meeting where the UIC heard appeals on tax and claims cases.

#### Survey Instruments

1. Developed a survey questionnaire for UID claims specialist staff. We sent the survey to 52 staff members (including temporary staff) trained to take and/or process UI benefit claims on a full or part-time basis. We received 33 total survey responses (63% response rate).
2. Developed a survey questionnaire for FY 2010 paid or denied UI benefit claimants. We sent out 50 surveys to paid claimants and 50 surveys to denied claimants. We received 9 paid claimant survey responses and 5 denied claimant survey responses for a total of 14 responses or 14% overall response rate to this survey.<sup>1</sup>

#### Research and Analysis

1. Requested and reviewed DOE, UID, and ETD related documents and data in accordance with our research objectives and research plan.
2. Reviewed existing Legislative Service Office publications discussing UI or related workforce issues over the last decade.
3. Reviewed professional publications and literature from national workforce, employment and other associations dealing with public policy and best practices for UI program

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<sup>1</sup> A total of 12 of the 100 (12%) claimant surveys were returned due to incorrect mailing addresses for the sampled claimants. Since the DOE provided the sample of claimants and addressed the survey envelopes, LSO does not know which claimants surveyed were part of each sub-population of paid and denied claimants. Therefore, we cannot provide a definitive response rate for these specific sub-populations. *See Scope Limitation section below for clarification on claimant sampling limitation.*

administration.

4. Reviewed Wyoming annotated statutes related to the Wyoming Employment Security Law and DOE agency authorization/organizing laws.
5. Reviewed current and past UI program rules as promulgated by the UIC.
6. Reviewed accounting and other financial data from the Wyoming Online Financial System (WOLFS), InfoAdvantage, the Wyoming Internet Budget and Analysis Reporting System (IBARS), Wyoming Session Laws, and DOE (UID and ETD) budget requests with respect to programmatic and expenditures and revenues, as well as fund revenues from various revenue codes related to UI program-specific funds and accounts.
7. Reviewed other states' legislative and executive evaluation reports on their respective UI programs.
8. Reviewed federal Government Accountability Office (GAO) reports on the national administration of the UI program.
9. Conducted review and analysis on a sample of case files from different sections of the UID's claims processing functions (i.e. initial and continued claims files, appealed claims files, Benefit Accuracy and Measurement files, and delinquent employer account files). *See Scope Limitation section below for clarification on these reviews.*
10. Conducted additional Internet research on related issues to UI program administration in accordance with our research plan.

## Scope Limitation

During the course of this audit, LSO auditors encountered a scope limitation, which increases the risk of inaccurate, inconsistent, or incomplete information on the program from the DOE and its divisions. More specifically, LSO requested, but did not receive, direct access to the UI program primary data and data reporting systems in accordance with our initial fieldwork research plan.

LSO requested direct access to data as follows: **1)** Benefits mainframe; **2)** Employer Tax mainframe; **3)** Benefit Accuracy and Measurement database; and **4)** Appeals database. These databases

include personally identifiable information related to the administration of benefits decisions and payments, employer taxes (including delinquencies), quality control related to benefits payments and employer tax collection, and decisions related to the appeal process for beneficiaries, as well as Wyoming businesses.

During the entrance conference, agency officials stated that to ensure confidentiality, any data requests would be encrypted. And, that LSO should make its requests as needed throughout the audit. As a result, LSO followed the agency's preference and requested data to be encrypted. It was at this point however, DOE stated LSO would have to fill out an agreement as discussed below.

#### DOE Requested LSO to Sign a Stringent Memorandum of Understanding (MOA)

Upon submitting this request to the DOE and its divisions, the DOE requested that LSO sign an MOU with stringent provisions that LSO interpreted as going beyond what is required in Part 603 of the Code of Federal Regulations (CFR), which addresses confidential access to UI benefit and tax information. The CFR reflects confidentiality requirements of the Social Security Act, as well as the Federal Unemployment Tax Act. Unfortunately, the CFR does not include an exception for state audit functions, as it does for federal audits (Subpart B, Section 603.5 (i)).

Because of the lack of a specific state audit exception, DOE stated that LSO is required to sign an agreement. More specifically, DOE's proposed MOU would require the LSO to "*pay the reasonable and necessary costs of developing the estimate*" for work in excess of 80 hours and pay "*expenses in excess of eight (80) hours at actual charges...within thirty (30) days of receipt of the bill.*" LSO would be required to furnish "*a report to DOE/UID describing the procedures established and utilized by LSO for insuring the confidentiality*" of requested information." Finally, LSO would be required to allow UID "*to conduct on-site inspections*" to ensure the MOU, State, and Federal law are being followed.

It should be noted that the CFR only provides that UID attempt to seek reimbursement of costs (603.8 (b)), as opposed to

making demands for payment from the LSO. Also, language in the CFR only requires that confidential information be safeguarded and that the recipient of confidential information to “*maintain a system sufficient to allow an audit of compliance...*” However, it does not require that state audit agencies should allow portions of their audit processes to be inspected by UID.

### LSO Offered Two (2) Alternatives

LSO offered two alternatives in order to access and review requested information. The first alternative was to propose a modified agreement, framed from a previous audit where LSO analyzed Health Insurance Portability and Accountability Act (HIPA) data. The modified agreement did not discuss payment to the audited agency, as LSO has never paid an agency for producing information for an audit pursuant to W.S. 28-8-113. The statute makes no provision for such payment. Nor has LSO been appropriated funds for making such payments.

Also, the modified agreement ensured that confidential information would be safeguarded, but included no provision that UID could actually inspect the way in which LSO maintains its audit work papers. LSO believed that both of the original requirements in UID’s agreement could impair the independence of the audit process, discussed in the *Government Audit Standards* promulgated by the Comptroller General of the United States, as well as W.S. 28-8-107 (e)).

The second alternative offered by LSO was based upon language of the CFR, which provided that disclosure can be made to an official with subpoena authority (603.5 (h)), without an agreement. W.S. 28-1-109 (a) authorizes “the presiding officer or either house of the legislature, the council, or a committee” to issue a subpoena. Thus LSO provided the agency with a letter from LSO taking the position that an agreement was not necessary, based upon the plain language of the CFR.

However, this interpretation was not shared by the U.S. Department of Labor, Region IV, Dallas Regional Office, which stated “*to permit disclosure without requiring service of subpoena and without making a motion to quash, an agreement would be necessary...*” In other words, according to the



Department of Labor, any disclosure outside of an attempted subpoena requires an agreement. It should also be noted that the Dallas Regional Office would not review LSO's modified agreement. It stated that the "National Office" would have to conduct such a review. The Dallas Office did not provide any direct comment to the LSO letter.

See Appendix A for correspondence from LSO's Assistant Director to UID's legal counsel related to this issue. This correspondence provides more detailed information, as well as clarifying questions related to interpretation of federal CFR. It also discusses LSO's decision to move forward with the audit in a limited fashion, while noting the scope limitation.

#### Limited Data Reviewed by LSO

As a result of encountering the opposition to our earlier audit requests, the LSO decided to move forward with the audit, but with a review of limited or sampled data, provided by UID. Personally identifiable information was redacted by UID for our samples. The following steps provide a description of our limited data analysis:

- We requested the UID information technology staff conduct the sampling of claimants to which we would send our survey instrument. We developed the instrument, tested it with the agency, and prepared the postage paid envelopes for mailing. The DOE drew the sample of 100 claimants (50 paid and 50 denied benefits during FY 2010), generated the address labels, and mailed the LSO-prepared survey envelopes. LSO was not given access to the personal information (including names and addresses) of the sampled claimants.
- We developed criteria to sample UI program case files according to four program functions: 1) initial and continued claims case files; 2) appealed claims case files; 3) Benefit Accuracy and Measurement (BAM) case files; and 4) delinquent employer tax case files. We requested the UID information technology staff conduct the sampling of cases within each of these program functions according to the criteria we proposed. LSO was not given access to the personal information from the case sampling by UID information technology staff and the DOE

divisions' staff hand redacted personal information from paper case files which LSO did review.

- We requested the UID and ETD complete summary data tables where the agency provided for aggregate data analysis for LSO to review and present in this report. The summary or aggregate data presented in this report has not been verified or validated by LSO. All data presented (except for the original research conducted as part of our survey of claimants and claims staff and our direct observation of processes and case files) is attributed directly to the DOE and its divisions.

#### Result of Scope Limitation

LSO would also like to note that even though it did not validate or generally verify the DOE's UI program primary data, the UI program does submit quarterly data and reports to the U.S. Department of Labor, Employment and Training Administration (DOL-ETA). Under DOL-ETA rules and policies, states are required to follow some prescribed data validation procedures for the federal government to accept states' data submissions. It should be noted however, this data validation is not intended to detect data entry errors on individual case records. Rather, it only validates aggregate calculations as prescribed by program reporting requirements.

Although LSO's review of limited data showed no inconsistency with UID's performance related to federal measures, the scope limitation still precludes absolute assurance that UID is operating effectively and efficiently based on review of limited data. LSO was still able to develop findings and recommendations that will help UID become more effective and efficient. Saying that, we believe a recommendation for consideration by the Management Audit Committee is appropriate as follows.

**Recommendation:** The Management Audit Committee may wish to consider requesting that the U.S. Senate Committee on Health, Education, Labor, and Pensions request that the Government Accountability Office (GAO) review confidentiality provisions within the SSA and related CFRs to determine if a State audit exception is needed to ensure appropriate and independent State oversight of UI programs across the nation.

Given the frustrations LSO experienced with the hesitant cooperation from Wyoming's Department of Employment, as well as the reluctance of the federal Department of Labor to make pragmatic interpretations of federal CFR or to review LSO's modified agreement, it may be beneficial for the GAO to review confidentiality provisions within the SSA and related CFR. More specifically, to determine if an explicit exemption for State audit functions is needed. Given that the majority of state audit functions follow *Government Auditing Standards* promulgated by GAO, it may be interested in the absence of a specific exemption for State Audit functions. The General Standard for Independence (3.02 to 3.06) and W.S. 28-8-107 (c) discuss federal and Wyoming standards for objectivity.

## **Acknowledgements**

The Legislative Service Office expresses appreciation to the Wyoming Department of Employment, the Unemployment Insurance Division and Employment Tax Division staff for their assistance producing documents, limited data, and making themselves available for interviews during the course of this audit. LSO also expresses thanks to the Unemployment Insurance Commission members for their input and allowing LSO staff to attend and observe their hearings on case appeals. We also appreciate the commitment of Wyoming UI program claimants for considering and returning our survey questionnaire to provide feedback on the effectiveness of the UI program in the state.

Finally, LSO would also like to express appreciation to the various states with which we requested comparison UI information (i.e. Colorado, Idaho, Montana, New Mexico, Utah, North Dakota, and South Dakota).

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# CHAPTER 1

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## Background

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### **Unemployment insurance provides economic security to workers and the economy.**

Together with other workforce services programs and agencies, the unemployment insurance (UI) program is intended to provide a bridge of income and support to unemployed workers to keep our economy and workforce stable. As such, the Wyoming Legislature established Wyoming's current policy on unemployment insurance in 1983.

More specifically, the UI program is administered according to the Wyoming Employment Security Law under Title 27 (Labor and Employment) of Wyoming Statutes. Under this statute, the Legislature's policy on UI is (Laws 1983, §2):

*“(a) As a guide to the interpretation and application of the Wyoming Employment Security Law, the public policy of this state is as follows:*

*(i) Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state;*

*(ii) Involuntary unemployment is a subject of general interest and concern which requires appropriate legislation to prevent its spread and lighten the burden which so often falls with force upon the unemployed worker and his family. The achievement of social security requires protection against this great hazard of our economic life. This can be provided by operation of free public employment offices in affiliation with a nationwide system of employment services, by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for*

*periods of unemployment. In this way, the purchasing power can be maintained and the serious social consequences of poor relief assistance can be limited;*

*(iii) The legislature declares that in its considered judgment the public good and the general welfare of the citizens of the state require the enactment of this measure under the police power of the state for the compulsory setting aside of unemployment reserves for the use and benefit of unemployed persons.”*

The Wyoming Employment Security Act is extensive and has seven main articles covering the UI program (see **Appendix A** for current Wyoming statutes impacting the administration of the UI program):

**Article 1:** In General – provides general definitions, most importantly for how the state defines covered employment and what is a liable employer;

**Article 2:** Fund Administration – provides for the funds and accounts management required to administer the program for DOE and to pay for UI benefits;

**Article 3:** Benefits – establishes UI worker eligibility standards and defines the components and calculations of awarding UI benefits;

**Article 4:** Benefit Claims – provides for the basic requirements for workers to file claims with the Department of Employment (DOE) and rights to appeal UI decisions;

**Article 5:** Employer Contributions – provides the basic law for state UI taxing authority, tax components and calculation methods for the program;

**Article 6:** Administration – describes the role and responsibilities for the Unemployment Insurance Commission (UIC) and DOE as well as confidentiality of information and record retention by the program; and

**Article 7:** Penalties – prescribes penalties and fines for individual claimants, businesses and the program if certain issues occur while administering the program.

*The federal Social Security Act authorizes states' UI programs to operate.*

The federal Social Security Act (SSA) established the original authority for the unemployment insurance program 75 years ago. Under this act, the federal government authorized the broad policy and administrative guidelines for the program under which the individual states can implement their own specific policies on unemployment insurance. Wyoming's first UI law passed shortly thereafter in 1937.

The SSA enables the states to provide for taxing authority and benefit standards for operating UI programs. Under this federal-state partnership for the UI program, Table 1.1 below describes the basic functions assumed by the federal government and the states.

Overall, the federal government, through the U.S. Department of Labor, Employment and Training Administration (DOL-ETA), broadly establishes standards for the program and annually rates states performance. States provide for the detailed administration, including taking and processing unemployed workers' UI claims and assessing and collecting required UI taxes.

**Table 1.1**  
**U.S. Department of Labor (DOL)**  
**Defined Functions for Federal and State Share of UI Program Administration**

Federal Functions	State Functions
<b>Ensure conformity and substantial compliance</b> of state law, regulations, rules, and operations with federal law.	<b>Determine operation methods</b> and directly administer the program.
<b>Determine administrative fund requirements</b> and provide money to states for proper and efficient administration.	<b>Take claims</b> from individuals, <b>determine eligibility</b> , and <b>ensure timely payments</b> of benefits to workers.
<b>Set broad overall policy</b> for administration of the program, <b>monitor</b> state performance, and <b>provide technical assistance</b> as necessary.	<b>Determine employer liability</b> and <b>assess and collect</b> contributions.
<b>Hold and invest all money in the unemployment trust fund</b> until drawn down by states for the payment of compensation.	

Source: Legislative Service Office from information provided by U.S. DOL.

*The Unemployment Insurance Commission and Wyoming Department of Employment administer the UI program.*

In order to implement Wyoming's UI program, state statute assigns the Unemployment Insurance Commission (UIC) the responsibility to promulgate rules and policy for the program. The Department of Employment (DOE) supplies the program personnel and manages the financial administration of the program.

The UIC does not provide supervisory authority over the DOE or its administrative staff. Almost all activities related to benefit claims processing and UI taxes oversight are managed from the DOE offices in Casper, Wyoming.

### **Current UI Program Administration**

**Unemployment Insurance Division (UID):** The UID has the primary responsibility to handle the benefits side of the UI program. To do this, the UID employs a central claims and call center located in Casper where all UI benefit claims are received and processed by center staff.

In addition, the UID handles quality control reviews through the Benefit Accuracy and Measurement (BAM) section, improper benefit payment monitoring through the Benefit Payment Control section, and benefit claims and employer chargeability appeals. Finally, the UID employs its own information technology section, fiscal management section, and central printing and mailing unit.

**Employment Tax Division (ETD):** The ETD is responsible for administering the UI taxing system through two main units: 1) Employment Services and 2) Field Compliance. The Employment Services unit handles all tax payments required by employers.

As part of this activity, the ETD also manages joint employer reporting for UI taxes and Worker's Compensation (WC) program premiums from employers that qualify for both programs. All WC program funds are transferred directly to the WC program after ETD receipt, deposit, and clearing the UI account.

The Field Compliance unit conducts periodic audits of selected employers and manages collection activities for employers that



are delinquent on reporting or paying UI taxes. This unit does not audit or collect on delinquencies for the WC program.

Table 1.2 below summarizes the current staffing of each of these divisions. Within the last year, the UID has hired 19 temporary contract employees to assist permanent state staff in managing the increased claims and appeals workload.

**Table 1.2**  
**UID and ETD Staffing**  
**September 22, 2010**

<b>Unemployment Insurance Division (Appropriated 84 positions for BFY 2011)</b>		<b>Employment Tax Division (Appropriated 47 positions for BFY 2011)</b>	
<i>Unit/Section Name</i>	<i>Number of Total (temporary) Positions <sup>1</sup></i>	<i>Unit/Section Name</i>	<i>Number of Total (temporary) Positions <sup>1</sup></i>
Benefits *	37 (13)	Administration	1
Benefit Payment Control	7 (2)		
Appeals	11.5 (4)	Employment Services	13
Fiscal	10		
IT	17	Field Compliance	11
BAM	7		
Administration-Special Projects	10.5	Research and Planning	20
<b>Total Current Positions</b>	<b>100 (19)</b>	<b>Total Current Positions</b>	<b>45</b>

Source: Legislative Service Office from information provided by DOE.

<sup>1</sup> Several vacant positions in each division remain unfilled due to the executive branch hiring freeze implemented in the Spring 2009 for non-critical state government positions.

\* Benefits positions include claim center staff: claims takers, adjudicators, and support and supervisory staff.

### Integrated Chart of Accounts

The UI program's main focus for staff is paying benefits to eligible unemployed workers. To do so, the system maintains an integrated chart of accounts for revenues (UI assessed taxes) and expenditures, which include administrative and claimants' benefit payments.

It should also be noted that under the state's current program funding structure, the only monies that are monitored through the State's WOLFS accounting system are the federal grant funds allocated to the DOE to cover UI program administration.

*Federal UI Trust Fund* The United States Department of Labor (USDOL) and United States Treasury (UST) maintains 59 book accounts within the federal UI Trust Fund. All 50 states, including three U.S. territories have accounts. The states use these accounts as depositories for taxes and other revenues, which are then returned to states by the federal government to pay for administrative expenses and claimants' benefit payments.

The federal UI Trust Fund also includes the following accounts:

- Employment Security Administration Account (ESAA) for collection of FUTA funds and payment to States for administration of the UI and Public Jobs Service Programs;
- Extended Unemployment Compensation Account (EUCA) for payment of Federal share of Extended Benefits (EB) which may also be used to pay other temporary benefit extensions;
- Federal Employees Compensation Accounts (FECA) for payments to States for paying benefits to ex-Federal employees and ex-Service members; and
- Railroad Unemployment Insurance accounts (2).

*Payments to Wyoming come from various accounts* Payments made to Wyoming for administrative expenses (Revenue Code 7447) for the UI program are expended from the ESAA account. Also, payments made by Wyoming for State UI benefits are paid from its state account within the federal UI Trust Fund, then ultimately expended from benefit account established pursuant to W.S. 27-3-202 (c). Payments for a federal temporary program are expended from the EUCA account and payments of ex-federal employees and ex-service members are paid from the FECA account.

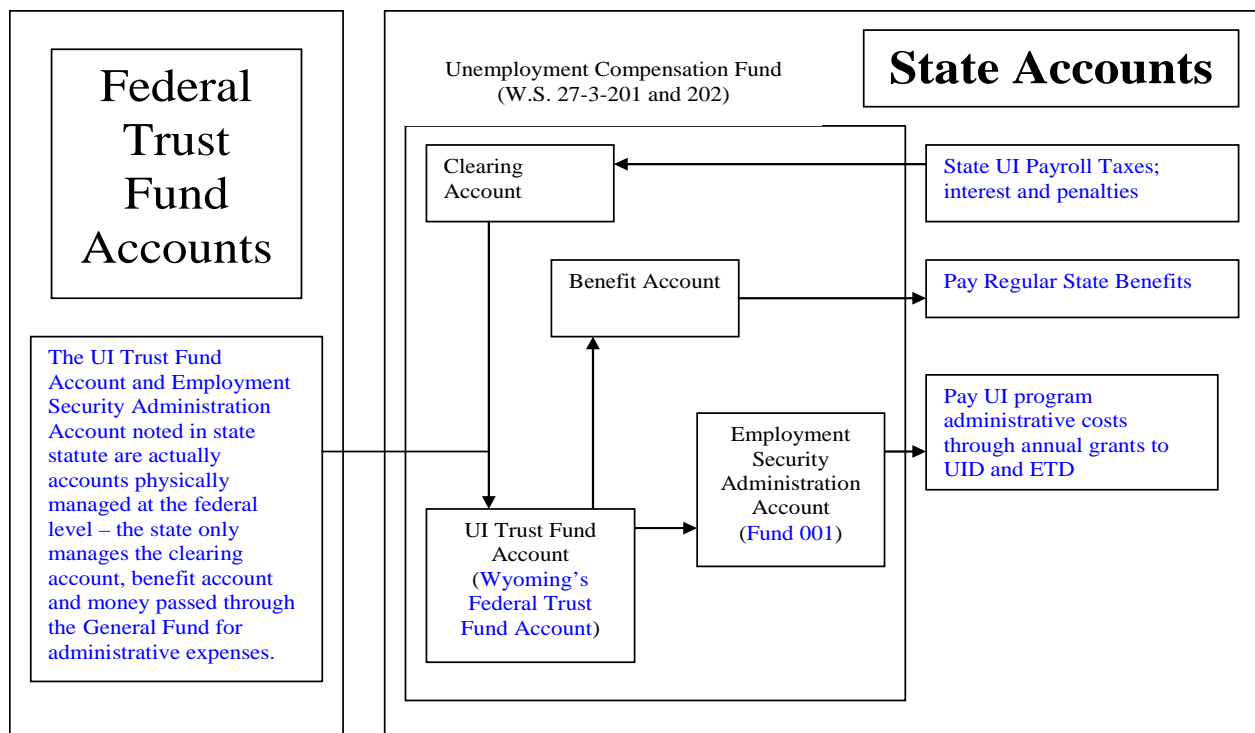
According to UID, the State Auditor's Office (SAO) set up the UI Program (for administrative expenses) under the General Fund (001) in 1990, after the Department of Employment was created. However, UID does not receive General Fund appropriations. Rather, it receives authority to expend from the General Fund, based on the federal administrative monies that it receives. In other words, separate revenue budgets are set up within Fund 001 for both UIT and ETT to expend revenue under Revenue Code 7447. According to UID, this condition meets the requirements of W.S. 27-3-205 to create the Employment Security Administration Account.

Similarly, once UI tax revenue is received by ETC, it is deposited into the clearing account created pursuant to W.S. 27-3-202 (b). Once the revenues are deposited to the clearing account, they are available for electronic transfer to Wyoming’s state account in the federal UI Trust Fund.

At that point, money is then transferred back to Wyoming’s Benefit Account, established pursuant to W.S. 27-3-202 (c). It should be noted that the USDOL uses the Federal Reserve Bank in New York for the deposit of tax receipts and the withdrawal of benefit payments. According to a UID official, *“monthly reports detailing deposits and disbursements are obtained and reconciled to Wyoming records each month.”*

The following figure provides a visual depiction of the relationship between federal and state accounts for payment of administrative expenses and claimants’ benefit payments.

**Figure 1.1**  
**Relationship Between Federal and \*State Accounts**



Source: Legislative Service Office from information provided by DOE.

\*Payment of UI Program costs occur through General Fund expenditure authority.

In addition to the accounts and funds discussed above, other funds and accounts exist within the framework of Title 27, which were not directly related to the objectives of our audit. However, we list those funds in the following table for informational purposes.

**Table 1.3  
Other Funds**

<b>State Statute Reference</b>	<b>Fund or Account</b>	<b>Revenue Source</b>	<b>Expenditure Purpose</b>
W.S. 27-3-202 (a)	*Unemployment Trust Fund	All UI tax, interest and penalty revenue	To clear revenue received and distribute various revenues to different funds and accounts
W.S. 27-3-209	State Unemployment Insurance Trust Fund (527)	Interest on the corpus of the fund; no current earmarked revenue	Corpus of funds is for the sole and exclusive payment of UI claimants' benefits; interest earned on the corpus is transferred to the Workforce Development Training Fund (528) administered by the Department of Workforce Services
W.S. 27-3-211	**Employment Support Fund	40% of UI tax revenue assessed from the non-charged and ineffectively charged benefit adjustment factors	Payment of UI compensation benefits or administrative expenses not otherwise covered by federal funds; support programs to strengthen unemployment fund solvency; support DWS employment office administration

Source: Legislative Service Office from statutory review.

\*This fund is actually a federal account managed by the U.S. Treasury on behalf of Wyoming.

\*\*Currently, the UI program uses 25% of the Employment Support Fund monies while the remaining 75% is used by the Department of Workforce Services.

## UI WOLFS Appropriations

*UI program appropriations amount to \$134 million since BFY 2003* There are two basic revenue sources that help fund direct UI program administrative costs: 1) federal UI administrative grants to both divisions – annual base grants and periodic enhancement (or Reed Act) grants and 2) state UI Revenue Fund (Fund 501) also called the Employment Security Revenue Account (W.S. 27-3-207).

Both the annual federal administrative and periodic Reed Act enhancement grants are received under Catalog of Federal Domestic Assistance (CFDA) code 17.225 for unemployment insurance. The DOE distributes these grants as directed by the Legislature between the UID and ETD according to the state's standard biennial budget request and appropriations process. As stated previously, these funds are expensed through the General Fund.

The UI Revenue Fund is composed of interest assessed on and paid from employers delinquent on their UI taxes. This fund assists in covering administrative costs that are not covered or fully covered by the other funding sources (primarily federal Department of Labor grants) used by the divisions. It has no associated positions or personnel costs; the primary expenditures are for support services, capital construction maintenance, improvements, and contract services.

It should be noted that according to a UID official, the fact that the UI Revenue Fund is used for different purposes and is appropriated separately than funds under Revenue Code 7447 necessitated the creation of a fund (005) within WOLFS. He also stated that separate funding of the Employment Security Administration Account under Fund 001, as well as Fund 005 has *“successfully operated since their establishment in 1990.”*

The DOE's budget appropriations and expenditures for the UI and UT divisions are summarized in Table 1.4 below.

**Table 1.4**  
**UID and ETD Administrative Appropriations and Expenditures, BFY 2003 – 2011**

BFY	Unemployment Insurance Division		Employment Tax Division		Unemployment Insurance Revenue Fund (005)	
	Appropriation	Expenditure	Appropriation	Expenditure	Appropriation	Expenditure
*2003	\$20,022,678	\$10,442,444	\$9,402,055	\$10,053,941	\$1,165,048	\$663,628
2005	\$14,218,745	\$14,096,375	\$13,912,956	\$8,742,762	\$1,045,569	\$616,636
2007	\$15,066,817	\$14,956,084	\$6,826,806	\$7,510,658	\$643,336	\$576,194
2009	\$16,665,295	\$16,589,261	\$8,302,391	\$8,191,711	\$650,336	\$418,511
2011	\$17,148,389	**	\$8,372,002	**	\$657,048	**
<b>Total</b>	<b>\$83,121,924</b>	<b>\$56,084,164</b>	<b>\$46,816,210</b>	<b>\$34,499,072</b>	<b>\$4,161,337.00</b>	<b>\$2,274,969</b>

Source: Legislative Service Office analysis of the State's accounting system (WOLFS) information (data extracted August 2010) and the State's budgeting system (IBARS) information (through 2010 Budget Session appropriations).

\*The DOE was appropriated \$12,043,444 of federal Reed Act enhancement grant funding (CFDA 17.225); by supplemental budget footnote, \$2,043,444 was allocated to other uses for the DOE and Department of Workforce Services.

\*\*As of August 2010 there were no recorded expenditures for BFY 2011.

*UI benefit payments amount to \$515 million since BFY 2003; BFY 2009 accounts for 52% of these payments.*

The other part of program expenses comes in the form of the actual benefit payments to eligible UI claimants. Since BFY 2003 (toward the end of the economic recession earlier this decade), the UID has paid out over \$515 million in benefits.

However, this total should be considered in context with the most recent recession and the resulting unemployment spike around the nation (December 2007 through June 2009). Benefits for BFY 2009 account for more than half (52%) of the total benefits paid during the last eight fiscal years.

Table 1.5 below summarizes these benefit expenditures for Wyoming's UI program since BFY 2003.

**Table 1.5**  
**Wyoming UI Program Benefit Expenditures**  
**BFY 2003 – 2011 <sup>1</sup>**

BFY	FY	Benefits Paid *	Percent (%) of BFY and FY Increase (Decrease)
<b>2003</b>		<b>\$89,631,464</b>	-----
	2003	\$46,902,567	-----
	2004	\$42,728,897	-8.90%
<b>2005</b>		<b>\$66,868,128</b>	<b>-25.40%</b>
	2005	\$36,849,716	-13.76%

<b>BFY</b>	<b>FY</b>	<b>Benefits Paid *</b>	<b>Percent (%) of BFY and FY Increase (Decrease)</b>
	2006	\$30,018,412	-18.54%
<b>2007</b>		<b>\$70,075,483</b>	<b>4.80%</b>
	2007	\$30,853,977	2.78%
	2008	\$39,221,506	27.12%
<b>2009</b>		<b>\$267,060,372</b>	<b>281.10%</b>
	2009	\$105,873,019	169.94%
	2010	\$161,187,353	52.25%
<b>2011</b>	2011	<b>\$21,730,319</b>	-----
<b>Total</b>		<b>\$515,365,766</b>	-----

Source: Legislative Service Office from information provided by UID and USDOL.

<sup>1</sup> Benefit payments are current as of September 30, 2010 (through the first quarter of FY 2011).

\* Unlike UI administrative costs, these monies are not accounted for in the State's WOLFS accounting system, but managed directly between the DOE's bank in Casper and the U.S. Treasury.

## Program Funding and Use

*Program funding is counter-cyclical to the broader economy*

The UI program is intended to be a self-funded program where employer tax revenues pay into Wyoming's federally managed trust fund. Employer UI tax rates are calculated annually, and as discussed above, monies are transferred directly to the U.S. Treasury managing Wyoming's trust fund.

This trust fund is where money is periodically withdrawn by the State to pay unemployed workers their weekly, temporary benefits between jobs. Based on UID's most recent review of its trust fund solvency (completed in May 2010), the fund is expected to weather the current high UI benefit draw and the state will not have to request a trust fund loan from the federal government.

Overall, the UI program funds are termed counter-cyclical to the economy. During low unemployment (economic growth), the trust fund increases in value so that during times of high unemployment (economic decline or recession), there are funds to pay for increased unemployed workers' benefits. Based on the taxing authorities set up by the Wyoming Employment Security Law, employers' tax rates are set from their rolling, preceding three-year experience contributing to the UI claimant population.

Under current circumstances, since employers are contributing more workers to the UI claimant population, their taxes are increasing annually. Under the three-year experience rate setting requirements, employer tax rates will gradually lessen as the UI claimant population lowers. This will allow the trust fund to rebuild a more solvent position for the next increase in unemployment.

To reiterate, the basic flow of monies is as follows: 1) ETD sets annual UI employer payroll tax rates according to statute; 2) employers of covered workers pay taxes quarterly to the ETD; 3) the ETD deposits the tax revenue into a Wyoming public depository/bank; 4) Wyoming's UI program staff transfer the monies to the federal government; and 5) the UI program requests periodic withdrawals from the federal government to pay for benefits and administrative expenses.

*UI benefits provide temporary and necessary income to unemployed workers*

The purpose behind the program is that UI benefits are intended to be enough for unemployed workers to cover necessary living expenses (i.e. food, shelter, clothing, etc.) and are a temporary bridge of income for workers between jobs. However, the program aims to assist those workers with a genuine attachment to the workforce. This means a worker has earned enough credited time and pay in their previous employment to qualify for UI benefits.

Federal law sets no benefit eligibility standards for the program, as this is left to each state, commensurate with state policies. Claimants can only file a claim in one state in which wages were earned, regardless of residence. For Wyoming's program, Table 1.6 shows a summary of the basic initial and continuing eligibility criteria and claim benefit calculation criteria for eligible unemployed workers (an eligible, unemployed worker is termed a "claimant" upon submitting a claim for UI benefits).



**Table 1.6**  
**Wyoming UI Program Eligibility and Benefits Criteria**

Worker-Claimant Eligibility Criteria	Benefit Amount Criteria
<ul style="list-style-type: none"> <li>• Worker must be unemployed through no fault of their own (i.e. - worker cannot be responsible for discharge from their immediate, previous employment, such as quitting or getting fired for misconduct on the job);</li> <li>• Worker must have wages in at least two separate quarters of the employment <i>base period</i> preceding the date of a claim (base period in Wyoming equals the first four of the last five completed calendar quarters preceding a worker's claim for UI benefits);</li> <li>• Worker must have earned at least 1.4 times the wages from their highest quarter's wage (i.e. - highest quarter wages equals \$10,000, total wages for eligibility must equal at least \$14,000);</li> <li>• An eligible claimant must register with the Department of Workforce Services (DWS) within two weeks of their claim to begin to search for their next suitable job;</li> <li>• An eligible claimant must pursue and record at least two job searches per week while receiving UI benefits (specific education/training opportunities can be approved for a claimant to pursue in lieu of searching for work);</li> <li>• An eligible claimant must be "able" and "available" for work and must not turn down reasonable employment, while receiving UI benefits;</li> <li>• An eligible claimant must continue to maintain eligibility for the program by following program rules and requirements (i.e. - claimant must be available for eligibility or BAM reviews when called upon to do so, etc.).</li> <li>• Also, under certain circumstances, claimants must meet re-qualification requirements if they are determined ineligible for benefits after their claim has lapse or closed for various reasons.</li> </ul>	<ul style="list-style-type: none"> <li>• To determine an eligible claimant's benefit amount once their claim has been approved, the following criteria set the claimants <i>weekly benefit amount</i> (WBA); once the WBA is determined, this weekly amount is valid for the duration of the claimant's benefit year, which equals the 52 weeks following the effective date of the claim. Claims always become effective on the Sunday preceding the date an initial claim is filed.</li> <li>• Weekly benefit amounts are based on the claimants' qualifying wages during the base period of employment prior to filing a claim;</li> <li>• The WBA amount is equal to four percent (4%) of a claimant's highest quarter base period wages, not to exceed the maximum set by law (for FY 2011 the maximum WBA is \$430 per week based on a statutory formula);</li> <li>• <b>Example:</b> Highest quarterly wage = \$10,000; at 4%, the WBA = <math>\\$10,000 \times 0.04 = \\$400</math> per week <ul style="list-style-type: none"> <li>○ The maximum benefit amount for the claim is the <i>lesser</i> of twenty-six (26) weeks multiplied by the weekly benefit amount or thirty percent (30%) of the base period wages</li> </ul> </li> <li>• <b>Example:</b> 26 weeks at \$400 per week = <math>26 \times 400 = \\$10,400</math>; or</li> <li>• <b>Example:</b> 30 % of \$14,000 base period wages = <math>14,000 \times 0.30 = \\$4,200</math> <ul style="list-style-type: none"> <li>○ <b>Maximum benefit amount</b> = \$4,200; claimant would receive benefits for = <math>\\$4,200 / \\$400 = 10.5</math> or 11 weeks<sup>1</sup></li> </ul> </li> </ul>

Source: Legislative Service Office summary of Wyoming Statutes and DOE information.

<sup>1</sup> Statute provides that a claimant's maximum benefit can be rounded to the *next highest* multiple of the WBA.

*Other factors impact claimant eligibility and benefit amounts*

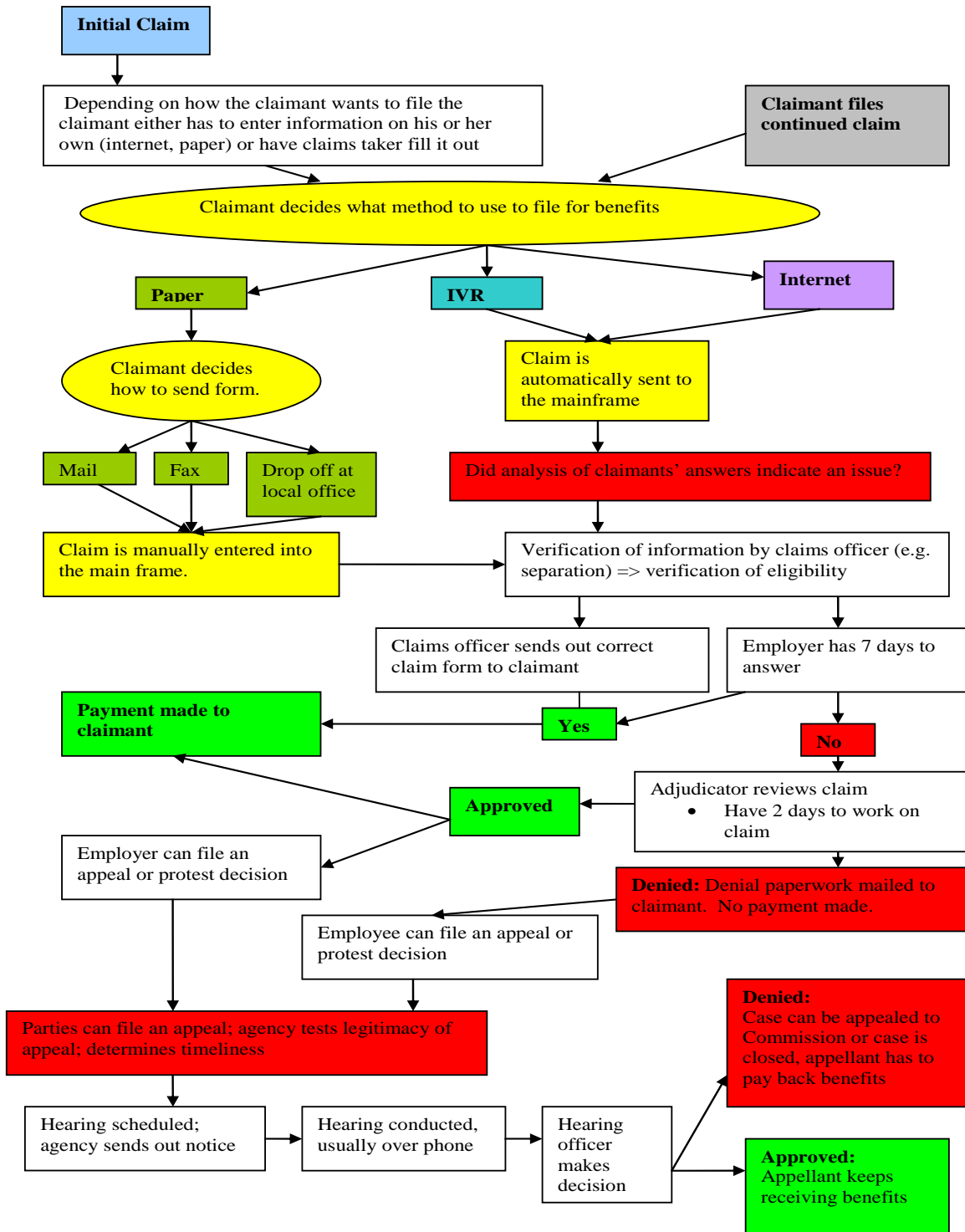
Overall, despite the state statutory minimum criteria for establishing a valid initial claim for UI benefits, there are other considerations that may impact whether and how much compensation a claimant may receive. For example, a claimant may have earned wages in multiple states and must file a combined wage claims. Also, benefits are paid by Wyoming, but employers from other states may be charged benefits against their tax accounts.

Furthermore, there are federal provisions for extending benefits past the standard maximum of 26 weeks. States with consistently high unemployment rates may extend UI benefits to claimants for a limited period of time. Additionally, under the recent federal authorization, current claimants receiving benefits are also receiving a federally paid \$25 per week benefit on top of their state-determined WBA. Finally, there are program provisions for claimants to re-open or file additional claims when they find and lose employment intermittently during their claim benefit year.

### **UI Benefit Claims and Appeals Process**

The UI benefit claims and appeals process is very complicated from initial claims' filing to final approval. The following figure provides more detailed information with additional explanation afterwards.

**Figure 1.2  
Work Flow for UID Claims and Appeals Processing**



Source: Legislative Service Office from information provided by DOE.

*Claims Taking* The claimant is required to make a decision as to how he or she wishes to file an initial claim. There are four options available: 1) internet claim, 2) telephone claim, 3) mail claims; and 4) fax. If the claimant decides to file a claim over the internet, he or she is required to enter personal employment and other information. After the claim is submitted, it is queued for automatic delivery to the mainframe.

If the claimant decides to use a paper application, he or she then has a choice to turn in the application via mail, fax, or directly to the local office.

When a claimant calls to file an unemployment claim, the claims-taker uses the Telephone Claim Supplement to collect information and enters it onto the mainframe. Once these steps are taken, the claims taker mails paperwork to the claimant.

*Adjudication* Once the claims-taker is finished with the claim, it is sent to imaging. After that, the claim is transferred to adjudication if there are issues. In that case, the adjudicator requests additional information and has 21 days to make a decision based on all the available information. If the adjudicator grants the claim, payments are made to the claimant. If the claim is denied, paperwork is mailed to the claimant that informs of the decision. No payments are made. The claimant can now ask for re-determination or file an appeal.

UID staff explained to us that information is also mailed to claimants instructing them to register for work. The claimant has 14 days to register with DWS at Wyoming at Work.

*Appeals* There is a 15-day period during which protests are reviewed and legitimacy is determined. After that time period, if the claimant or the employer is dissatisfied with the decision of the agency, there are two possibilities. One is to go through a re-determination process which is possible if additional new information is available. The second option is to file an appeal.

During the appeals review, the file is checked to see if it is processed correctly and is entered into a database. Following that, a hearing is scheduled and a notice is sent out to the appeals parties. By law, it is necessary to give the parties a 5-day

notice. In most instances, the hearing is conducted over the phone. However, it is possible to request an in-person hearing (which requires all parties to be present at the hearing).

The decision-making process is time-consuming. The agency has to comply with Wyoming Administrative Procedures Act and federal guidelines in the decision. The hearing officer makes the decision independently based solely on the record of the testimony and the exhibits.

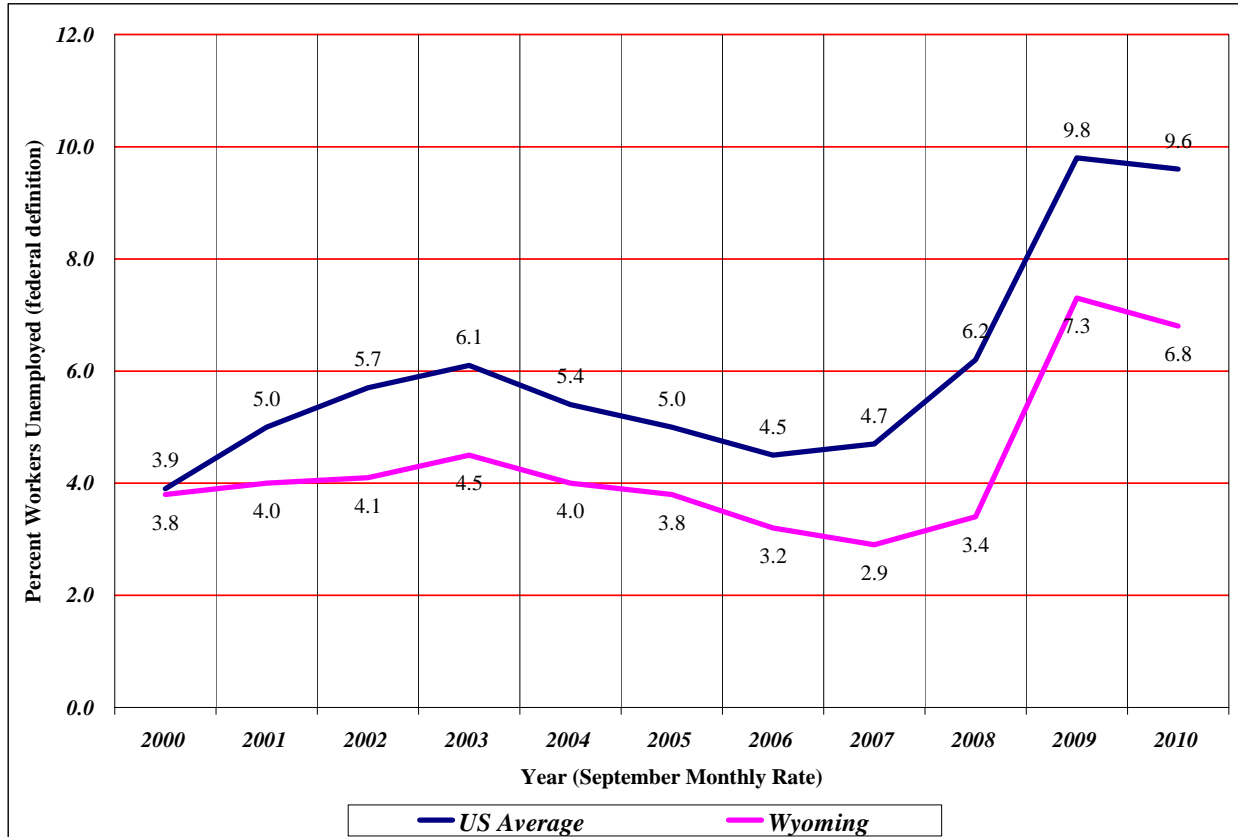
Further appeals are directed to the Commission. Once the file is prepared for the Commission and transferred, another hearing is conducted. It is trial-like and requires the witnesses to take an oath. The Commission makes the final agency decision. The next step is to appeal the Commission decision to the courts.

*The economic recession has impacted states' UI programs*

Unemployment has been a very high profile topic in this state and around the nation for almost three years now (current rise in unemployment nationally began in December 2007). As a consequence, state and national efforts to stem the unemployment tide and to encourage greater employment programs have come under increased scrutiny.

As such, weekly unemployment claims and monthly movement in state and national unemployment rates have become standard in media reports. Wyoming has been no exception to this scrutiny. In Figure 1.3 below, we summarize the growth in unemployment in Wyoming compared to the entire country. Even though Wyoming's rate has not hit the levels in other states or the nation as a whole, the jump in unemployment has been exceptional in this state and not seen since the early 1980s.

**Figure 1.3**  
**Wyoming’s unemployment rate compared to the national rate, 2000-2010<sup>1</sup>**



Source: Legislative Service Office from information provided by the federal Bureau of Labor Statistics information.

<sup>1</sup> The graph depicts September’s monthly rate for each year, 2000–2010.

The boom of claims in Wyoming began later than in many other states (Fall 2008), but has still greatly impacted the UID’s ability to stay afloat and perform according to federal performance benchmarks. Also, the current swell in unemployment is demonstrably bigger than what the state saw between 2000 and 2004. The remainder of this report should be read within this context and this is noted in the report where it is most applicable.

*UID claims and appeals workload has increased in recent two years*

For context to the remainder of the report, it is important to realize that the volume of claims processed by the UI program has increased substantially. Table 1.7 below shows claims statistics produced by the UID for the last three CY (2008 – 2010, through September 30, 2010).

**Table 1.7**  
**Number of Wyoming Claims and Weeks Claimed**  
**CY 2008 - 2010**

Year	Month	Telephone Initial Claims	Internet Initial Claims	Total Claims Filed	Weeks Claimed	Initial/Additional Claims	Claim Exhaustees	EUC Initial Claims	EUC Continued Claims
2008	January	2,105	505	2,610	18,648	2,949	316		
	February	1,160	266	1,426	18,781	1,781	279		
	March	1,134	288	1,422	19,901	1,992	338		
	April	1,151	318	1,469	15,011	1,953	471		
	May	852	214	1,066	11,922	1,653	289		
	June	877	233	1,110	12,463	1,462	220		
	July	952	297	1,249	10,476	1,494	290	654	1,006
	August	678	207	885	10,867	1,196	206	166	3,150
	September	926	259	1,185	10,906	1,568	248	114	3,763
	October	1,628	476	2,104	11,610	2,894	232	216	2,096
	November	1,701	611	2,312	17,361	3,202	253	236	1,881
	December	2,586	1,191	3,777	26,304	5,007	414	439	4,010
	<b>Subtotal</b>	<b>15,750</b>	<b>4,865</b>	<b>20,615</b>	<b>184,250</b>	<b>27,151</b>	<b>3,556</b>	<b>1,825</b>	<b>15,906</b>
2009	January	2,850	1,886	4,736	32,245	5,284	423	316	3,945
	February	2,198	1,580	3,778	37,924	4,386	476	325	3,221
	March	2,251	1,999	4,250	53,206	5,559	723	440	4,648
	April	2,279	2,249	4,528	51,637	5,370	912	541	4,820
	May	1,468	1,220	2,688	54,024	3,733	891	632	6,149
	June	1,613	1,319	2,932	50,136	4,017	1,162	784	7,461
	July	1,401	1,165	2,566	43,847	3,450	1,254	980	8,066
	August	1,241	1,033	2,274	47,430	3,242	1,249	1,031	11,954
	September	994	1,069	2,063	38,099	3,275	1,437	1,007	12,061
	October	2,396	1,882	4,278	37,320	5,738	1,203	1,281	16,342
	November	1,425	1,910	3,335	49,501	5,072	1,176	1,160	21,632
	December	1,730	2,527	4,257	50,600	6,198	1,515	1,274	21,878
	<b>Subtotal</b>	<b>21,846</b>	<b>19,839</b>	<b>41,685</b>	<b>545,969</b>	<b>55,324</b>	<b>12,421</b>	<b>9,771</b>	<b>122,177</b>
2010	January	1,751	2,393	4,144	59,417	5,099	1,269	1,051	18,966
	February	1,192	1,533	2,725	52,668	3,636	1,308	1,063	15,764
	March	1,511	1,365	2,876	54,356	4,102	615	1,098	19,366
	April	1,590	1,539	3,129	44,770	4,238	1,469	929	16,619
	May	1,095	962	2,057	41,661	3,350	1,135	880	15,473
	June	1,309	884	2,193	33,623	3,254	1,145	-	11,010
	July	1,053	878	1,931	27,536	2,568	948		
	August	1,178	967	2,145	30,374	2,775	915		
	September	1,080	763	1,843	23,684	2,678	668		
		<b>Subtotal</b>	<b>11,759</b>	<b>11,284</b>	<b>23,043</b>	<b>368,089</b>	<b>31,700</b>	<b>9,472</b>	<b>5,021</b>
	<b>Total</b>	<b>49,355</b>	<b>35,988</b>	<b>85,343</b>	<b>1,098,308</b>	<b>114,175</b>	<b>25,449</b>	<b>16,617</b>	<b>235,281</b>

Source: Legislative Service Office from information provided by DOE.





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## Chapter 2

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**UI claims and appeals processing remains highly manual while minimal claimant education impacts customer service delivery.**

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**Finding 2.1: Once the UI claim is received by UID, complicated manual processes contribute to the backlog of claims in times of high claims-filing volume, which impacts timeliness and quality of claims decisions.**

Both state statute and federal guidance provide general requirements on claims and appeals processing for states. Each state is encouraged by the federal government to adopt more customer friendly technologies that assist program customers (i.e. remote claims filing, etc.) and has even provided enhancement grant monies to do so (see Chapter 5). The UID has followed this lead by working to make telephone and internet UI claims filing easier, including a new internet system update in April 2010.

The UID's processing practices rely too heavily on manual tasks, even for reviewing and processing automated claims submissions. In effect, this has led the UID to adopt a crisis mode response during the recent surge in UI claims, which has impacted UI financial obligations, processing timeliness, and quality of agency decisions. Other factors such as the increase in claims, as well as hiring freezes, contributed to the backlog.

*Claims and appeals processing is highly manual*

There are multiple types of claims that must be processed by the UID: an initial claim (Wyoming wages only or interstate claims and combined wage claims for workers with wages in multiple states); continuing bi-weekly claims; additional claims; reopened claims; emergency unemployment compensation claims; and extended unemployment compensation claims. Though each

claim is established according to different criteria, many of the basic processes are used to move these claims to final determination.

As illustrated earlier in Chapter 1 (Background-Figure 1.2), the UI benefit claims and appeals process includes significant manual tasks related to various processes. For example, after the first step in the process (initial application for claims), the UID has devised a network of tasks and protocols to manage each claim's circumstance and how best to process the claim to final determination and/or payment. On the claims side there are several significant manual processes to perform by UID claims center staff. There are also several significant manual tasks performed by UID appeals section staff.

*Claims and appeals processing rely on several manuals or handbooks to guide staff through the process*

In order to conduct multiple tasks, the staff in the Remote Claims Center and the Appeals Section use various manuals for reference in their jobs. Upon LSO's request, the UID supplied three main documents that are intended to assist staff in learning and navigating the claims application and appeals processing functions: 1) Claims Center Handbook – resource for Remote Claims Center staff; 2) Federal 301 Handbook - Benefits Timeliness and Quality Non-monetary Determinations Quality Review; and 3) Policy and Precedent Manual – expansive list of past UI claims cases decided upon appeal though the Unemployment Insurance Commission and the courts.

Each manual is designated primarily to a specific section of staff (i.e. Claims Center Handbook for claims center staff, mostly claims takers; 301 Handbook for adjudication staff; and Policy and Precedent Manual for appeals section/hearing officers). Each manual or handbook is also fairly large and provides expansive narratives on issues to consider while taking or processing claims.

### **UID Struggles Due to Increase in Claims**

Due to the increase in claims in recent years, the UID has tried several different staffing strategies to try to remain on top of the claims volume. Strategies include: 1) quick cross-training of other UID sections staff to take claims and/or take phone calls from the claims telephone system; 2) bringing in temporary

contract staff beginning in December 2009; and 3) moving other UID section staff to temporary assignment in another section. Currently, there are several dozen staff (including temporary staff) in different UID sections (i.e. – claims center, Benefit Accuracy and Measurement, information technology, etc.) trained to different levels to assist in claims taking and processing. However, each of these strategies impacts financially and programmatically on the UID. Limitations on these strategies are as follows:

**Cross-training of Staff:** Training other UID sections' staff to assist in claims taking and processing is beneficial in getting more bodies to perform some of the basic tasks associated with these functions. However, non-Remote Claims Center staff is not as well versed in the entirety of the process and may be prone to more mistakes obtaining the appropriate information and therefore creating more issues with claims that need to be adjudicated. Also, as noted in Chapter 4, the current training regimen used for both merit and temporary staff is not consistent or thorough to provide for the most effective staff performance.

The use of traditional merit claims center staff resulted in large overtime costs. According to UID, some of these costs may have been required due to additional oversight of other non-center and temporary staff, who were partially trained in the claims taking processing functions.

**Temporary Staff:** The UID's hiring of temporary staff provides limited support in similar areas, as opposed to cross-training other sections' merit staff to support the claims taking and processing functions (i.e. financial commitment for additional staffing, limited training of these staff, and potential for increased mistakes or errors). Also, due to federal law and rules, final determinations can only be made by merit (permanent) staff employed by the UID. Temporary staff can not be used to effectively lower the workload of adjudication and appeals staff.

**Moving Staff:** The UID has limited this strategy to few merit staff. The most important application of this strategy was moving the adjudication staff supervisor to the appeals section to perform as a temporary appeals hearing officer. Though this

experienced staff member did not require as much training as a new inexperienced employee, it did create three voids for the UID: 1) lack of or lessened supervision of adjudication staff to provide for consistency of adjudication decisions, functions; 2) less staff manpower to adjudicate increased adjudication workload; and 3) limited range of cases that may be heard by this temporary hearing officer for the appeals section.

Even in spite of these three staffing strategies, the UID has paid large overtime costs for permanent staff to manage the workload under these manual processing conditions. Table 2.1 below summarizes the claims center staff overtime costs (hours and dollars) for the UID CY 2009 and 2010 (through September 30, 2010). Note that adjudicators account for over 70% of overtime costs; this area cannot be assisted by temporary staff or other sections' staff minimally trained in claims taking and processing.

**Table 2.1**  
**Remote Claims Center Staff Overtime Costs**  
**CY 2009 – 2010 (through September 30, 2010)**

Overtime Cost Factors	CY 2009	CY 2010	CY 2009-2010
<b>Total Hours</b>			
<b>Takers</b>	847.50	437.50	1285.00
<b>Adjudicators</b>	1,606.00	1365.00	2971.00
<b>Total Costs</b>			
<b>Takers</b>	\$28,377.51	\$14,909.61	\$43,287.12
<b>Adjudicators</b>	\$60,062.02	\$50,183.43	\$110,245.46
<b>Total Overtime Costs</b>	<b>\$88,439.53</b>	<b>\$65,093.04</b>	<b>\$153,532.58</b>
<b>Hours per staff (whole year)</b>			
<b>Takers (approx 9 - 2009; approx 9.5 - 2010)</b>	94.17	46.05	69.46
<b>Adjudicators (approx 10 - 2009; approx 9 - 2010)</b>	160.60	151.67	156.37
<b>Cost per staff (whole year)</b>			
<b>Takers (approx 9 - 2009; approx 9.5 - 2010)</b>	\$3,153.06	\$1,569.43	\$2,339.84
<b>Adjudicators (approx 10 - 2009; approx 9 - 2010)</b>	\$6,006.20	\$5,575.94	\$5,802.39
<b>Hours per staff (per month)</b>			
<b>Takers (approx 9 - 2009; approx 9.5 - 2010)</b>	7.85	3.84	5.79
<b>Adjudicators (approx 10 - 2009; approx 9 - 2010)</b>	13.38	12.64	13.03
<b>Cost per staff (per month)</b>			
<b>Takers (approx 9 - 2009; approx 9.5 - 2010)</b>	\$262.75	\$130.79	\$194.99

Overtime Cost Factors	CY 2009	CY 2010	CY 2009-2010
Adjudicators (approx 10 - 2009; approx 9 - 2010))	\$500.52	\$464.66	\$483.53

Source: Legislative Service Office from information provided by DOE.

*Timeliness-quality of claims and appeals decisions have suffered*

The manual processing focus has impacted the state's performance on federal performance measures. Federal guidance for claims and appeals processing is primarily focused on performance benchmarks so that states are treated consistently when determining to certify states' UI programs. How states choose to set up claims application and appeals processing systems is left to each state's program.

Under the circumstances noted above regarding the manual processing and staffing strategies used to handle the increased claims volume, UID's performance has suffered on relevant performance benchmarks.

**Non-Monetary Decisions (adjudication):** Non-monetary decisions are adjudication decisions that determine such issues as separation from employment (i.e. whether a worker quit or was laid-off) and non-separation issues (i.e. whether an applicant meets other program eligibility requirements). Though UID has generally met the federal requirements for non-monetary decision timeliness, the Division has been challenged to keep up with this requirement due to the manual intensive process, increased workload, staffing shortages.

Table 2.2 below summarizes the year-to-year change in the Benefit Timeliness and Quality (BTQ) scores tracked by the DOL-ETA for Wyoming's UI program for the last six years (2005-2010). This table shows that these BTQ, especially for separation decisions, have generally come in lower over the last five years. Furthermore, when an adjudication decisions are inadequately investigated or processed, more claimants and employers may appeal the decisions, which also impacts the UID appeals section.

**Table 2.2**  
**UID Benefit Timeliness and Quality Scores for Non-Monetary Determination Decisions**  
**2005 – 2010**  
**(March 31 to March 31 year-to-year scores)**

Date	Separation Scores	Non-Separation Scores	% Change - Separation Scores	% Change - Non-Separation Scores
March 31, 2010	70.37%	86.67%	-21.51%	-10.23%
March 31, 2009	89.66%	96.55%	-3.93%	-0.12%
March 31, 2008	93.33%	96.67%	4.09%	0.25%
March 31, 2007	89.66%	96.43%	-0.38%	-3.57%
March 31, 2006	90.00%	100.00%	-6.90%	12.50%
March 31, 2005	96.67%	88.89%	-----	-----

Source: Legislative Service Office from information provided by DOE.

**Lower Authority Appeals Decision Timeliness:** On the appeals side, appeals timeliness has decreased dramatically over the last few years (2008 to 2010 – through September 30, 2010). In general, lower authority appeals are supposed to be decided within 30 days of appeals filing.

However, Table 2.3 below shows that for the last three years of appeals, processing timeliness has dramatically decreased. Though the overall number of appeals increased during this timeframe, the division's manual processing practices made it significantly less able to manage this increased workload.

**Table 2.3**  
**UID Lower Authority Appeals Timeliness**  
**CY 2008 – 2010**

Year	Month	<=30 Days	Greater than 30 days	Total Appeals	% Within 30 days	% Greater than 30 days
2008	January	128	15	143	89.51%	10.49%
	February	109	10	119	91.60%	8.40%
	March	118	18	136	86.76%	13.24%
	April	101	13	114	88.60%	11.40%
	May	127	10	137	92.70%	7.30%
	June	114	12	126	90.48%	9.52%

Year	Month	<=30 Days	Greater than 30 days	Total Appeals	% Within 30 days	% Greater than 30 days
	July	109	6	115	94.78%	5.22%
	August	95	5	100	95.00%	5.00%
	September	118	21	139	84.89%	15.11%
	October	111	17	128	86.72%	13.28%
	November	95	9	104	91.35%	8.65%
	December	135	28	163	82.82%	17.18%
	<b>Subtotal</b>		<b>1360</b>	<b>164</b>	<b>1,524</b>	<b>89.24%</b>
<b>2009</b>	January	76	94	170	44.71%	55.29%
	February	114	72	186	61.29%	38.71%
	March	63	134	197	31.98%	68.02%
	April	22	181	203	10.84%	89.16%
	May	6	199	205	2.93%	97.07%
	June	0	233	233	0.00%	100.00%
	July	3	202	205	1.46%	98.54%
	August	0	199	199	0.00%	100.00%
	September	0	195	195	0.00%	100.00%
	October	0	240	240	0.00%	100.00%
	November	0	259	259	0.00%	100.00%
	December	0	302	302	0.00%	100.00%
<b>Subtotal</b>		<b>284</b>	<b>2,310</b>	<b>2,594</b>	<b>10.95%</b>	<b>89.05%</b>
<b>2010</b>	January	1	279	280	0.36%	99.64%
	February	0	286	286	0.00%	100.00%
	March	2	373	375	0.53%	99.47%
	April	2	377	379	0.53%	99.47%
	May	13	355	368	3.53%	96.47%
	June	8	374	382	2.09%	97.91%
	July	0	269	269	0.00%	100.00%
	August	79	306	385	20.52%	79.48%
	September	153	104	257	59.53%	40.47%
	October		0	0		
	November		0	0		
	December		0	0		
	<b>Subtotal</b>		<b>258</b>	<b>2,723</b>	<b>2,981</b>	<b>8.65%</b>
<b>Total</b>		<b>1902</b>	<b>5,197</b>	<b>7,099</b>	<b>26.79%</b>	<b>73.21%</b>

Source: Legislative Service Office from information provided by DOE.

Overall, this becomes a disservice to the UID's claimant and employer customers and can adversely affect the integrity of the system. Claimants may be in for further economic hardship for receiving benefits when they do not qualify (termed overpayment). In addition, employers may have to pick up a

share of the non-charged and ineffectively charged benefits that result from overpayments where an employer is not held liable.

### **Additional Issues Impact UID**

There are five additional areas of concern with how the UID has not been able to better accommodate the increased claims volume in recent years. The following information provides more specificity with respect to the five areas: 1) staffing; 2) hearing officer duties; 3) claimant education; 4) staff training; and 5) IT system.

#### *Staff turnover and executive branch hiring freeze*

As with many agencies, there is staff turnover and the challenge of both filling positions with qualified applicants and training them to perform up to standard as quickly as possible. In the 18 months between January 2009 and June 2010, the UID has had 11 merit staff vacancies for which it has had to hire new staff: three (3) each in appeals and adjudication and five (5) in the claims taking and processing. This amounts to over one-third of the permanent positions in these sections

In addition, the Governor previously announced in April 2009 an executive branch hiring freeze for permanent staff positions in state government. Since the agency must justify the emergency nature of required staffing positions during this freeze, it has prevented UID from filling open permanent positions in a timely fashion. The UID has recently moved to use temporary contract employees, but as stated above, this can have only a marginal impact on the more substantive work completed throughout the process.

#### *Chief Hearing Officer focused on administrative tasks*

During our research, the UID stated that toward the beginning of the increase in claims volume (late 2008), multiple and experienced appeals section clerical staff retired. Since this time, the Chief Hearing Officer took over many clerical functions and continues to perform many of these functions even as newer clerical staff average 12-24 months experience with the section.

With only 7.5 permanent positions allocated to the section to accommodate the appeals case load of several hundred appeals cases per month, the Chief Hearing Officer is not regularly



scheduled to conduct appeals hearings, but will fill in on a handful of cases each month in the place of scheduled, but absent subordinate hearing officers. This is not an effective use of an experienced hearing officer who can perform the more challenging and substantive work of the section.

*Minimal claimant education* Significant to lessening the burden on the agency is to prevent unnecessary work (e.g. taking extensive claimant calls, processing more appeals in a paper intensive system, etc.). Consequently, as noted in the next finding, claimant education is fairly minimal. Though claimants bear significant responsibility to read all the available materials, especially the Claimant Handbook, the UID has not set out a comprehensive continuum of education resources to accommodate the diverse claimant population.

*Staff training and guidance* Similar to claimant communication, effective training assists staff with more efficient and effective processing. However, since training for new positions is time consuming, it remains challenging to ensure that new and experienced staff are operating and making decisions consistently under the program when provided less consistent or thorough training opportunities.

Discussed in greater detail in Chapter 3, the basic concern with the UID's training regimen is that it relies too heavily on staff mentors. Also, it does not have a consistent and written training manual or curriculum that managers and supervisors can follow and evaluate staff upon their performance of key tasks. Some staff we surveyed and interviewed noted that the various manuals, particularly the Claims Center Handbook do not provide quick or searchable reference manuals to more easily navigate claims processes or decisions.

*UID's fragmented IT systems* UID appears reluctant to change the technologies used to perform claims and appeals processing tasks. Three significant issues illustrate current information technology challenges faced by the division:

- The division has implemented a fragmented and incremental patchwork of IT systems to provide solutions to problems as they arise and there has been minimal comprehensive systems planning;

- The division has been almost solely focused on providing technology solutions and updates to the systems directly accessed by claimants and employers to submit information to the division; and
- The division's use of a document imaging system automated records collection and retention, but did not address process streamlining.

One primary example of the slow and reactive focus to current UID information technology management relates to the internet claims application system. The internet application system was updated in April 2010 to provide for staff electronic review of internet applications. However, claims processing staff had to use the old system (originally implemented in 2000) by physically printing out internet applications before they were able to review them and complete data entry.

**Recommendation: The UID should thoroughly review its current manual work steps for processing applications and appeals and work with its information technology staff on solutions to lessen paper and manual task for staff. Immediate emphasis can be placed on moving toward making less or no staff reviews required on internet applications and can expand to other processes after management review.**

The UID has put forth great effort in the past 5-10 years to make it easier for claimants to apply to the division to receive benefits. However, the division has yet to thoroughly review what happens with a claim "behind the scenes" to put that same effort into streamlining its own internal policies and procedures to lessen task loads on claims taking and processing duties. It would benefit from reducing or automating more work steps. Especially, if it continues to experience limited staffing into the future. The internet claims filing system offers a good first step to lessen or eliminate staff needing to "touch" the application so long as claimants fill out the application correctly.

**Recommendation:** The UID should transfer the administrative functions, including scheduling of hearings, currently performed by the Chief Hearing Officer to section clerical staff. The Chief Hearing Officer should be scheduled to conduct hearings, particularly in times of increased workload.

Though the UID stated that the work of the appeals section is highly specialized and requires extensive training and judgment to schedule and hold hearings effectively, the appeals section is not currently allocating its staff as effectively as it could. The section did bring in a temporary hearing officer from the adjudication unit of the claims center, but the appeals section is not utilizing its most senior and experienced staff to perform hearings during the section's most critical time and surge in workload.

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**Finding 2.2:** UID's claimant education materials do not provide sufficient assistance to claimants to help them understand their role and responsibilities under the UI program.

Currently, the UID relies primarily on the UI Claimant Handbook and answering telephone calls to impart the basic requirements for claim application submission, processing, and appeals for UI. However, even with these primary and additional options, the UID has fallen short of providing sufficient and clear communication to claimants about the entirety of the claims process and claimants' roles and responsibilities under the UI program.

With greater and more thorough materials offered to claimants, the UID can preemptively head off questions and potential appeals of claims that can bog down system processing and

functioning. There appear to be additional steps the division can take to inform claimants of their rights and what to expect when working with the UI program.

*UID has four main options to communicate with its customers*

Currently there are four main ways in which the UID provides primary guidance to claimants: 1) Claimant Handbook; 2) DOE-UI website; 3) phone correspondence at the time of claims application or follow-up on claims processing; and 4) claimants' case specific deadline and determination notices. The following provides more of a detailed explanation of each of these components:

**Claimant Handbook:** This handbook provides the primary tool for claimants to get to know claims eligibility criteria, benefit application, and the appeals process. It provides answers to questions about the program such as who is eligible, how to qualify, what are monetary determinations, preparation of documents, what disqualifies a claimant, and other general information. The handbook contains some examples of considerations UID takes into account as claimants provide information on their work history, wages, and other topics.

**DOE-UID Website:** Wyoming's Unemployment Insurance division website was recently updated in November 2009 according to the UID and includes several features for claimants under the "workers" link. The website contains two main components: 1) general UI program content listed on the left-hand side of the web page and 2) the internet claims application system link. Currently program content supplied on the web page includes methods of filing, frequently asked questions, a job dislocation brochure, and a glossary of terms. The UI program homepage immediately shows UID staff sections and the links to the online claims application and bi-weekly pay order continued claims filing.

**Telephone Correspondence:** Claimants can submit their unemployment insurance claims via the internet, but the majority of Wyoming claimants continue to submit their claim application information over the telephone. Remote Claims Center staff receives these calls directly and works with claimants to obtain the appropriate information to begin the claims application process.

The current interactive voice response (IVR) system has also been updated to accommodate Spanish-speaking claimants to provide better and more efficient phone services.

Also significant is the general availability of claims staff to receive non-application calls from claimants to answer their questions about their claim, settle an issue, or update personal information such as an address change. Claims center management stated that staff may receive only one in five calls that is actually a new claims application for processing.

**Claimant Determination Notices:** The most direct way the UID relays information to claimants about their specific claims issues, decisions, and status is through formal decision or determination notices. These determination notices can be used to announce an award or denial, to gather information on issues, or to provide notice and appeals determinations. Based on our limited case file review, between claims processing, adjudication, and appeals functions, there are dozens of separate forms and notices used to communicate directly with claimants about their claims.

*UID primarily uses two alternate communication methods for claimants who do not speak English*

Currently the UID provides services to communicate verbally to claimants who do not speak English. It utilizes a “language line” that provides interpretation services so that claims staff can communicate with claimants who do not speak or have limited ability to speak English. Alternatively, if claimants do not wish to use the language line, claims staff may also request that family or friends of the claimant try to assist a claimant with the process and communication.

In addition, the UID pays to use the Wyoming Relay phone service to communicate with claimants who are hearing impaired. From surveying and interviewing claims taking and processing staff within the UID, staff believe these services are easy to use and generally valuable to claimants

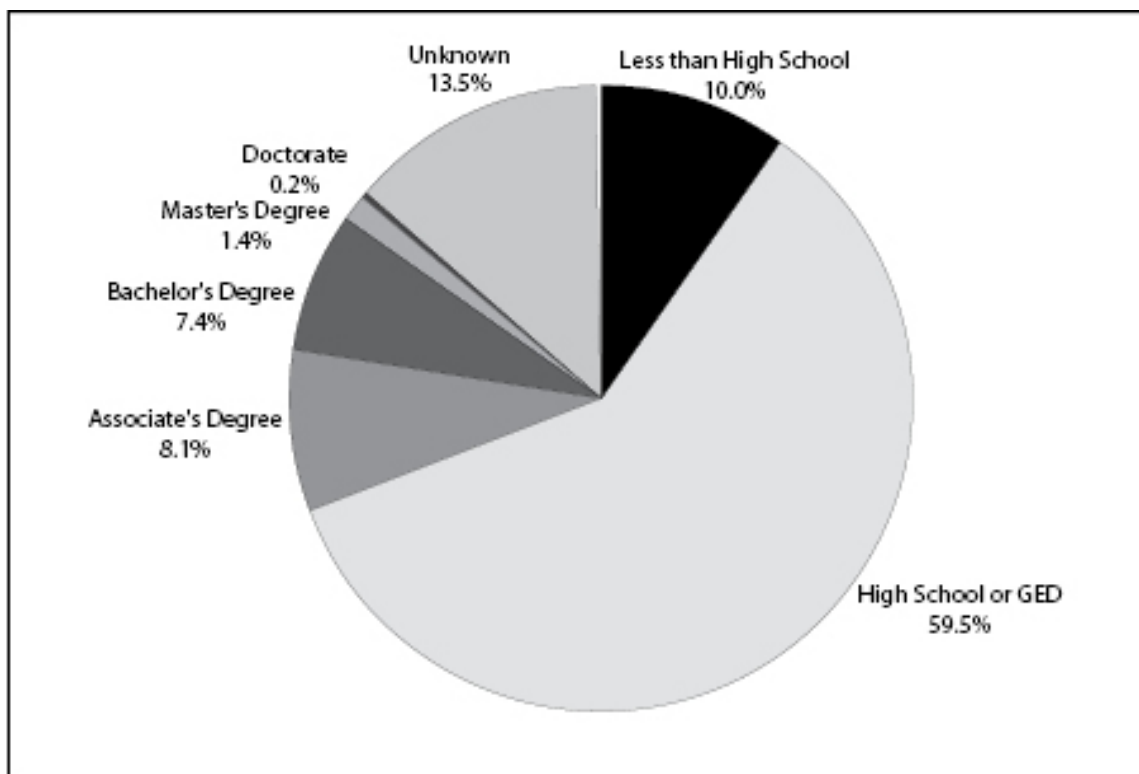
*Claimants are a diverse group of people*

To provide an overview of the claimant population, we reviewed several characteristics to understand the type of customers who work with UID. This data may help to identify how UID can better communicate with all claimants. For example, we looked

at claimant education, claimants' primary language, and claimant age. Each factor may impact the preferred or best method for providing educational materials to fully inform claimants.

**Claimant Education Levels:** The majority of UI claimants only have a high school diploma or GED. As shown in Figure 2.1 below, almost 70% of claimants have a high school diploma or less education.

**Figure 2.1**  
**2009 Wyoming UI Benefit Recipients by Education Level**

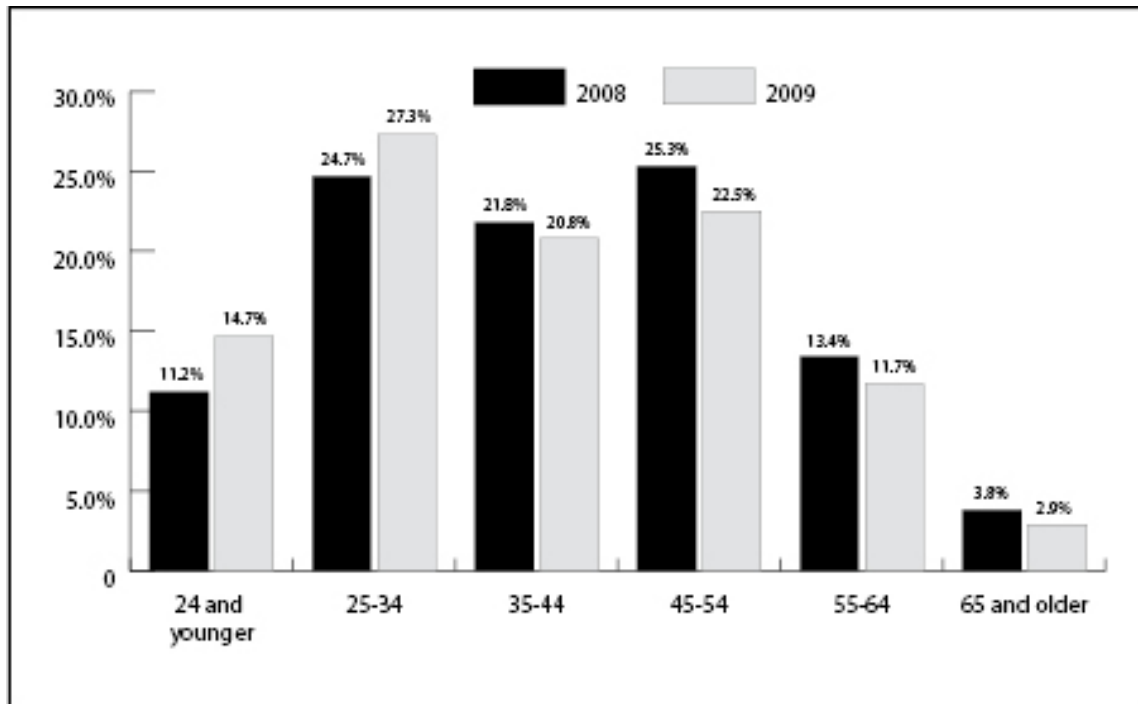


Source: Wyoming Labor Force Trends, Department of Employment, Employment Tax Division, Research and Planning Section.

**Claimant Age:** In addition to education, we reviewed age distribution of UI recipients. In the past calendar year more than one-third of UI recipients were 34 years or younger, shown in Figure 2.2 below. The highest percentage group was ages 25-34, with 27.3% of all benefit recipients. The increase in unemployment recipients showed a significant rise in younger

recipients as opposed to older recipients.

**Figure 2.2**  
**Age Distribution of Wyoming UI claimants**  
**CY 2008 and 2009**



Source: Wyoming Labor Force Trends, Department of Employment, Employment Tax Division, Research and Planning section.

**Claimant Language:** The number of claims taken today from those who do not speak English has significantly increased. There are approximately 6.4% of Wyoming residents who speak a language other than English at home. In Wyoming, the largest minority group is Hispanic. Spanish is the primary language other than English that UID staff encounters.

*Claimants do not receive full disclosure of important information*

UID states that claimants' confusion on their roles and responsibilities in the system are primarily due to an inability to read instructional materials currently available to them. Though we agree that claimants bear significant responsibility to stay informed about their claims, we believe that current UID resources are insufficient to work with its diverse claimant customer base, especially due to the variable age and education

backgrounds of claimants. Also, the fact that some UI claimants may not speak English also compounds the concern. This not only is true for understanding claims applications, etc., but for other areas such as the ReliaCard debit care payment program.

We identified several issues with the current claimant education materials or options that, if remedied, may better assist claimants in understanding the system:

**Website Information:** Online resources are a great place to start when researching unemployment insurance procedures, particularly for the younger demographic noted in the information above. However, UID's website directs workers to immediately start filing a claim. Claimants must look on the left hand side of the website to make sure they see the link to the claimant handbook. The handbook is the 16<sup>th</sup> item listed along the side. Also, the link to the online application does not reference the claimant handbook as a necessary tool to review *before* filing, but asks that claimants acknowledge after filing that they "will" read the handbook. The website is also devoid of information on the division's electronic payment option, the ReliaCard.

**Claimant Handbook:** UID stated that it reviews the handbook frequently through a staff committee. It was recently updated in September 2010. However, the current version does not appear to provide enough information to claimants on important concerns. In combination with the post-online application acknowledgement anticipating claimants will read the handbook, the handbook's front-page statement saying "IMPORTANT PLEASE READ FIRST," is awkward and confusing organization for informing claimants about the program and processes.

In addition, for example, the current handbook linked to the division's website has very little information on such things as the ReliaCard payment program. It appears the division relies almost exclusively on the ReliaCard contractor (U.S. Bank) to dispense information to claimant beneficiaries. We also saw where the UID uses generalized language in place of specific program requirements about which claimants should be notified. For example, the handbook notes one paragraph on program "audits," but does not use UID's own terminology and description related to



the Benefit Accuracy and Measurement (BAM) reviews, which have a direct impact on claimants' benefit eligibility.

Finally, there is minimal information on this or other types of required reviews with which claimants must comply. We should also note that the handbook contains about half a page of information on how long claimants have to appeal adverse decisions, but not additional information on how to prepare for hearings or how hearings are conducted.

*The Unemployment Insurance Division has not provided enough outreach to claimants speaking alternate languages*

The federal government recommends states with 10% or more residents who do not speak English translate vital documents into Spanish. Currently, there are 6.4% of Wyoming residents who speak a language other than English at home. Other states below the 10% have begun implementing translated materials of important documents. We learned that in the past, claims staff attempted to work on a Spanish version of its Claimant Handbook. However, UID decided not to complete the project since it was not required.

Currently the UID has one claims taker who speaks Spanish, while other staff uses the language line for non-English proficient claimants. Yet the costs and use of these resources are not tracked. While most claims takers have not noticed many issues with language line, other staff stated they often get connected with a bad translator or a distracted claimant that does not trust the system. According to staff, some translators do not provide proper explanations or translate legal terms correctly.

*Other rural western states provide more diverse methods to claimant education, including alternate language formats*

Although providing Spanish versions of Wyoming's handbook, application, and online materials is not required by federal law, it would be a progressive step to reach out to persons with limited English proficiency. When reviewing other western state websites, several states contain features that make the website more interactive and user-friendly.

North Dakota's website for example, contains several links to the online registration. Any question that a claimant or employer has could potentially be answered by looking online or at the claimant handbook, which is detailed with descriptions and visuals. In addition, there is an option for Spanish-speaking individuals to fill

out a claim or talk to customer service if needed.

Utah's website has options for Spanish-speaking individuals and claimants with hearing, speech, or disability impairments. Furthermore, Montana's website contains an electronic calendar of events and an interactive benefits calculator. It offers the claimant handbook electronically in English, Spanish, or on audio. Audio pod casts are also included on the website explaining several topics including worker's compensation, benefits, extension benefits, tips to assist claimants, etc. The audio handbook and reference tool is a great idea that may be beneficial in Wyoming.

*UID claims staff believe the division could do more to assist claimants*

Based on the results of our UID survey of claims trained staff (and subsequent follow-up), staff generally believe that they can and should provide better support to claimants. For example, several staff noted concerns with claimants not understanding the claimant handbook. Even though the UID stated that handbooks are standard and regularly sent to claimants upon initiating a claim, staff also believes that the claimant handbook could be better organized, provide more/better examples of issues, and be written with less legal jargon.

As far as accommodating claimants with limited English proficiency, staff believe that the language line is easy to use, but that it is up to each claims staff and the claimants' discretion to utilize the service. Therefore, without other supplemental language services, these claimants are at a disadvantage to get the same level of information as other claimants.

**Recommendation: The UID should continue to revise its website and Claimant Handbook to provide more thorough information on significant topics including required claimant audits and reviews, the ReliaCard program, appeals processing, and appeals hearings.**

The UID states that it has a committee to frequently review its Handbook and that it recently updated its website. However, these materials still leave out significant topics or do not provide

sufficient information to claimants to help them make decisions on their cases. A more and better informed customer base can help the UID alleviate problems, confusion or mistrust of division information before it starts.

**Recommendation: The Unemployment Insurance program should initiate translating UI program website information and the Claimant Handbook into Spanish. In addition, UID should pursue bi-lingual staff hires when possible.**

The majority of states that responded to our other states survey already had the claimant handbook translated into Spanish. The majority also had alternate languages available for telephone applicants. Every state had at least part of their material translated into Spanish. Although Wyoming has begun this transition with its IVR system, generally, it is an outlier among our comparison states. Rather than waiting until we are required to provide alternate languages, UID should be proactive and begin the process now, while claim workload is beginning to decrease.

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**Finding 2.3 Appeals section hearing officer's appellant notice and response practices contribute significantly to hearing no-shows, which wastes staff effort to prepare and schedule cases.**

An important part of the UI program is the ability for claimants and employers to protest and appeal the program staffs' decisions on claims. Statutes and rules note proper appeals procedures with the appeals section of the UID handling all formal appeals of division decisions. With the current processing and instructions provided to appellants, the division has experienced a very high absentee or "no-show" rate of appellants for scheduled hearings. This impacts both appellants' outcomes as

well as UID's efficient use of resources.

*Appeals must be made within 15 days of UID claims decisions*

As noted earlier in the report, the UID has a separate section of staff that processes appeals, holds hearings, and makes decisions on these cases. These are lower authority appeals that may later be appealed to the Unemployment Insurance Commission. Once those steps are exhausted, a claimant can appeal to the court.

For some cases, an appellant may go through a re-determination with the Remote Claims Center adjudication staff before an official appeal is recognized. This may reduce the number of formal appeals and overall workload for the appeals section. However, once a final adjudication decision is rendered, the appellant has 15 days from the date of the decision to appeal.

Various decisions can be appealed, including monetary eligibility and the chargeability of benefits to employers' accounts. The most frequent appeals are separation issues dealing with disagreements between the claimant and their former employer about the circumstances for the claimant's unemployment. Table 2.4 below shows the number of lower authority appeals processed by the UID over the last three calendar years (2008 – 2010, through September 30, 2010).

**Table 2.4**  
**Number of Lower Authority Appeals by Appeal Decision or Action**  
**CY 2008 – 2010**

CY	Month	Total Appeals Issued	Affirm	Reverse	Modified	Dismissed	Withdrawn
2008	January	172	52	60	2	6	11
	February	158	51	41	6	6	21
	March	148	46	42	2	2	18
	April	162	51	32	4	6	37
	May	168	60	37	2	13	11
	June	157	57	48	5	1	13
	July	128	42	40	4	5	9
	August	125	44	27	5	5	14
	September	167	58	49	1	5	7

CY	Month	Total Appeals Issued	Affirm	Reverse	Modified	Dismissed	Withdrawn
	October	151	52	44	5	4	8
	November	115	44	30	3	4	11
	December	171	51	50	4	12	14
	<b>Subtotal</b>	<b>1,822</b>	<b>608</b>	<b>500</b>	<b>43</b>	<b>69</b>	<b>174</b>
<b>2009</b>	January	187	69	57	0	7	14
	February	203	76	52	5	10	23
	March	231	87	64	3	11	23
	April	214	63	66	7	4	14
	May	210	84	62	3	6	11
	June	249	80	70	8	6	6
	July	212	70	59	5	10	10
	August	215	57	49	11	18	13
	September	208	56	48	2	9	16
	October	245	83	70	6	4	10
	November	266	93	71	8	8	21
	December	317	99	101	7	4	11
	<b>Subtotal</b>	<b>2,757</b>	<b>917</b>	<b>769</b>	<b>65</b>	<b>97</b>	<b>172</b>
<b>2010</b>	January	297	122	69	9	1	17
	February	310	105	76	6	4	19
	March	399	138	103	15	8	27
	April	395	141	99	7	10	17
	May	403	157	126	18	9	20
	June	461	163	126	14	12	24
	July	351	110	108	11	10	15
	August	485	170	146	11	6	28
	September	353	119	104	5	19	25
	October						
	November	0					
	December	0					
	<b>Subtotal</b>	<b>3,454</b>	<b>1,225</b>	<b>957</b>	<b>96</b>	<b>79</b>	<b>192</b>
	<b>Total</b>	<b>8,033</b>	<b>2,750</b>	<b>2,226</b>	<b>204</b>	<b>245</b>	<b>538</b>

Source: Legislative Service Office from information provided by UID.

On average, about 11% of lower authority appeals are eventually appealed to the UIC. Table 2.5 shows the number of appeals processed by the UIC during CY 2008 - 2010 (through September 30, 2010).

**Table 2.5**  
**Number of Higher Authority (UIC) Appeals by Appeal Decision or Action**  
**CY 2008 - 2010**

CY	Month	Total Appeal	Affirm LAA	Reverse LAA	Remand Back to LAA	Dismissed	Withdrawn	Continued
2008	January	17	14	3	0	0	0	0
	February	21	18	1	0	1	0	1
	March	18	14	2	0	1	0	1
	April	13	10	0	1	1	0	1
	May	20	17	1	1	0	0	1
	June	16	14	1	0	1	0	0
	July	18	15	0	1	0	1	1
	August	12	11	1	0	0	0	0
	September	11	9	0	0	1	0	1
	October	16	15	0	0	1	0	0
	November	28	21	4	1	2	0	0
	December	16	12	2	1	1	0	0
	<b>Subtotal</b>	<b>206</b>	<b>170</b>	<b>15</b>	<b>5</b>	<b>9</b>	<b>1</b>	<b>6</b>
2009	January	19	18	1	0	0	0	0
	February	35	29	4	0	2	0	0
	March	29	25	4	0	0	0	0
	April	17	16	0	0	1	0	0
	May	15	12	2	0	1	0	0
	June	19	16	2	0	1	0	0
	July	19	16	2	0	1	0	0
	August	26	21	2	0	0	0	3
	September	20	17	1	1	1	0	0
	October	21	12	5	1	3	0	0
	November	30	24	4	1	0	0	1
	December	32	25	3	0	1	1	2
	<b>Subtotal</b>	<b>282</b>	<b>231</b>	<b>30</b>	<b>3</b>	<b>11</b>	<b>1</b>	<b>6</b>
2010	January	38	32	2	1	1	1	1
	February	53	43	10	0	0	0	0
	March	37	29	7	0	0	1	0
	April	42	35	6	0	0	1	0
	May	65	54	11	0	0	0	0
	June	55	41	10	3	0	1	0
	July	53	44	6	0	2	0	1
	August	44	42	1	0	0	0	1
	September	47	45	2	0	0	0	0
	October							

CY	Month	Total Appeal	Affirm LAA	Reverse LAA	Remand Back to LAA	Dismissed	Withdrawn	Continued
	November							
	December							
	<b>Subtotal</b>	<b>434</b>	<b>365</b>	<b>55</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>3</b>
	<b>Total</b>	<b>922</b>	<b>766</b>	<b>100</b>	<b>12</b>	<b>23</b>	<b>6</b>	<b>15</b>

Source: Legislative Service Office from information provided by DOE.

*UID gives notice and requires contact information from appellants* Once an appeal is filed and accepted as a formal appeal by the UID, the Chief Hearing Officer schedules the appeal within 30 days of the filing date. Lower authority appeals are decided within 30 days according to federal performance measures.

Once an appeal is scheduled, the UID sends out a notice in accordance with the Wyoming Administrative Procedure Act (WAPA). By law, there needs to be a 5-day notice. UID stated that it tries to give notice anywhere from eight days to three weeks in advance. In the notice, the day and time of the hearing is listed.

Usually, the hearing is scheduled and held over the phone and according to the UID, hearing location is mostly at the discretion of the individual hearing officers. However, it is possible to request an in-person hearing (which requires all parties to be present at the hearing). The UID stated that for CY 2010 to date, there have only been 3 in-person hearings. The hearing-impaired are invited to in-person hearings.

Another significant part of the notice instructs the appellant to provide contact information for the hearing officer to call when the scheduled hearing will begin.

In the notice, there are several key phrases that inform the appealing parties what their responsibility is before the hearing:

- Appealing parties must supply a telephone number and contact information prior to the scheduled hearing date and time;
- Appealing parties should not assume that their phone number is on file with the officer;
- Appealing parties should notify the officer of proposed

- witnesses for the hearing; and
- Appealing parties should phone the UID within 10 minutes of the hearing if the UID has not phoned the appellant.

We observed in the hearing and in documentation, when an appellant receives his or her hearing notice, they are told within the text of the notice, that they must supply contact information that is already likely in the appellants' case file. Or, the hearing officer may call the listed phone number that is provided.

If the appellant does not call within the timeframe, their case will be dismissed as a no-show and the adjudication decision will be affirmed. We were instructed by UID that the hearing officers usually have the appellants' primary contact information within their case file even if a specific number is not provided on the hearing notice reply from the parties.

According to the UID, it does not provide any additional reminders about the hearing date and time to appellants prior to the hearings outside the standard notice. However, due to the inconsistent time frames given to claimants by UID's appeals notice practice (eight days to three weeks notice before scheduled hearings) each appellant may have a short or prolonged wait between their notice and the actual hearing. If an appellant forgets about a hearing time or did not provide a contact number, they will miss the hearing altogether.

### **Absent or No-Show Appellants**

One of the more concerning issues about the appeals process is the amount of appeals that result in negative decisions for appellants due to no-shows or absences during the scheduled hearings time. As shown in Table 2.6, a significant number of appeals result in no-shows by appellants. Several claimants appeal their no-show decisions due to frustration because the hearing officer did not call during their scheduled hearing. Throughout the last three years, more than a quarter of appeals hearings are decided not by the merits of the case, but due to no-shows or absentee appellants.



**Table 2.6**  
**Number of Lower Authority Appeals Decisions Issues and Number of “No-Show”**  
**Appellants**  
**CY 2008 – 2010**

<b>CY</b>	<b>Month</b>	<b>Total Appeals Issued</b>	<b>Appellant Absent/ No-Show</b>	<b>% No-Show or Absent</b>
<b>2008</b>	January	172	41	<b>23.84%</b>
	February	158	32	<b>20.25%</b>
	March	148	37	<b>25.00%</b>
	April	162	32	<b>19.75%</b>
	May	168	44	<b>26.19%</b>
	June	157	32	<b>20.38%</b>
	July	128	28	<b>21.88%</b>
	August	125	30	<b>24.00%</b>
	September	167	43	<b>25.75%</b>
	October	151	38	<b>25.17%</b>
	November	115	23	<b>20.00%</b>
	December	171	40	<b>23.39%</b>
	<b>Subtotal</b>	<b>1,822</b>	<b>420</b>	<b>23.05%</b>
<b>2009</b>	January	187	40	<b>21.39%</b>
	February	203	37	<b>18.23%</b>
	March	231	43	<b>18.61%</b>
	April	214	60	<b>28.04%</b>
	May	210	44	<b>20.95%</b>
	June	249	79	<b>31.73%</b>
	July	212	58	<b>27.36%</b>
	August	215	66	<b>30.70%</b>
	September	208	75	<b>36.06%</b>
	October	245	72	<b>29.39%</b>
	November	266	64	<b>24.06%</b>
	December	317	94	<b>29.65%</b>
	<b>Subtotal</b>	<b>2,757</b>	<b>732</b>	<b>26.55%</b>
<b>2010</b>	January	297	79	<b>26.60%</b>
	February	310	100	<b>32.26%</b>
	March	399	108	<b>27.07%</b>
	April	395	121	<b>30.63%</b>
	May	403	73	<b>18.11%</b>

CY	Month	Total Appeals Issued	Appellant Absent/ No-Show	% No-Show or Absent
	June	461	122	26.46%
	July	351	97	27.64%
	August	485	124	25.57%
	September	353	80	22.66%
	October			
	November			
	December			
	<b>Subtotal</b>	3,454	904	26.17%
	<b>Total</b>	<b>8,033</b>	<b>2,056</b>	<b>25.59%</b>

Source: Legislative Service Office summary of UID information.

*Despite notice, appellants appear confused, ill-prepared*

When hearings are conducted, for those that we observed, the appellants appear perplexed during appeals hearings. When observing these hearings, we noticed that claimants were uninformed, unprepared, and/or unaware of the hearing requirements and procedures. During hearings, claimants became confused or nervous when they realized how court-like the procedures were.

At this point in the process, it is too late to prepare evidence, witnesses, and cross-examination questions. The appeals notice and accompanying explanation appear to not adequately inform claimants about the formality or the course of action. Anecdotally, we even observed a former DOE-UI employee during one hearing, who was confused about their responsibilities during the hearing.

Staff appears to be too caught up with formalities. It appears overly harsh to not attempt a contact with an appellant if he or she fails to submit a telephone number in the correct spot on the form. This appears to be especially stringent, if the telephone numbers can easily be retrieved from a case file.

The Commission has chosen to require the appellant to call clerical staff ahead of time to provide their contact numbers. The reasoning behind this was because an appellant may not be at their number on file. For example, they could be at a friend or

family member's house. Although appellants may be at other locations, it makes no sense not to at least try to contact the individual at their number already on file. If the individual does not answer, then they are absent from their hearing. There should be reasonable attempts at contact.

*UID may not be accepting appeals within statute or rule requirements*

Another issue with the appeals notification and hearing process is with documentation we observed during our case file review. Claimants (and employers) have 15 days to appeal decisions. We found in our limited case file review that decision notices provided different language between claimants and employers on when to appeal decisions.

On the claimants' decision notice, the claimant is merely told that they have 15 days to appeal. On the employer notice, the employer is given the same language, but also an absolute date on which they can appeal. From what we observed in our review, there were multiple cases where employers' date of appeal was logged in after the 15 days required by statute.

As stated in finding 2.2 above, the UID has tried to simplify the Claimant Handbook possibly so much that it may in fact be less informative. Providing more extensive and complete information to the appeals parties renders the entire process more transparent, efficient and fair.

*Colorado provides significant material to prepare appellants for hearings*

An appeals handbook would help the appeals parties to prepare for hearings more appropriately. This can also help to cut down on hearing times, since the hearing officer will not have to repeat himself or herself as often reminding the parties of the proper procedures.

Colorado for example gives out a handbook that comprehensively informs about the appeals process. It teaches the claimant appellant how to file for an appeal, informs on what happens when the hearing notice is received, how to participate in the hearing, how to prepare for the hearing, how to request subpoenas for documents and/or persons, how the hearing is conducted and what happens after the hearing.

**Recommendation: The Commission should require hearing officers to call appellants at the beginning of hearings with the most current contact information from the appealing parties.**

A hearing officer spends approximately 25% of their time with no-show hearings. This is a waste of time and energy for the hearing officer and section clerical staff to prepare and schedule hearings on these cases. Furthermore, if the appellant appeals their no-show, it will waste resources preparing for and scheduling hearings before the Commission. In the long term, the UID can look into more automated messaging or calling systems that can contact appellants before their hearings to post reminders of dates, times, and other issues related to hearings so that hearing officers and clerical staff are used most effectively.

**Recommendation: The UID should look into providing a supplement to the Claimant Handbook that provides more extensive and thorough information on the appeals process, particularly with respect to how hearings are conducted and how appealing parties must comply with hearing requirements.**

To complement the claimant education finding earlier in this chapter, providing as much information to UID's customers as possible may assist staff in better organizing and conducting their business. Claimants that become appellants can be better prepared to work within the confines of the appeals hearing requirements and protocols when they are better informed.

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## Chapter 3

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**UI program's fragmented information technology systems and inconsistent staff training do not effectively support program functions.**

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**Finding 3.1: The Unemployment Insurance Division and the Employment Tax Division have not sufficiently planned for, nor implemented, a comprehensive data system re-write in line with legislative requirements stated in 2003.**

In a budget footnote to the BFY 2003 supplemental budget appropriation, the Wyoming Legislature stipulated that anticipated Reed Act federal UI enhancement grant funds should be used for three purposes. The vast majority (over 80% or \$10 million of those funds) was intended to be used to re-write the UID and ETD base mainframe data systems that were over 15 years old. Despite this requirement, the UID and ETD did not begin pursuing the data system re-write until Fall 2009, only after being approached to be a part of a federal feasibility study for state UI data systems. That federal project is called AWIN.

From 2003 to 2009, neither division engaged in a project to re-write the mainframe data systems. They have yet to expend even half of the \$10 million appropriated to fulfill this requirement. As a result, UID continues to compose and modify add-on information technology systems that contribute to a more complicated and fragmented IT structure. DOE expects to wait up to five years before the AWIN project can be completed through system design and implementation.

*The divisions have installed add-on IT solutions to work around their*

Currently, the UID and ETD use a network of different data systems to accomplish various tasks for managing the benefits and tax program data and documents. Both divisions use a mainframe data system built on the same technology platform (COBOL) from

*antiquated base data systems* the mid-1980s. The benefits system was built in 1985 and the tax system was built shortly thereafter. Since these systems use the same technology and utilized the same contractor, the systems do have the ability to communicate together. However, the two separate systems do not interact together.

The divisions' current approach to resolving IT issues is that IT solutions are "*driven by technology and the services that are available at the time things need to be done.*" This means that when an IT issue is presented the current technology available and whatever staff is available precipitates the required solution to a particular IT problem. In general, based on current division IT staffing and skills, the divisions now look for changes to data systems that are off the mainframe. However, those changes are then matched back to the mainframe.

The divisions admit that it can take years and many changes to get what is needed from the COBOL mainframe systems. As a result, they have chosen to focus on IT issues that need to be addressed at any given time. For example, the ETD recently implemented its Wyoming Internet Reporting for Employers (or WIRE) system in 2003 to ease the reporting burden on employers submitting taxes and reports for both UI and Workers' Compensation programs.

Table 3.1 below summarizes the different components of the divisions' network of systems and system improvements including the base mainframe systems implemented over the last several decades. This does not include systems used by the fiscal management staff for program financial reporting.

**Table 3.1**  
**Network of Data Systems and System Improvements Employed by UID and ETD**

Unemployment Insurance Division		Employment Tax Division	
Year Effective	System Name	Year Effective	System Name
1985	COBOL Benefits Mainframe	1987 (est.)	COBOL Tax Mainframe
1996	Telephone Continued Claims Initiated		
1997	Document Imaging System		
1998	Appeals Docketing System		
1999-2000	Internet Initial Claims Application	1999	Document Imaging System

Unemployment Insurance Division		Employment Tax Division	
Year Effective	System Name	Year Effective	System Name
	System – Piloted and Implemented		
2002	Interactive Voice Response (IVR) System for Continued Claims	2003	Wyoming Internet Reporting for Employers (WIRE) – Internet and intranet
2005	Internet Continued Claims	2003	Optical Character Recognition Program for Paper Employer Reports
2008	Debit Card Electronic Benefit Payment Option Piloted	2008	Employer Registration
2008	IVR System Update for Continued Claims		
2009	Otis – Overpayments module		
2010	Telephone and Internet Claims (TIC) – for Initial and Continued Claims Update		
2010	Notes – Annotations to Online Claims System		
2010	IVR System Support		
2010	Debit Card Electronic Benefit Payment Option – Fully Implemented		
2011 (est.)	Direct Deposit Electronic Benefit Payment Option	2011 (est.)	Employer Electronic Payment

Source: Legislative Service Office from information provided by DOE.

*Marrying the COBOL systems to newer systems and technologies has been challenging*

Due to the outmoded nature of the mainframe systems, it is difficult for the divisions to easily obtain technical assistance on the system. They are limited in terms of what can be done and how much it may cost to modify the system in reasonable time frames. The system was built before any real practical use of the internet was available, which places a big constraint on these systems compared to current computer and programming technologies.

According to the divisions, in recent years, the security stature required of some federally authorized programs have increased. This has presented a challenge to deal with new technology systems as well as maintaining or updating security for the mainframe and older systems. The divisions have had to develop contingency and security plans for each system according to DOL-ETA guidelines.

Based on information from the divisions, IT staff has realized that even for small changes to the mainframe, it takes a lot of time and resources. For example, staff can not change the functionality of the mainframe very easily or quickly. In addition, the divisions' solutions still must interact and communicate with the mainframe systems. Therefore the IT staff cannot completely get around the antiquated system as effectively as they might like. This in turn makes working with the mainframe alone or in concert with the add-on systems inefficient and inconsistent from system to system.

*IT staff for the divisions remain mostly separate from A&I ITD and OCIO*

Currently there are up to 17 staff who work with the information technology section of UID. Two positions are currently frozen by the Governor's order from Spring 2009. This staff manages the various IT systems for both the UID and ETD systems even though staff is allocated directly to the UID.

For the most part, this staff operates independently from the Department of Administration and Information, Information Technology Division (A&I-ITD). However, the UID does utilize some A&I-ITD services, like the Master Service Agreement to secure IT contract services. Also, the UID must work with A&I-ITD to help incorporate system changes that may impact the states IT networks (i.e. e-mail systems, telecommunication systems, etc.)

### **UID and ETD \$10 Million Appropriations to Re-write the COBOL Mainframe Systems**

The DOE's 2001 biennial budget request noted that the COBOL mainframe data systems were antiquated and in need of re-writing (replacement) to keep up with current program demands and technologies. For the next biennium, the DOE requested appropriations approval from the Legislature for over \$12 million in Reed Act federal UI program enhancement funds it anticipated receiving in the coming year to be dedicated to these systems re-write. The Legislature approved this request in the BFY 2003 supplemental appropriation with the following budget footnote:

*"2. Of this federal fund appropriation, twelve million forty-three thousand four hundred forty four dollars (\$12,043,444.00) from*



*the federal Reed Act shall be expended as follows:*

*(i) Ten million dollars (\$10,000,000.00) shall be expended by the department of employment to rewrite the Wyoming unemployment insurance benefits and tax computer systems. Any amount not expended for this purpose may be used for expenses associated with the administration of the unemployment insurance program.”<sup>1</sup>*

Since these funds were appropriated, the UID and ETD have incrementally used them for its patchwork of IT-related projects. Below is Table 3.2, which summarizes the Reed Act funds expended since BFY 2003, separating out IT and other administrative purposes. Since the original appropriation, the DOE had used the B-11 budget process in consultation with the A&I budget office to continually move the balance of these funds to each subsequent biennium for expenditure. According to the UID, once the state is allocated Reed Act funds, these monies are the State’s funds to keep as prescribed by the Legislature’s appropriation. In addition, since Reed Act funds are federal dollars, these monies do not revert to the state General Fund and the end of each biennium.

**Table 3.2**  
**Breakdown of Appropriated Reed Act Money**  
**BFY 2003 - 2011**

<b>BFY</b>	<b>FY</b>	<b>Reed Act Total Expenses</b>	<b>IT Related Expenses</b>
<b>2003</b>		<b>\$414,885.79</b>	<b>\$414,885.79</b>
	2003	\$20,653.09	\$20,653.09
	2004	\$394,232.70	\$394,232.70
<b>2005</b>		<b>\$244,394.83</b>	<b>\$244,394.83</b>
	2005	\$113,244.30	\$113,244.30
	2006	\$131,150.53	\$131,150.53
<b>2007</b>		<b>\$1,436,710.94</b>	<b>\$1,436,710.94</b>
	2007	\$218,489.90	\$218,489.90
	2008	\$1,218,221.04	\$1,218,221.04
<b>2009</b>		<b>\$1,708,398.69</b>	<b>\$1,708,398.69</b>
	2009	\$1,022,374.08	\$1,022,374.08
	2010	\$686,024.61	\$686,024.61

<sup>1</sup> Though the full Reed Act amount was requested by the DOE for the tax and benefit system re-write, the Legislature appropriated \$2,043,444 of these funds for other purposes, primarily to the DWS.

BFY	FY	Reed Act Total Expenses	IT Related Expenses
2011	2011	\$148,428.77	\$148,428.77
<b>Total To Date</b>		<b>\$3,952,819.02</b>	<b>\$3,952,819.02</b>
<b>Balance</b>		<b>\$6,047,180.98</b>	<b>\$6,047,180.98</b>

Source: Legislative Service Office from information provided by DOE.

It appears these funds have been used mostly over the last three FY (2008 – 2010) to accommodate added pressures on preparing the IT systems for increased claims and other functions. However, less than 40% of money has been used over the last eight fiscal years on the COBOL systems re-write, the primary purpose for which the funds were originally appropriated.

*It is unclear how much re-write would cost in BFY 2003 or today.*

It remains unclear what analysis was completed by the DOE to figure the requested funds for the re-write of these systems, at the time of the request to the Legislature. According to the DOE's budget narrative for BFY 2001 (developed in 1999), the divisions stipulated that they did in fact conduct an analysis for the systems re-write (completed in 2001). However, that analysis could not be located for us. According to agency officials however, an estimated cost for the system re-write within the last few years would run in the tens of millions of dollars, despite a state's population and size.

Therefore, it seems reasonable that at the time the legislature appropriated the BFY 2003 Reed Act funds for the system re-write, the actual costs for the system were higher than the revenue available through the appropriation. The UID and ETD stated during our audit that since the Reed Act funds are apportioned to states based on state size-population, it is unlikely Wyoming will secure enough federal funds to support re-writing the systems without engaging with other states to combine resources. Based on UI program requirements for every state, Wyoming must have a system with all the same components as systems in larger states with more resources available.

*Other states have had mixed results*

During our research, we looked at other states that have commenced with or completed a UI program data systems re-write in recent years. From this research, we found that replacing a full data system (benefits only, tax only, or both) would cost several millions of dollars.

For example, we learned that Utah has recently implemented newer portions for both their tax and benefits systems. It implemented the Phase I portion of their tax assessment and tracking data systems (CATS) in 2007 for \$2 million and Phase II portion of its benefit claims system in 2006 for \$14 million. New Mexico has recently implemented more current data systems as well. For example, a benefits system in 2005, as well as a new tax system in 2011. It is unclear what the cost of this newer system will be, however.

### **DOE's Involvement with a Federal Data System**

As part of an overall national concern with the age of many states' benefits and tax data systems, Wyoming has joined a consortium of western states to explore the feasibility of re-writing its data system. This consortium includes Arizona, Wyoming, Idaho, and North Dakota. AWIN is funded entirely through a federal grant.

The purpose of AWIN is to determine if a central data system platform for both UI tax and benefits functions can be written and employed across multiple states' UI programs. This project was started in August 2009. The federal grant is paying for the time and labor of the consultant contractor and each individual state's staff time to contribute to the feasibility study fieldwork.

The project is scheduled to complete the feasibility stage by 2011. This will occur after the consultant studies each state's current systems and processes. Thereafter, the intent is for an exemplary primary system to be designed and built that can be tested to accommodate the functions currently required in each state. The end goal is for this system to be more easily transferable and workable among these consortium states and potentially shared with other states.

Currently, Wyoming is not committed to engaging the resulting system for testing or purchase. It is further unclear whether the federal government will be funding the project beyond the feasibility stage. UID and ETD stated that this project could be as much as five years to completion if the system can be built and implemented.

*Divisions IT planning and tracking activities are reflected in a mix of spreadsheets*

Aside from the broad and early implementation of the AWIN project, much of the UID and ETD information technology planning and management are reflected in many spreadsheets we received from the agency. Though the divisions explained details of what current IT projects are in place and the approximate timeframes to their current status, they could not produce a comprehensive plan regarding what they face with IT revisions. In addition, it was not evident what the anticipated or current project costs and definitive deadlines for projects' implementation might be. This is especially important in light of the broad re-write requirement from the legislature.

Yet the divisions' different spreadsheets are designated for individual systems (i.e. tax mainframe, benefits mainframe, etc.) as well as some project tracking spreadsheets that show what projects are under way. There is also maintenance tracking and other spreadsheets that detail more extensive IT section actions to date. Some example spreadsheets used by the divisions' IT section staff include the following:

- Tracking of "bug" fixes;
- ETD employer reporting system WIRE field maps (internet and intranet);
- Master project tracking list; and
- Maintenance requests and tracking list.

**Recommendation:** **The UID and ETD should scope out a long-term IT plan for the Legislature to detail how and when the agency can expect to meet the Legislature's BFY 2003 requirement to re-write the tax and benefit mainframe data systems. This should include integrating functions performed by the current add-on system components.**

Based on the current and fragmented nature of the UID and ETD's practice of adding components to the base mainframe systems, the divisions have added complexity to an already outdated and challenging system. In doing so, the divisions still have not met the primary goal stated by the Legislature in the

BFY 2003 footnote. From this point forward the divisions need to provide for a more comprehensive and detailed plan on IT enhancements to meet the Legislature's intent to modify the UI platform data systems.

**Recommendation: The DOE needs to keep the Legislature and A&I ITD informed of the progress on the current AWIN project and to detail, when it becomes known, potential funding and implementation requirements and deadlines that may require the Legislature's and A&I ITD assistance.**

Both UID and ETD officials stated that they are not "committed" to pursue the system design resulting from the current AWIN project. They are only committed to helping the federally-paid contractor work out system requirements for the four-state consortium to consider. However, the state is many more years behind on its original intentions as specified in the BFY 2003 budget footnote requirement. Therefore, if the AWIN process continues to progress and the divisions decide to move forward with such a system, they should detail the funding and time frame requirements to the Legislature and A&I ITD until the system is implemented. This will need to be added or used to complement the divisions' long term IT plans for the program.

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**Finding 3.2: Training of claims taking, adjudication, and appeals staff is insufficient to ensure consistency throughout claims-appeals processing.**

Due to recent years' increase in claims and appeals workload, the UID has relaxed its approach to training new (including temporary) and experienced staff. According to claims staff we surveyed and interviewed, current training relies more heavily on job shadowing of mentor employees by new staff until staff are able to begin to perform their jobs with gradually less

supervision. For more experienced claims staff, there appears to be no standard update or continuing education training. Furthermore, the UID stated that it does not currently have a written training regimen to provide supervisors, managers and mentors with baseline expectations for trainee staff.

Though claims staff feel that mentor staff and supervisors are open to questions and comments during training, this training strategy presents a challenge. For example, mentors each train differently. Trainees may not receive all the same information, processes, and procedures to do their job effectively as supervision decreases. In all, this may contribute to more inefficient job performance of new staff and inconsistent performance and supervision by experienced staff.

*There is no written policy on training standards* According to UID, there is no current written policy on training for its staff. However, despite this admission, upon our request, the UI did provide some background on training that has been used for staff of the different sections.

Table 3.3 below summarizes what the UID stated is its current approach to training of select claims and appeals processing staff. As noted in the table, training for each of these staff generally relies on job-shadowing and on-the-job training, but does provide some opportunity for staff to familiarize themselves with applicable reference documents (i.e. Claims Center Handbook, Policy and Precedent Manual, etc.).

**Table 3.3**  
**Current training for UID staff**

UID Staff Section	Employee Type	Initial Training	Ongoing Training
Benefits-Claims Center	Claims Takers	<u>Weeks 1-2:</u> <ul style="list-style-type: none"> <li>Job Shadow with mentor staff (familiarize with computer screens and listen to calls)</li> <li>Familiarize with Claims Center Handbook, Wyoming Employment Security Law and other documents</li> </ul> <u>Weeks 3 – or when proficient:</u> <ul style="list-style-type: none"> <li>Begin taking claims with mentor supervision</li> <li>Observe other claims center processes (i.e.</li> </ul>	<ul style="list-style-type: none"> <li>Attend Staff Meetings</li> <li>Receive E-mail Notices</li> <li>Possible Computer and Communication Training</li> <li>Claim Review Form (for temporary staff)</li> </ul> <u>Key training notes:</u> <ul style="list-style-type: none"> <li>Temporary staff must have all work reviewed by merit staff</li> </ul>

UID Staff Section	Employee Type	Initial Training	Ongoing Training
		– pay orders, etc.)  <u>Week 4 – or when proficient:</u> <ul style="list-style-type: none"> <li>• Begin taking claims and entering data – with some mentor supervision</li> <li>• One-day review session with supervisor</li> </ul>	<ul style="list-style-type: none"> <li>• Temporary staff are not trained on internet claims</li> </ul>
	Adjudicators	<ul style="list-style-type: none"> <li>• Familiarize with federal 301 manual, Employment Security Law, Policy and Precedent Manual</li> <li>• Familiarize with data systems</li> <li>• Study issues and adjudication process</li> <li>• Work with mentor on fact finding and determination writing</li> <li>• Benefit Timeliness and Quality reviews conducted quarterly</li> </ul>	<ul style="list-style-type: none"> <li>• Trained as back-up claims takers</li> <li>• Attends week-long, annual adjudicator staff training</li> <li>• Opportunities for federal training as time allows</li> </ul>
	Supervisors	Already perform training for section staff they supervise	Work with management to understand and develop position as necessary
Appeals	Hearing Officers	<ul style="list-style-type: none"> <li>• On-the-job training:</li> <li>• Observe hearings, hearing officers</li> <li>• Develop hearing scripts</li> <li>• Reviews/studies written decisions; discusses as needed</li> <li>• Receives documents for review (i.e. – memory paragraphs, lists of decision forms, standard issues statements, etc.</li> <li>• Assigned hearings with mentor hearing officer; conduct hearing under supervision</li> </ul>	<ul style="list-style-type: none"> <li>• Receive reduced workload of hearings until ready for full workload</li> <li>• Within first year in position, will attend the National Judicial College course on administrative law, fair hearings</li> <li>• Hearing officers encourage to seek certification from national organizations for hearings/hearing officers</li> </ul>

Source: Legislative Service from information provided DOE.

***Management relies on issue-specific e-mail notices to inform staff of policy and procedures changes***

To complement initial and ongoing training for claims center staff (claims takers and adjudicators), UI management periodically sends out e-mailed policy and procedures changes. Management also maintains a list and copy of these messages in a binder at the claims center. Such e-mails may contain changes in how a particular process should be performed or may introduce additional language or scripts to be used by staff for particular claims circumstances.

We learned through our surveys, interviews, and observations of Remote Claims Center staff, that the use of e-mail to change policy is not limited to supervisors and managers. Staff noted that supervisors and managers may need to sign off on “policy” e-

mails, but that lower level staff is sometimes relied upon to send out reminders and policy and procedures changes to other center staff.

*Staff are not provided a consistent base of knowledge, skills; training has taken backseat to other duties*

Through our research, we learned that although the mentoring approach to training has its benefits, it has several drawbacks to staff. Issues brought out from our research include:

- Each permanent staff is trained differently and therefore does the job differently;
- Newer staff may assess which experienced staff provides the best or most consistent information and rely too heavily on that person; and
- Some staff are trained in limited roles (with other duties in other Division staff sections) and may not provide sufficient breadth of knowledge about the system and processes.

It appears that training and supervision has taken a backseat to other duties for senior claims center staff. Under the current AWIN project and other commitments, supervisor and management staff at the claims center are often not available to work with subordinate staff to clear up issues of process, procedure or effectively trouble-shoot cases. Also, some experienced staff are acting as supervisors, though they are not vested with full authority to make higher-level decisions.

Claims center staff also noted in surveys and interviews that despite several manuals and handbooks intended to advise and guide staff, there are problems with outdated and complicated material. Specifically, staff noted that the claims center handbook does not sufficiently provide staff a reference manual from which to clarify steps and actions they can or are required to take while initiating and processing claims. Moreover, a previous manual used by staff has been shelved due to not being searchable online. Some staff also indicated they personally track information by their own methods to keep pace with the e-mail changes noted above.

Two additional issues came across related to the internet claims application system. First, the newer system implemented in April 2010 did make processing of these applications easier, but staff noted that the review process can also lead to more mistakes. Secondly, the UID stated that temporary staff is not supposed to be trained to process internet claims. We received



feedback that at least one temporary staff has been trained on the internet system.

*Upon hiring, the UID requires minimal skills testing*

In addition, though employees do engage in various training once hired, the UID does not consistently require skills testing among its employees. For example, the UID specified that for claims specialist positions, they focused on the knowledge, skills and abilities as posted by the Department of Administration and Information, Human Resources Division. These requirements include knowledge of research methods, applicable laws, regulations, etc., and knowledge of investigation methods and techniques.

At prospective hire interviews, the agency does require job applicants to interpret Wyoming employment security law. Yet the agency does not go further to test other skills, (skills we identified through surveys and interviews), which were most important to efficient and effective job performance. For example, the UID does not currently test on typing speed and accuracy, computer literacy, or telephone or interpersonal communication skills. As such, even though the UID feels it hires qualified employees, the skill development of these employees may not be consistent.

**Recommendation: The UID should develop a minimum and standard written training curriculum for new staff hires in each of its sections, particularly for staff in the claims center and appeals sections. UID supervisors should be instructed to evaluate staff during their probationary period based on the specific skill-set established by these written standards.**

It is understandable that training and other functions within UID fell behind during the last two years of increased claims workload. However, with the hiring of a number of new staff (including temporary staff) and the gradual decrease in claims workload, the UID is in position to strategically re-think its processes and implement administrative changes from lessons learned during this

crisis period. The UID should take advantage of this break in workload to more consistently organize its approach to training and set clear expectations of staff throughout each process. Managers and supervisors should reinforce the required and necessary skills to ensure all staff is performing crucial policies and procedures in a consistent manner.

**Recommendation: The UID should develop refresher training for longer-term staff and revisit its training curriculum periodically to formally incorporate or eliminate emergency changes as implemented through its e-mail staff notification process.**

Though longer-term staff should be fairly well informed to perform their basic jobs satisfactorily, it is important for the UID to provide continued training support for these staff as well. Therefore, the UID should establish a schedule to periodically revisit its written training regimen for staff and add or eliminate training items based on past policy and procedure changes resulting from its current staff e-mail notification system. This e-mail notification system appears appropriate for implementing more emergency measures, but may be too fragmented to rely upon for all staff to track and account for each incremental change made by management. This more comprehensive and periodic review should ensure more consistency in staff performance.

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## Chapter 4

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**The UID does not systematically review and act on quality control program results including BAM errors, customer service surveys, and overpayments.**

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**Finding 1: UID has discontinued its use of a Quality Control Team to assess and act on claims processing errors.**

One of the primary ways in which the UID gauges the UI program quality and performance of its staff is through the Benefit Accuracy and Measurement (BAM) program. This program is mandated by the DOL-ETA and functions by reviewing weekly a random sample of paid and denied claims to see if case processing was conducted correctly to make the appropriate (paid or denied) decisions. Decisions or processes found to be incorrectly conducted are termed claims errors, which may substantively impact follow-up decisions from the review.

Yet due to recent years' claims volume and administrative decisions, the UID has chosen not to systemically review these errors with other sections of the division, through the formerly designated Quality Control Team. Therefore, identified errors may not be addressed in a consistent manner to lessen potential faulty processes and decisions in the future.

*The DOL-ETA presses for Total Performance Management to evaluate UI program performance*

As required by the federal Social Security Act and U.S. Department of Labor, Employment and Training Administration (DOL-ETA) regulations, the federal Secretary of Labor must certify state UI programs every year. In doing so, states maintain eligibility to keep receiving program administrative funding to provide UI and workforce related program services.

In order to fully and objectively gauge the performance of the UI program overall, the DOL-ETA presses what is called "*total performance management*" of the UI program. This generally includes state compliance with data and reporting requirements, establishing BAM units and conducting BAM (case file reviews),

looking at tax delinquency and benefit overpayment rates and collections, and requiring periodic peer (state-to-state) reviews of both tax and benefit side processes and decisions.

Table 4.1 below summarizes the different components of the federal quality assurance system and information reviewed by LSO during this audit. This table includes the elements in addition to BAM, such as program CORE performance measures, quarterly and annual case appeals quality reviews, and the Tax Performance System (TPS). It also includes both annual and every four years comprehensive reviews of states' UI taxing systems (see Appendix G on a list of the Core Measure and Acceptable Levels of Performance).

**Table 4.1**  
**Quality Assurance Measures-Activities for UI Program Performance Management**

Benefits Side Reviews	Tax Side Reviews
Core Measures and Acceptable Levels of Performance – key computed performance areas representative of the health of the entire unemployment insurance system	Federal Core performance measures – key computed performance areas representative of the health of the entire unemployment insurance system
Management Information data – to facilitate analysis of performance and to assist in planning corrective activities	Annual Tax Performance System review
Annual Appeals Quality reviews	Comprehensive 4-year TPS Peer Review
Benefit Timeliness and Quality Reports	UI data validation – supporting consistency in data reporting
Benefit Accuracy and Measurement – case file reviews to assess integrity rates and determine causes and effects of program errors	
Annual BAM Quality Reviews	
UI data validation – supporting consistency in data reporting	

Source: Legislative Service Office from information provided by U.S. DOL-ETA and DOE.

*BAM looks at sample cases to find processing-decision errors* Under the DOL-ETA push for total performance management of state UI programs, a significant portion of the quality control process falls to the BAM staff section within UID. Currently this section has seven staff to conduct these reviews. Staff is located in field offices outside of Casper, Sheridan, Gillette, and Torrington. The basic BAM process covers many potential

issues on a given case, but the basic review process occurs as follows:

- The DOL-ETA stipulates different data batch runs for all 52 weeks of a CY, from which the BAM staff must select random cases;
- The UID staff randomly sample cases from the benefits mainframe system from the designated batch runs;
- Each week seven paid and nine denied cases are sampled, cases are assigned to BAM staff each Friday (paid claims are targeted for review of one particular “key week” of a claim);
- BAM staff begin investigating cases in the following weeks including sending out information notices & requests to employers and the claimant (if a claimant resides within 30 miles of a BAM investigator, they must show up for an in-person interview);
- BAM staff enter investigation data into the BAM-specific information system;
- BAM staff make conclusions on cases and provide for an allocation of fault to different parties (including UID) when errors are found – most often the fault is totally attributed solely to the claimant (64% for 2<sup>nd</sup> quarter, 2010);
- If errors are found, the errors are logged and recorded in the BAM case file;
- If overpayment is found, the BAM staff set up an overpayment flag on the case and case collection is conducted by the Benefit Payment Control (BPC) section – BAM staff can identify fraudulent overpayments, but BPC staff must set up the fraud penalty assessments in the benefit mainframe data system; and
- Case is reviewed by the BAM supervisor or senior staff and closed.

Based on our request, the UID supplied summary data on the number of BAM reviews and errors identified over the last three calendar years. Table 4.2 below summarizes this data. The table shows a slight upward trend in the percent of cases, particularly for paid cases, showing processing and decision errors. However, it appears that reviews do not indicate major problems with a variety of errors.

**Table 4.2**  
**Number of BAM Cases Reviewed and Errors Identified**  
**CY 2008 – 2010**  
**(through September 30, 2010)**

CY	Month	Number of Cases Sampled		Number Cases with Errors Identified		% Cases with Errors	
		Paid	Denied	Paid	Denied	Paid	Denied
2008	January	28	36	4	4	14.29%	11.11%
	February	28	36	8	2	28.57%	5.56%
	March	35	45	3	3	8.57%	6.67%
	April	28	36	3	3	10.71%	8.33%
	May	34	42	2	1	5.88%	2.38%
	June	26	30	3	1	11.54%	3.33%
	July	27	26	5	4	18.52%	15.38%
	August	35	45	2	2	5.71%	4.44%
	September	28	36	5	5	17.86%	13.89%
	October	28	37	3	3	10.71%	8.11%
	November	35	45	3	1	8.57%	2.22%
	December	28	36	3	7	10.71%	19.44%
		<b>Subtotal</b>	<b>360</b>	<b>450</b>	<b>44</b>	<b>36</b>	<b>12.22%</b>
2009	January	35	45	3	2	8.57%	4.44%
	February	27	36	3	2	11.11%	5.56%
	March	28	24	2	6	7.14%	25.00%
	April	28	36	2	4	7.14%	11.11%
	May	30	30	3	3	10.00%	10.00%
	June	29	36	4	1	13.79%	2.78%
	July	27	45	4	4	14.81%	8.89%
	August	36	44	5	1	13.89%	2.27%
	September	28	36	4	4	14.29%	11.11%
	October	36	46	3	2	8.33%	4.35%
	November	28	36	8	1	28.57%	2.78%
	December	28	36	7	2	25.00%	5.56%
		<b>Subtotal</b>	<b>360</b>	<b>450</b>	<b>48</b>	<b>32</b>	<b>13.33%</b>
2010	January	34	45	5	2	14.71%	4.44%
	February	29	36	4	1	13.79%	2.78%
	March	25	27	7	2	28.00%	7.41%
	April	26	36	6	3	23.08%	8.33%
	May	34	51	3	3	8.82%	5.88%
	June	30	38	7	4	23.33%	10.53%
	July	38	43	3	6	7.89%	13.95%
	August	25	34	5	4	20.00%	11.76%
	September	28	34	3	3	10.71%	8.82%

CY	Month	Number of Cases Sampled		Number Cases with Errors Identified		% Cases with Errors	
		Paid	Denied	Paid	Denied	Paid	Denied
	October						
	November						
	December						
	<b>Subtotal</b>	<b>269</b>	<b>344</b>	<b>43</b>	<b>28</b>	<b>15.99%</b>	<b>8.14%</b>
	<b>Total</b>	<b>989</b>	<b>1,244</b>	<b>135</b>	<b>96</b>	<b>13.65%</b>	<b>7.72%</b>

Source: Legislative Service Office from information provided by DOE.

Of particular importance for these reviews is the identification of improper payments of benefits to claimants. Generally these improper payments come in the form of overpayments where the claimants are awarded benefits to which they are not entitled.

Benefit Payment Control (BPC) section provides for the more broad population review of benefits to identify and collect on overpayments to claimants. Basically, BAM acts as a way to estimate the level of overpayments the program could have under standard business practices, while the BPC tracks the total identified and collectible overpayments from all liable claimants.

*Overpayments are increasing*

An important issue with the way in which the current manual case processing is reviewed and modified is that there has been a significant increase in overpayments over the last few years. Though BAM does not handle the primary identification of overpayments within the division, addressing errors identified by BAM is a necessary first step at preventing or lessening overpayments in the system.

Table 4.3 below summarizes the overpayments, including fraudulent overpayments, identified in Wyoming's program for the last three calendar years (2008-2010, through September 30, 2010). Generally, overpayments increased by 67% from 2008 through 2010. It should also be noted however, that collections of those overpayments increased (by 32%). Likewise, overpayments associated with fraud increased by 68%, but collections of those overpayments also increased by 25%.

**Table 4.3**  
**Overpayment Information**  
**CY 2008 – 2010**  
**(through September 30, 2010)**

CY	Calendar Quarter	New Over payments Established	Amount of New Over payments Established	Amount – Over payments Collected	Number - New Fraud Over payments Established	Amount - Fraud Over payments Penalties Applied	Amount - Fraud Over payments Collected	Amount – Over payments Waived
<b>2008</b>	1st Quarter	482	\$301,811	\$162,432	138	\$136,427	\$71,401	\$13,308
	2nd Quarter	516	\$305,605	\$157,982	135	\$134,460	\$61,915	\$15,780
	3rd Quarter	488	\$324,801	\$139,398	208	\$179,233	\$69,287	\$16,026
	4th Quarter	574	\$383,367	\$201,423	170	\$192,298	\$94,691	\$9,175
	<b>Subtotal</b>	<b>2,060</b>	<b>\$1,315,584</b>	<b>\$661,235</b>	<b>651</b>	<b>\$642,418</b>	<b>\$297,294</b>	<b>\$54,289</b>
<b>2009</b>	1st Quarter	739	\$444,752	\$336,187	130	\$157,151	\$153,530	\$15,378
	2nd Quarter	821	\$609,021	\$273,521	140	\$184,541	\$91,578	\$14,290
	3rd Quarter	896	\$899,816	\$280,093	261	\$402,789	\$128,290	\$41,119
	4th Quarter	862	\$1,003,353	\$295,760	222	\$325,542	\$133,497	\$64,556
	<b>Subtotal</b>	<b>3,318</b>	<b>\$2,956,942</b>	<b>\$1,185,561</b>	<b>753</b>	<b>\$1,070,023</b>	<b>\$506,895</b>	<b>\$135,343</b>
<b>2010</b>	1st Quarter	907	\$1,174,536	\$321,248	248	\$356,849	\$139,815	\$11,535
	2nd Quarter	1,208	\$1,533,732	\$271,185	437	\$553,115	\$127,453	\$57,131
	3rd Quarter	1,321	\$1,119,330	\$282,502	411	\$461,587	\$104,483	\$139,141
	<b>Subtotal</b>	<b>3,436</b>	<b>\$3,827,598</b>	<b>\$874,935</b>	<b>1,096</b>	<b>\$1,371,551</b>	<b>\$371,751</b>	<b>\$207,807</b>
	<b>Total</b>	<b>8,814</b>	<b>8,100,124</b>	<b>2,721,731</b>	<b>2,500</b>	<b>3,083,992</b>	<b>1,175,940</b>	<b>397,439</b>

Source: Legislative Service Office from information provided by DOE.

*UID suspended-stopped use of Quality Control Team*

UID stated that prior to October 2008 it utilized a Quality Control Team (QCT) that met monthly to review program issues primarily to work through error issues identified through the BAM reviews. The team was made up of section managers and supervisors responsible to initiate changes to case processing. As with other issues identified in this report, the UID felt that



dramatic increase in claims volume beginning in the Fall 2008 did not leave enough time or resources available to regularly meet about program errors.

From what we understand, since October 2008, the BAM program supervisor has continued to issue quarterly summary reports to the different section managers on the errors identified each quarter. Based on the most recent quarterly BAM report available for our audit (for the second quarter 2010 – April 1, 2010 through June 30, 2010) the following issues were noted related to BAM reviewed cases:

- Probable overpayments were at almost 15% (corresponding well to the numbers for 2010 in Table 4.3);
- Claimants assessed to be solely at fault in over 64% of cases reviewed;
- Separation denials had an error rate of over 16%, but only about 9% of cases yielded actual improper denials based on separation issues; and
- 35 cases found with errors, 20 resulting in \$45,318 in overpayments (\$2,266 average per case).

We also learned that during the recent claims surge, BAM staff has been frequently taken off of their duties to assist claims taking and processing staff. As noted in Finding 2.1 in Chapter 2, this approach can have an adverse impact on both sections of the UID. Also, though we did not see any particular case of conflict of interest, it is important to note that the condition exists for a conflict of interest. For example, BAM staff could be at risk of being called upon to review cases that they processed earlier.

*LSO case file review* We conducted a limited case file review to complement our other fieldwork research. As noted in our scope limitation toward the beginning of the report, we were not able to review the entirety of data of four systems to which we had requested access. As a result of this limitation, we chose to review a selected number of case files to review the type of documentation that would or would not support the criteria on which we based our request. Table 4.4 below summarizes the number of cases we requested and reviewed for this audit.

Overall, we reviewed 37 cases covering four basic areas of UI program management: 12 initial and continuing claims dealing with first payment and non-monetary determination timeliness; 12 appeals cases, for both lower and higher authority appeals; seven (7) Benefit Accuracy and Measurement cases; and six (6) delinquency tax cases. The UID and ETD provided paper case files for our review after printing from their respective imaging systems and hand-redacting and re-copying the files.

**Table 4.4**  
**Sampled Cases Reviewed by LSO**  
**Modified Due to Scope Limitation**

Case Type	Number of Cases Requested	Number of Cases Provided	Number of Cases Reviewed
<b>Initial and Continuing Claims</b>	<b>12</b>	<b>12</b>	<b>12</b>
Initial claims paid within 21 days	4	4	4
Inter-state claims	2	2	2
Intra-state claims	2	2	2
Initial claims not paid within 21 days	4	4	4
Inter-state claims	2	2	2
Intra-state claims	2	2	2
Non-monetary determinations decided within 21 days of detection	2	2	2
Non-monetary determinations not decided within 21 days of detection	2	2	2
<b>Cases Appealed</b>	<b>12</b>	<b>12</b>	<b>12</b>
Lower authority appeals decided within 30 days	4	4	4
Case appealed by claimant	2	2	2
Case appealed by employer	2	2	2
Lower authority appeals not decided within 30 days	4	4	4
Case appealed by claimant	2	2	2
Case appealed by employer	2	2	2
Higher authority appeals decided within 45 days	2	2	2
Case appealed by claimant	1	1	1
Case appealed by employer	1	1	1
Higher authority appeals not decided within 45 days	2	2	2
Case appealed by claimant	1	1	1

Case Type	Number of Cases Requested	Number of Cases Provided	Number of Cases Reviewed
Case appealed by employer	1	1	1
Benefit Accuracy and Measurement (BAM)	6	7	7 *
Cases where benefits were paid (at least two with identified overpayments)	4	4	4
Cases where benefits were denied	2	3	3
<b>Delinquent UI Tax Accounts</b>	<b>12</b>	<b>6</b>	<b>6 **</b>
Cases where delinquency is older than three years	4	2	2 **
Cases involving contributory employers	2	2	2
Cases involving reimbursing employers	2	0	0
Cases where delinquency is less than three years old	4	4	4
Cases involving contributory employers	2	2	2
Cases involving reimbursing employers	2	2	2
Cases that meet the federal definition of doubtful or uncollectible	4	0	0 ***
<b>Total Cases</b>	<b>42</b>	<b>37</b>	<b>37</b>

Source: Legislative Service Office from information provided by DOE

\*BAM paid cases have three denied categories so the UID supplied one case file for each category.

\*\*The ETD stated that there were no reimbursing employers with delinquencies longer than three years old according to our criteria, therefore two cases were not provided.

\*\*\*The ETD stated that the federal “doubtful/uncollectible” criteria only measures a rolling 18-month delinquency amount and is only a data measure; the state is not required to keep separate delinquency records different than those provided from the other delinquency requests. LSO did not request additional cases be supplied.

Based on this limited sample of cases, we concluded that UID case documentation did generally substantiate the federal performance measures by which they were chosen. Timeliness of initial-continuing claims payment appeared to be clear and case documentation did not provide sufficient information to conclude case processing contained errors. Similarly, appeals case documentation were clear as to the process that resulted in the end decision and whether the cases met federal timeliness standards.

For BAM cases, the staff investigation and process to conclude on cases errors did appear clear and straight-forward. Finally, for tax delinquency cases, the case documentation did appear to match

the ETD's established automated delinquency notice regimen. In all cases, it should be noted that despite the UID and ETD's best efforts, LSO did encounter personally identifiable information in the files as defined to LSO during our discussions with the divisions and reason for our scope limitation.

**Recommendation: The UID should reinstitute the Quality Control Team and begin monthly review and monitoring of BAM-identified errors to provide for a more coordinated and consistent feedback loop for section managers to work through necessary policy and procedures changes.**

The UID gave no indication during our audit that it would commit to reinstating the Quality Control Team as previously assembled. Though the BAM supervisor does continue to provide a quarterly report to section managers and supervisors to review at their leisure, there is currently no consistent way for the division to hold its managers, supervisors, and staff accountable for addressing BAM errors. This is even more important in light of increasing overpayments where earlier or more direct policy and procedural changes could reduce the impact on claimants and the program's trust fund.

**Finding 4.2: The UID sends out pro forma customer service surveys, but does not fully utilize the results to enhance program performance.**

The most obvious place where the UID has been proactive is by sending out customer service surveys to various portions of its customer base. Currently the UID has five different surveys that look to obtain feedback on business processes and customer service provided by the division.

However, based on our analysis and UID decisions, it appears the UID does not fully utilize these surveys for their intended purposes. That is, to obtain information that will influence how

the division changes or enhances program functions and services. Until the UID commits to a more thorough review and analysis of these results, the surveys, although potentially helpful, may not be having a desired effect.

*UID issues five separate customer service surveys*

The UID uses five customer service surveys to solicit feedback from its various customers (i.e. claimants, appellants, employers, internet application claimants, and Benefit Accuracy and Measurement or BAM surveys). Below is a quick summary of these surveys:

**Internet (or INET) Survey:** This survey is an optional survey at the end of the UID's internet initial claims application system. UID staff does not request applicants to specifically fill out the survey and claimants are not randomly sampled to receive the survey. The UID states that this survey has been continuously counting responses since it went into production

**Claimant, Appellant, and Employer Surveys:** These surveys are paper-based surveys of varying length that are sent out to a random sample of individuals from each customer category. UID stated that since the paper surveys cover a random selection of claimants, it is possible that an individual who completed the Internet survey could also receive a paper claimant survey. This means that the survey is paper-based and not only sent out to claimants who filed a paper claim. Telephone claimants' primary opportunity or means of reporting on customer service is through the claimant paper survey.

**Benefit Accuracy and Measurement (BAM) Survey:** Since the BAM program carries out quality control of the claims process, the BAM survey does not ask about the claims process overall. It asks four short questions about how BAM personnel interact with persons involved with the specific cases under review by BAM.

*Surveys are not required by the DOL-ETA*

Though the UID and overall UI program must meet many federal performance benchmarked measures and must go through several different types of reviews, the DOL-ETA has not required UI programs to implement specific customer service survey requirements. Based on UID information, the program started its current regimen of surveys in 2001 under a previous administration. Since then, the surveys have generally remained

unchanged. The division mentioned there has been only one revision in 2003. It also stated that revisions will occur at a point when changes occur in the business process.

The division stated that survey results are summarized and distributed quarterly and annually to administrators and managers. Moreover, the survey results are also frequently included in “*read and pass*” folders for all staff to read. As noted in the previous finding above, the division gave no indication that the previously assembled Quality Control Team has been used as mechanism to provide for more considered or frequent analysis of these results.

*Customer service  
survey complaints are  
repetitive*

To better understand the surveys, we requested the survey results for each survey (except the BAM survey) back to CY 2005. The division supplied that information. We analyzed the results and conclude that in general, the division does not appear to track the survey feedback to carefully determine patterns that could indicate problems.

It appears that the results of these surveys have not really changed. In other words, the comments and complaints are fairly steady. Therefore we can imply that the agency is not adequately considering survey feedback. In addition, despite the division’s admission that the surveys should be modified when business practices change, we recognize that one particular business practice change has not been worked into the claimant’s survey. More specifically, we did not see any survey questions related to the ReliaCard program.

Significantly, as noted in other findings in this report, the UID has relied heavily on its debit card contractor, U.S. Bank to maintain this program and to conduct it in a reasonable manner. Currently the UID mostly points claimants to the ReliaCard program phone number in its Claimant Handbook, but as noted in the next chapter, the program also relies on U.S. bank to give claimants information on the program, such as outlining program fees, etc.

What is important for the division is that in addition to gaining feedback on its own functions, the claimant survey can be used for additional monitoring of U.S. Bank in light of concerns we

heard during this audit. We requested information on the type of feedback the division receives from claimants regarding their experience with the debit card program. The division responded by stating that it is the responsibility of U.S. Bank to monitor the program.

*The UID suspended use of three paper surveys* One significant issue we found during our research is that UID decided to suspend use of these surveys for about 18 months in 2009 and 2010. It stated that the increase in claims workload contributed to less staff time to dedicate to sending, receiving, and inputting surveys. Tables 4.5 through 4.7 below summarize the two most recent years of UID survey data response rates.

**Table 4.5**  
**Number of Surveys and Response Rates from UID Claimants**  
**CY 2007-2008**

Survey Item Number	2007			2008		
	Surveys Sent	Surveys Returned	Response Rate	Surveys Sent	Surveys Returned	Response Rate
1	343	91	26.50%	360	73	20.28%
1a	343	86	24.80%	360	70	19.44%
2	343	91	26.50%	360	74	20.56%
2a *	343	Comments				
3	343	76	21.90%	360	58	16.11%
3a *	343	Comments				
4	343	82	23.70%	360	64	17.78%
5	343	25	7.20%	360	24	6.67%
6	343	75	21.70%	360	60	16.67%
7	343	91	26.50%	360	75	20.83%
8	343	88	25.40%	360	73	20.28%
8a	343	37	10.79%	360	36	10.00%
9	343	44	12.70%	360	30	8.33%
9a	343	37	10.70%	360	28	7.78%
10	343	40	11.60%	360	30	8.33%
11	343	89	25.70%	360	69	19.17%
12	343	92	26.60%	360	76	21.11%
13 *	343	Comments				
<b>Overall Survey</b>	<b>343</b>	<b>93</b>	<b>27.11%</b>	<b>360</b>	<b>76</b>	<b>21.11%</b>

Source: Legislative Service Office from information provided by DOE.

\*For questions where comments were requested, we did not tabulate the number of comments for the table.

**Table 4.6**  
**Number of Surveys and Response Rates from UID Employer Customers**  
**CY 2007-2008**

Survey Item Number	2007			2008		
	Surveys Sent	Surveys Returned	Response Rate	Surveys Sent	Surveys Returned	Response Rate
1	360	159	44.17%	330	145	43.94%
2	360	158	43.89%	330	145	43.94%
3	360	158	43.89%	330	144	43.64%
4	360	147	40.83%	330	136	41.21%
5	360	158	43.89%	330	145	43.94%
a	360	97	26.94%	330	85	25.76%
b	360	95	26.39%	330	83	25.15%
6	360	160	44.44%	330	145	43.94%
7 *	Comments					
<b>Overall Survey</b>	<b>360</b>	<b>160</b>	<b>44.44%</b>	<b>330</b>	<b>146</b>	<b>44.24%</b>

Source: Legislative Service Office from information provided by DOE.

\*For questions where comments were requested, we did not tabulate the number of comments for the table.

**Table 4.7**  
**Number of Surveys and Response Rates from UID Appellant Customers**  
**CY 2007-2008**

Survey Item Number	2007			2008		
	Surveys Sent	Surveys Returned	Response Rate	Surveys Sent	Surveys Returned	Response Rate
1a	342	137	40.06%	360	143	39.72%
1b	342	137	40.06%	360	143	39.72%
1c	342	137	40.06%	360	143	39.72%
2	342	134	39.18%	360	145	40.28%
3a	342	134	39.18%	360	145	40.28%
3b	342	132	38.60%	360	145	40.28%
4	342	135	39.47%	360	144	40.00%
5	342	137	40.06%	360	145	40.28%
6	342	136	39.77%	360	142	39.44%
7	342	134	39.18%	360	141	39.17%
8	342	136	39.77%	360	140	38.89%
9	342	138	40.35%	360	142	39.44%
10 *	Comments					



Survey Item Number	2007			2008		
	Surveys Sent	Surveys Returned	Response Rate	Surveys Sent	Surveys Returned	Response Rate
<b>Overall Survey</b>	<b>342</b>	<b>141</b>	<b>41.23%</b>	<b>360</b>	<b>145</b>	<b>40.28%</b>

Source: Legislative Service Office from information provided by UID.

\*For questions where comments were requested, we did not tabulate the number of comments for the table.

By acknowledging the intensive labor required to administer the survey and manage the results, the division seems to imply that the survey is more of a formality than a useful tool. Though the division stated that unhappy customers are the ones that will likely turn in the surveys, this feedback should be taken seriously. Even if a customer is upset with an unfavorable decision, there may be benefit for the division to know if that individual was treated well and whether they were adequately informed of the process by which decisions are made.

*Survey responses provide favorable and unfavorable comments that could be used to make changes to the processes*

As illustrated above, it does appear that claimants and employers are responding to UID's surveys. Not only are they responding to the surveys, it appears they are making productive suggestions. UID has been proactive in establishing these surveys, but they should also do more to analyze the comments to determine if changes can be made to its processes. The following table provides a sampling of comments from various respondents.

**Figure 4.8**  
**Examples of Various Comments from Respondents**

Survey	Positive Comments	Negative Comments
Claimant	<ul style="list-style-type: none"> <li>• Had a few questions, but they were answered precisely.</li> <li>• Convenient and easy.</li> <li>• Easier than I anticipated.</li> <li>• Staff very knowledgeable.</li> <li>• Staff was nice and answered all my questions.</li> </ul>	<ul style="list-style-type: none"> <li>• Did not know if my claim was filled out correctly or what the next step was.</li> <li>• The staff told me to just read the blue booklet.</li> <li>• Powell office gave me more help than Casper.</li> <li>• Yes/no questions are confusing to me.</li> <li>• Try to change the yes/no questions.</li> </ul>
Employer	<ul style="list-style-type: none"> <li>• Appreciate that you are so easy to get a hold of and so helpful.</li> <li>• Department provided very timely assistance.</li> </ul>	<ul style="list-style-type: none"> <li>• Not sure what and how much info to attach.</li> <li>• During phone hearings your staff was very negative to us.</li> <li>• I suggest your department creates a list of</li> </ul>

Survey	Positive Comments	Negative Comments
	<ul style="list-style-type: none"> <li>I have no problems with your forms or staff.</li> </ul>	steps to take and makes a document about what to do when firing an employee. <ul style="list-style-type: none"> <li>Process needs to be severely overhauled.</li> </ul>
Appellant	<ul style="list-style-type: none"> <li>Hearing officer was very fair, nice, and helpful.</li> <li>I had a couple of clarifying questions and she was fine with that.</li> <li>Wish regular unemployment contacts were half as nice as people in the appeals section.</li> <li>When I called in for questions, people were really helpful.</li> <li>The best pre-hearing material I checked out was from my local workforce center about appeals.</li> </ul>	<ul style="list-style-type: none"> <li>The video on preparing for hearings is outdated and stopped playing, so I was not as prepared for the hearing.</li> <li>The materials did not give me any idea what to expect.</li> <li>Examiner was very short and had an attitude.</li> <li>My hearing officer would act annoyed when I didn't understand her questions by raising her voice, which made me more nervous and frustrated.</li> <li>Please consider all evidence. Do not limit participation of witnesses. Try to stay impartial. Reserve judgment until trial has been completed.</li> </ul>
INET (post-internet application survey)	<ul style="list-style-type: none"> <li>Everything was easy to use. Keep up the good work.</li> <li>Very polite at unemployment office.</li> <li>Very handy website.</li> <li>It was quick and easy.</li> <li>This is better than by phone.</li> </ul>	<ul style="list-style-type: none"> <li>Several data fields do not allow enough characters to be entered such as the employer name.</li> <li>Show examples or a link with pop-up window with examples to help people.</li> <li>Better instructions on phone.</li> <li>Too complicated for claimant.</li> <li>If we have to click back after having filled out some information that information should automatically be saved.</li> <li>Be able to talk to a live person.</li> </ul>

Source: Legislative Service Office from information provided by DOE.

One UID official we interviewed stated that the customer service surveys offer only limited useful information on which to gauge the program's functioning. This official stated that the comments that have the biggest impact are those: 1) that come from individuals who had a decision go against them, but are still satisfied they were treated fairly or 2) those that received favorable decisions, but feel there were still problems with the process. Understanding these counter-intuitive circumstances may provide the most opportunity to know what makes the process work the best.

*LSO survey of claimants provided minimal input on UID* As noted in the scope of this report, LSO conducted its own survey of UI paid and denied claimants. Two significant issues with this survey were that we only received 15 responses of 100

*customer service* surveys sent out (15% response rate, much lower than UI response rates of the claimant paper survey), and we had 12 surveys undeliverable at the UID-supplied claimant addresses. These circumstances limit the overall impact of this survey providing substantial and additional understanding of the program. See Appendix D for full survey data results and comments.

With the 15 responses we did receive, five were from claimants denied benefits and ten were from claimants that are receiving or did receive benefits during FY 2010. Based on the aggregate responses from both of these subgroups, the following indicates some of the responses we received:

- All denied claimants and two-thirds of paid claimants used assistance from the Department of Workforce Services or the DOE's Workers' Compensation program staff during their claim;
- A majority of both groups found the Claimant Handbook and/or UI program website helpful;
- Combined, less than half of the respondents had been asked to provide feedback to the agency on the process; all but one were from the paid respondents' subgroup; and
- Comments generally focused on communication difficulties or successes with the agency with several notes about confusion related to the appeals process.

**Recommendation: The UID should establish a more formal and active method for reviewing, analyzing, and using survey feedback.**

In order to turn the issuance of surveys into more than a pure formality, it would be worthwhile to analyze the results of these surveys in a more organized fashion. UID should examine the usefulness of the feedback especially since direct customer contact is non-existent. This information could be used in concern with the reestablishment of the Quality Control Team, which would be a continuation of its proactive approach to solicit feedback about its processes. The division is not mandated to perform surveys, yet has used the existence of these services to demonstrate how customer-friendly the agency operates. If that is the case, one would expect the agency to not use surveys as a

pro forma measure, but rather use the feedback constructively. Otherwise, the inefficient use of surveys only represents another manually-heavy inefficient work step.

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## Chapter 5

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**UID has not prioritized its electronic benefit payment program in line with federal guidance and not all UI program funding is tracked in the State's WOLFS accounting system.**

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**Finding 5.1:           The UID has not fully met federal best practices for electronic payment of UI benefits to claimants.**

Beginning in 2005, the UID began considering a move toward electronic payment of UI benefits to claimants. It studied the issue internally, forming a staff committee and surveying claimants on their preferences. However, after this internal study resulted in recommendations to implement both a debit card and direct deposit forms of benefit payment, the UID chose to only implement a debit card payment platform. This is known as ReliaCard as designated by the contractor, U.S. Bank.

Though the debit card has faced challenges with implementation, it is now fully adopted as an option for both internet and telephone claimants to use when receiving benefit payments. The division continues to push implementation of the direct deposit electronic payment method back, contrary to DOL-ETA best practice guidance.

*UID's internal study committee recommended implementing dual implementation*

The UID began considering moving toward electronic benefit payment methods in 2005 by forming an internal study committee made up of ten (10) division staff. Between 2005 and 2007, this committee researched the topic and worked out the details of what it would take to move in this direction.

In early 2007, the committee issued its recommendations to the UID administration and DOE director. The basic recommendation was to move forward with both electronic payment options: debit card and direct deposit. The primary

objective and goal of this project was to have Wyoming become one of the initial states to provide these electronic payment options and to reduce security risks associated with a payment process that required physical handling of checks.

In its analysis, the UID's review committee concluded the following in support of its recommendation to pursue both electronic payment methods:

- Delivery of funds to claimants within 1-2 business days;
- Eliminates individual, physical check issuance (reduce lost or stolen checks), clearance and reconciliation;
- Identical IT development costs for implementing both options (comparable or better than support costs for checks), however direct deposit did require initial purchase of equipment to account for claimants' voided checks to begin payment process;
  - Anticipated initial startup IT project costs and outlays was to be less than \$100,000;
  - Modifications to the mainframe data system would be minimal;
- Only twelve states had implemented both direct deposit and debit card methods (via 14 mandated electronic payment only for benefit payments); and
- Almost 93% of claimants surveyed wanted electronic payment options – preference was for direct deposit.

Additional goals the review committee wished to pursue once these programs were implemented included capture of payment and account information via the website and ability for claimants to view their payment histories online.

*The UID joined a consortium of states to more efficiently pursue electronic payment contract services*

Even as the UID internal study committee worked to review and provide recommendations on adopting electronic benefit payment options, the UID engaged with a consortium of states in September 2006. The focus of the consortium was to look at acquiring an electronic payment bank contractor. This Electronic Payment Card consortium included the Dakotas, Wyoming, and Montana. Wyoming's delegation to the consortium included the Child Support Enforcement division within the Wyoming Department of Family Services. The

consortium's purpose covered four basic priorities and concerns related to electronic payment programs:

1. Multiple rural states could leverage resources and offer a more attractive (economy of scale) contract to interested bank vendors;
2. North Dakota offered to lead and handle the RFP and procurement issues with the process;
3. Multiple states' experiences and expertise could inform a more well thought-out RFP for needed/desired services; and
4. States could use one RFP, but negotiate state-specific contract terms with the bank vendor.

Based on the initial RFP and consortium evaluation, U.S. Bank was selected as the bank contractor to work with consortium states to manage debit card payments to program beneficiaries.

For Wyoming's UID program, U.S. Bank does not currently charge the division any fees to run the program. Rather, the bank's income relies on claimants' fees applied per the program contract and interest on deposited funds. Wyoming recently renegotiated the contract with U.S. Bank in April 2010 to reduce applicable fees on claimants that use the ReliaCard payment option. More notably, the following fees were reduced:

- \$1.50 charge for use of non U.S. Bank ATM reduced to \$1.25;
- \$2.00 inactivity fee (after 180 days of no use) increased the number of days to 365;
- \$20.00 overdraft fee eliminated; and
- \$15.00 card replacement fee eliminated for standard card replacement but remains at \$15.00 for expedited replacement.

*UID began debit card  
payment pilot project  
November 2008*

After working with the consortium of states on an RFP for debit card services and negotiating a Wyoming and UI program specific contract with U.S. Bank, the UID began piloting the ReliaCard program to claimants in November 2008. Under this pilot program, the debit card was required for all claimants that applied for initial benefits via the internet application claims application system. As of the Fall 2009, almost 30% of claimants were receiving their payments via the ReliaCard program.

In June 2010, the UID moved forward with permanent implementation of ReliaCard program and have since eliminated the requirement for internet-based claimants to receive their benefits in this manner. Currently, all UI claimants, whether applying by telephone, internet, or mail can choose either physical check payment or the ReliaCard debit card payment. As recently as September 2010, UID issued a policy stating that claimants can change their minds on payment method only once during their benefit year.

To summarize, Table 5.1 below shows the share of payments and amount of benefits paid via each payment method currently used by the division. As illustrated, the share of debit card payments was high, due to its required use among internet claims applicants, but went down in June 2010 as claimants were allowed to choose between debit cards and checks. Checks still make up more than 60% of payments and averaged almost 8,000 check payments per week during the year.

**Table 5.1**  
**Benefit Payments to Claimants**  
**FY 2010**

Month	Debit Card Payment Method		Check Payment Method	
	Number of Payments	Total Amount of Benefits Paid	Number of Payments	Total Amount of Benefits Paid
July	9,948	\$6,633,532	25,352	\$11,286,679
August	9,307	\$6,156,461	23,355	\$10,304,687
September	11,018	\$7,366,033	27,249	\$11,949,828
October	10,077	\$6,586,969	24,993	\$10,772,081
November	12,064	\$7,524,479	29,774	\$12,388,609
December	15,136	\$11,192,638	36,013	\$17,688,609
January	16,487	\$10,446,339	36,988	\$14,754,644
February	16,741	\$10,665,018	36,320	\$14,304,683
March	14,489	\$12,774,405	43,399	\$16,742,954
April	15,376	\$9,621,298	33,861	\$12,975,098
May	13,056	\$8,127,607	29,803	\$11,628,264
June	7,388	\$8,006,283	29,861	\$11,955,719
<b>Total</b>	<b>151,087</b>	<b>\$105,101,062</b>	<b>376,968</b>	<b>\$156,751,855</b>

Source: Legislative Service Office from information provided by DOE.



*U.S. DOL advised states on electronic payment best practices in 2009*

As more states implemented electronic payments for UI claimants, the DOL-ETA issued federal best practice guidelines to promote more consistency among the states and to clarify how best to protect the rights of the claimants to access and use their benefit monies. According to the DOL-ETA's Unemployment Insurance Program Letter, Number 34 of 2009 (UIPL 34-09), the federal government set the following guidelines for states to follow when implementing electronic benefit payment program:

**Use Direct Deposit for All Individuals With Bank Accounts:**

This method is preferred for all claimants that have bank accounts. Claimants already have relationship with their preferred bank and can receive money without a trip to the bank to cash checks. Some banks waive fees for funds that are directly deposited and individuals will not have a second card to carry and learn new banks' policies.

**Ensure all Individuals are Clearly Informed of Debit Card Fees and How To Avoid Them:** The DOL-ETA acknowledge that debit cards are convenient and secure for claimants that do not already have established checking or savings accounts. By this circumstance, these individuals are also less knowledgeable about working with bank accounts and the debit card can present challenges.

The main challenge is to give full disclosure of information to the claimants about fees and processes for using the debit cards. Though brochures and fliers are helpful, similar to the concerns raised in the claimant education finding earlier in this report, claimants cannot always be relied upon to read these or retain them for reference. The DOL-ETA recommends wallet-sized summary cards to allow claimants to keep necessary program information with them at all times while accessing their benefits.

**Negotiate with Debit Card Providers for Fee Schedules that are More Favorable to Individuals:** Central to the DOL-ETA's main concern with fees, the federal agency puts the state programs on notice that since the states set up the programs, the states should get the most favorable terms on debit card programs for claimants. As such, necessary conditions should include:

- Allow more than one free ATM withdrawal per payment cycle;
- Allow unlimited, free point-of-sale transactions for claimants;
- Allow unlimited free ATM account balance inquiries at in-network ATMS;
- Eliminate overdraft charges;
- Reduce Denial fees; and
- Allow unlimited, free telephone customer assistance.

The DOL-ETA concluded that debit cards have some advantages over traditional paper check payments. For example, claimants can avoid check cashing fees and avoid having to carry large amounts of cash. However, it was concerned that fees for debit cards carry their own disadvantages if not restrained by UI agencies' negotiating more favorable contract terms for these programs. Above all else, direct deposit is the preferred method of electronic payment for claimants that already have bank accounts.

*UID does not meet the primary guideline from the DOL-ETA*

With its April 2010 re-negotiated contract with U.S. Bank, the UID ReliaCard program does generally comply with the DOL-ETA guidelines, with one exception: the UID has not yet implemented direct deposit to effectively eliminate the use of paper checks or to accommodate claimants' current banking preferences. Table 5.2 Below summarizes where UID's electronic benefit payment program specifically meets the DOL-ETA's guidelines.

**Table 5.2**  
**Comparison of DOL-ETA Guidelines to UID's ReliaCard Contract Terms**  
**April 2010 contract (incorporated fee schedule from November 2009)**

DOL-ETA Guideline Number	DOL-ETA Guideline	Wyoming UID Complies?
1	<b>Use Direct Deposit for All Individuals With Bank Accounts</b>	<b>No</b>
2	<b>Ensure all Individuals are Clearly Informed of Debit Card Fees and How To Avoid Them</b>	<b>Partial</b>
a	Fliers – Brochures (relies on U.S. Bank to provide)	Yes
b	Wallet-sized information card	No

DOL-ETA Guideline Number	DOL-ETA Guideline	Wyoming UID Complies?
<b>3</b>	<b>Negotiate with Debit Card Providers for Fee Schedules that are More Favorable to Individuals</b>	<b>Yes</b>
a	Allow more than one free ATM withdrawal per payment cycle	Yes
b	Allow unlimited, free point-of-sale transactions for claimants	Yes
c	Allow unlimited free ATM account balance inquiries at in-network ATMS	Yes
d	Eliminate overdraft charges	Yes
e	Reduce Denial fees	Yes
f	Allow unlimited, free telephone customer assistance	Yes

Source: Legislative Service Office from information provided by DOE.

### Division Relies on Paper Check Payment

As noted in Table 5.1, the UID is still processing thousands of paper checks each week. These payments account for 60% of all UI benefit payments for FY 2010. The UID's overall process to count and review these check payments is explained as follows:

- A payment file is passed to IT staff to load the file for printing checks (at the main DOE office in Casper);
- UI trust fund accountant provides the signature plates and observe check signing as the IT staff operate the check signing machine;
- Benefit administrative assistant (within the Remote Claims Center) looks at the check volume and manually counts the checks to verify that all claimants needing to be paid are receiving a mailed check (if lost checks are identified, the fiscal section reviews the issue);
- If the check count is approved, checks go to the mail room (at the main DOE office in Casper) for preparation to mail;
- If through the stepped manual review all counts match, paper checks are mailed to the claimants; and
- If there are any issues identified with claimants' files prior to the mailing the UID administrator, benefits section manager or Remote Claims Center manager may pull the check from the run; counts must be verified again.

*Check-paid claimants are at a disadvantage to debit card-paid claimants*

One of the main reasons for moving to electronic payment methods was to work better with claimants that did not or could not obtain traditional banking services without incurring costs to access their benefits. However, under the current circumstances, due to debit card payment for some claimants, claimants receiving checks may still be required to pay a portion of their benefits to access their money.

Many UI claimants still utilize private check-cashing agencies that require claimants to pay a percentage of their check amount to the vendor. Therefore, some claimants are not able to obtain full access to all their benefits without incurring cost, as stated by the DOL-ETA guidance letter. Though debit card recipients may still incur some costs by using the debit card (i.e. overdraft fee, etc.), the UID has worked to get the best possible terms from the ReliaCard vendor to reduce fees on these claimants.

### **UID Postpones Direct Deposit Multiple Times**

The division stated that its original intention was to implement debit card and direct deposit together so that there might be some economizing of resources to complete the project and to move more quickly away from paper check payments. As noted above, it seemed committed after its own internal study committee recommended this approach.

The boom in claims volume did not hit until Fall 2008. However, the division had about 18 months to work through both debit card and direct deposit programming without the increased resource challenges that have since impacted the agency during the last two years. UID statements about why it did not pursue implementing direct deposit as expected include:

- Required IT staff and programming would “shut the office down for four months”;
- It wanted to pilot debit cards first to see how electronic files, payments would flow to the bank; and
- Other IT projects have since taken precedence (i.e. electronic tax payments for employers).

Although the division says they plan on executing direct deposit as an option sometime in the future, there has not been an exact date chosen for implementation. During the entirety of this audit, the agency stated that it was moving in this direction, first saying it was planned for Spring 2010, whereas now the goal is to get it operational in 2011. Exact timelines, meeting dates and resources have not been set to get this project off the ground. Without a timeframe of implementation, it is difficult to determine whether the division is serious about committing to this method of payment.

**Recommendation: The UID should prioritize its current work to set up the electronic direct deposit payment method for UI claimant beneficiaries. It should also set project planning and implementation benchmarks including deadlines for testing and full program implementation.**

Best practice guidelines enunciate direct deposit as the best method of payment, especially for claimants that already have established relationships with banks through checking and savings accounts. In an attempt to reach out to claimants, direct deposit was chosen as the most desired payment method. Every state we reviewed had direct deposit as an option. With several factors pointing toward direct deposit as standard industry practice, not to mention the UID study committee recommended as much as almost four years ago, UID should implement electronic direct deposit option as soon as possible.

**Recommendation: UID should work with U.S. Bank to provide additional program information to which debit card claimants have easy and continual access when they use benefits and provide more program information on the DOE-UI website and Claimant Handbook.**

In line with our Finding 2.2 on claimant education and the DOL-

ETA best practice recommendations, the UID does have additional responsibility to make the ReliaCard program as transparent as possible for claimants. It should ensure that claimants receive adequate and detailed information on Reliacard requirements. Requiring that U.S. Bank's information to claimants includes a summary card for easy handling by claimants can be a first step. The UID should include more specific information on the program to claimants on its website and in the Claimant Handbook. Claimants should know fees and requirements before opting to use the program, not after.

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**Finding 5.2: UI program's tax receipts and benefit expenses are not accounted for through the State's WOLFS accounting system.**

The UI program's main focus is on paying benefits to eligible unemployed workers. To do so, the system has to maintain a balance between revenues (UI assessed taxes) and expenditures (primarily for UI claimants' benefit payments). Under the state's current program funding structure, the only monies that are monitored through the state's WOLFS accounting system are the federal grant funds allocated to the DOE to cover UI program administration. In light of the Legislature's recent request for a special report on claimants and benefit amounts paid, it appears more detailed reporting to the legislature is in order.

*UID fiscal management section handles accounting and transfer of funds*

Currently, the day-to-day administration of these funds and accounts is handled within the fiscal management section of the UID. In addition to handling the daily accounting and balance transfers of monies from the various funds and accounts, the fiscal section also handles the following duties:

- Periodic reporting of program expenditures to the federal government according to federal requirements of the Resource Justification Model;
- Storing and supervising use of the signature plates used to

print claimants' paper benefit payment checks;

- Reconciling benefit payment and administrative grant funds for transfer or payment to various state and federal banks;
- Supervising the request for proposals (RFP) processing and contracting with vendors for the UI program; and
- Managing the UI program participation in various MOU or other agreements with both federal and state agencies.

*Wyoming statute sets up program funds-accounts and accounting*

Under the Wyoming Employment Security Law, W.S. 27-3-201 through 211 annotates the chart of accounts for the program, within the Unemployment Compensation Fund (discussed more specifically in Chapter 1-Background).

This statute provides for two main purposes: 1) establishing the names of applicable funds and accounts, as well as defining the types of revenues each fund and account can receive and 2) how each fund and account can be used to transfer or expend money for various program activities as required to administer the program and benefit payments.

The statute assigns the State Treasurer as custodian of these funds and accounts and to manage them according to DOE and UIC rules. Additional funds and accounts are shown based on their use of or receipt of UI program funding, which are designated for specific purposes.

*Federal Resource Justification Model is used to allocate administrative monies to the State.*

To validate what administrative monies each state receives to run its UI program, the DOL-ETA use the Resource Justification Model (RJM) to demonstrate states' true funding needs for the program. The RJM is basically a data collection system that collects UI administrative expenditures by state agencies to operate their respective UI programs. In general, data compiled and used in the model reflect all required activities and allows for use of technology and technological change for states to offer better services.

The federal RJM software assists states in compiling information needed as input for the model. The system also provides the national and regional DOL-ETA offices a compatible automated process to review and analyze the states' financial information. In the end, data collected through the RJM enables the federal

program administrator to more objectively allocate the funds appropriated by Congress to fund state programs.

Currently, each state receives two basic allocations, one for overall administrative costs, and one for justifiable mailing costs associated with the program. The division stated that prior to 2008, the federal government primarily accounted for mailing costs and therefore was not part of state funding needs.

The UID uses its federally certified Financial Accounting and Reporting (FARS) system to compile data on expenditures to report back to the DOL-ETA. For administrative expenses, the UID must download State WOLFS data into FARS to translate its expenditures according to different federal criteria.

Federal and state transfers of funds are managed according to the State's cash management agreement negotiated annually according to requirements of the federal Cash Management Improvement Act of 1990 (P.L. 101-453). The division stated that for recent American Recovery and Reinvestment Act (ARRA or stimulus) funds it has received, it accounts and reports on these funds in the same manner as traditional benefit and administrative funds.

*Three agencies have oversight of these funds and accounts*

From requirements of the Wyoming Employment Security Law and other state and federal laws and regulations, the UID fiscal section is overseen via three main avenues: 1) the State Treasurer's Office; 2) the Department of Audit through the annual Single Statewide Audit of federal assistance grant assistance funding to the State; and 3) the State Auditor's Office for reconciling the Comprehensive Annual Financial Report (CAFR) for the State.

**State Treasurer:** Under the Wyoming Employment Security Law, the State Treasurer's office is the first and primary agent of the state charged with managing and monitoring the UI program funds. The law charges the Treasurer as custodian of the various funds and accounts to administer according to DOE and UIC rules. Currently the Treasurer has access to monthly bank reconciliations and primary financial data for the program and is a signatory to the various program accounts used by the program



with Casper banks.

It should be noted however, that DOE does not provide formal directions, nor has the UI Commission promulgated formal rules for the administration of the Unemployment Compensation Fund. However, the Commission's Chapter 3 rules (Withdrawals from Unemployment Trust Fund in the United States Treasury) does require UID to requisition needed funds in accordance with the Wyoming Employment Security Law.

UID also provided us with the process, although not in formal rules or policy, with respect to moving monies in and out of the clearing and benefit accounts within the Trust Fund. The preference for moving monies from the clearing account was approved in 1999 as follows: 1) Employment Security Account; 2) State UI Account; 3) Federal Reserve Bank of New York; and 4) Worker's Safety & Compensation.

**Department of Audit:** Each year the state must comply with federal standards to audit federal domestic grant assistance to the states. This Single Statewide Audit of federal financial aid has been conducted on the UI program three times since 2004. By not receiving material findings from these audits, the UI program has been audited every three years. Accordingly, the audits of 2004 and 2007 did not have any significant findings. The most recent audit report for 2010 has not yet been released at the time of this writing.

**State Auditor's Office:** State law (W.S. 9-1-403 (a) (v)) requires the State Auditor to provide annual financial statements prepared in accordance with generally accepted accounting principles (GAAP). The CAFR is the primary means of meeting this statute, which is prepared using audited financial statements.

*Legislature has requested an annual report on UI to the Joint Labor Committee; already gets report on the status of trust fund*

Most programmatic and financial reporting within the UI Program is driven by federal requirements. However, the Wyoming Legislature has requested information on the UI Program activity. First, the ETD issues a report each fall to the Joint Labor, Health, and Social Services committee of the Legislature summarizing the UI federal trust fund solvency.

Additionally, the Legislature made a request to receive more detailed reporting on specific claimants and benefits paid to claimants impacted by spouses' relocation for a job. In 2009, the Legislature requested the division report back with claimant and benefit payment statistics through SF 90 (2009 Laws, Ch. 161, Section 2):

*“Section 2. The department of employment, unemployment insurance division, shall maintain records regarding the number of individuals claiming and awarded benefits and the amount of benefits awarded to individuals under W.S. 27-3-306(a)(i)(D), created by section 1 of this act. Not later than December 31, 2010 and not later than each December 31 of each year thereafter that benefits are provided under W.S. 27-3-306(a)(i)(D), the department shall submit a report to the joint labor, health and social services interim committee, detailing the number of claimants and amounts awarded pursuant to W.S. 27-3-306(a)(i)(D).”*<sup>1</sup>

The division states that it has not yet formed this report to the Legislature, but will need to do so before the end of the year. This report may provide a valuable means to expand on UID financial and programmatic reporting to the Legislature to provide additional context to program workload, performance, and other information that may be of interest to state policy-makers.

**Recommendation: The UID and ETD should combine current UI program reporting to the Legislature and provide a more detailed and comprehensive report of the UI program statistics-finances as well as reporting requested under 2009 Laws, Chapter 161 to encompass both tax and benefit issues.**

Due to the somewhat unique nature of the UI program not managing its accounting through the state's WOLFS accounting system, it is difficult for the state (not the federal government) to

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<sup>1</sup> The reference to 27-3-306(a)(i)(D) should read 27-3-311(a)(i)(D) that is referenced in Section 1 of the bill.

get a handle on how much money flows through the program. Also, the Legislature has now indicated that it would like more detailed reporting on the scope and size of the program and its impacts its citizens. The UID should work to better inform the legislature each year about how the program operates so that policy-makers can effectively gauge potential issues that need to be addressed.



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## Chapter 6

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### **Streamlined and consistent workforce services to employers and workers may not be occurring in Wyoming.**

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**Finding 6.1            Federal push for remote claims filing for claimants and Wyoming’s move to separate workforce services functions between the Department of Employment and Department of Workforce Services have not allowed the state to work under the federal “one-stop philosophy.”**

The creation of the Department of Workforce Services in 2001, as well as federal grant programs and legislation, Wyoming is not in a position to provide the federal “one-stop philosophy” encouraged through the Workforce Investment Act (1998). Actions taken by DOE to consolidate its field staff into the Casper claims center also moved Wyoming away from the federal philosophy. As a result of these actions, it is difficult for the state to conduct workforce services and UI services for Wyoming employers and workers in line with the federal “one-stop philosophy”, which may be precluding delivery of effective and efficient services.

#### **Federal and State Legislative Actions**

**Remote Claims Filing Encouraged:** In the late-1990s, the U.S. Department of Labor’s Employment Training Administration (ETA) began to push states to offer more claimant-friendly UI claims filing options. Though Wyoming had implemented a telephone filing system in the mid-1990s, the states around the country were encouraged to move toward internet applications filing for prospective claimants.

In combination with updating the telephone system and initiating the internet claims filing option (1999-2000), the DOE pursued consolidation of its program staff. By early 2002, the DOE had transferred its UI claims processing functions to the Remote Claims Center in Casper, Wyoming. By July 1, 2002, workforce services programs in the state were officially split between the DOE and the newly created Department of Workforce Services (DWS). DWS covered many of the DOE's former field offices.

*DOE pursued a federal grant to assist with establishing remote claims filing*

Throughout the second half of the 1990s, the DOL-ETA solicited grant proposals from states to move toward remote UI claims filing. In 1998 and 1999, the federal government set aside grant funds for which states could apply to establish both telephone and internet initial UI claims filing programs; it was called the Unemployment Insurance Remote Claims Implementation Grant (UIRCIG). Selected states could receive up to \$1 million for telephone claims filing systems and up to \$500,000 for internet claims filing systems.

The reasoning behind the grants was based on DOL-ETA customer service principles:

- Systems provide an efficient method of service delivery;
- Claimants receive prompt and convenient service and avoid the costs (and possible embarrassment) of reporting to a local office to complete initial claims forms; and
- Benefits to states include consistency of service delivery and the enhanced ability to provide staff training.

Requirements for receipt of grants included the following:

- Transition to remote initial claims taking could involve considerable relocation costs;
- Monies could only finance one-time implementation costs, such as telecommunications equipment and services (funds could not be used for ongoing costs such as the maintenance of software and hardware);
- States had to agree to participate in studies and evaluations of remote claims taking; and

- Funds were not to be used as planning grants.

In all, Wyoming received two separate grants totaling over \$1 million.

*UID established  
the Remote Claims  
Center in 2001*

As part of this move to implement remote claims filing, the DOE pursued a central location to house its UI claims taking and processing staff. In the Fall 2001, the DOE began working remote claims functions out of its state office in Casper. Shortly thereafter, the DOE moved claims taking and processing staff to its own Remote Claims Center (RCC) location adjacent to the DOE office in Casper.

Currently, claims taking, adjudication, and other support personnel for UID work out of the RCC, while other UID section personnel work out of the DOE state building. Table 6.1 below shows the network of offices and UI staffing in the field during the period immediately preceding the establishment of the RCC. According to the DOE, staff positions have gradually been pulled back to the Casper offices as field staff retired or resigned their positions since the establishment of the RCC.

**Table 6.1**  
**Prior to May 2002: Field Offices**

Office Location (town or City)	Full-time Equivalent (FTE) Positions
*Cheyenne	5
Laramie	1
Torrington	.5
Sheridan	1
*Gillette	4.5
*Riverton	2
*Cody	3.5
*Rock Springs	4.5
*Evanston	1.75
*Jackson	1.25
*Casper	5.25
Rawlins	.75
<b>Total</b>	<b>31</b>

Source: Legislative Service Office from information provided by DOE.

\*Combined tax and unemployment insurance

*There appear to be pros and cons for remote claims processing*

For a claimant, being able to file from home removes the stigma from filing for unemployment outside of the home environment. On the other hand however, relying on phone or internet contact to an employee who is operating out of a call center may make it easier for problems in the claim process.

This could be especially problematic for claimants with literacy problems. For example, DWS staff who work face-to-face with claimants have noticed that some applicants need extra help from staff to fulfill the requirements when applying for a job. It appears that these customers receive significant assistance from DWS staff with respect to their UI claim.

In the table below (Table 6.2), it summarizes the number of initial claims submitted through UID's claims filing methods for the last three calendar years (through September 30, 2010). It is clear that the remote filing methods of telephone and the internet are the primary means for claimants to submit claims. Also, overall telephone claims filing remains the most used method by claimants to file in Wyoming, accounting for about 58% of all initial claims file in the state.

**Table 6.2**  
**Number of Claims by Method of Submission**  
**CY 2008 – 2010\***

Month	CY 2008		CY 2009		CY 2010		Total	
	Telephone Initial Claims	Internet Initial Claims	Telephone Initial Claims	Internet Initial Claims	Telephone Initial Claims	Internet Initial Claims	Telephone Initial Claims	Internet Initial Claims
January	2,105	505	2,850	1,886	1,751	2,393	6,706	4,784
February	1,160	266	2,198	1,580	1,192	1,533	4,550	3,379
March	1,134	288	2,251	1,999	1,511	1,365	4,896	3,652
April	1,151	318	2,279	2,249	1,590	1,539	5,020	4,106
May	852	214	1,468	1,220	1,095	962	3,415	2,396
June	877	233	1,613	1,319	1,309	884	3,799	2,436
July	952	297	1,401	1,165	1,053	878	3,406	2,340
August	678	207	1,241	1,033	1,178	967	3,097	2,207
September	926	259	994	1,069	1,080	763	3,000	2,091
October	1,628	476	2,396	1,882	-----	-----	4,024	2,358
November	1,701	611	1,425	1,910	-----	-----	3,126	2,521
December	2,586	1,191	1,730	2,527	-----	-----	4,316	3,718



Month	CY 2008		CY 2009		CY 2010		Total	
	Telephone Initial Claims	Internet Initial Claims	Telephone Initial Claims	Internet Initial Claims	Telephone Initial Claims	Internet Initial Claims	Telephone Initial Claims	Internet Initial Claims
Subtotal	15,750	4,865	21,846	19,839	11,759	11,284	49,355	35,988
Total	20,615		41,685		23,043		85,343	

Source: Legislative Service Office from information provided by DOE.

\*The UID states that it does not track within its data system the number of paper initial claims mailed or faxed to the agency. Claim center staff noted that paper claims, either by mail or fax, do not come in very often.

**One-Stop Workforce Locations:** As a result of the federal Workforce Investment Act of 1998, the Department of Employment set out the Wyoming Workforce Development Council. In 2000, the Council designated the Employment Resources Division's Employment Centers as the One-Stop Centers in Wyoming.

The intent was to allow Wyoming's workforce easier and consistent access to services without needing to navigate a maze of agencies or offices. Efforts were made to streamline services for customers through co-location with Workforce Investment Act partners and elimination of duplication of services and coordination of service delivery.

With a federal focus on one-stop offices, the UI and Employment Resources Divisions were combined until separated in July 2002 with the establishment of the DWS. The DOE budget narrative from this timeframe pointed out how the job search and training portion of the office was to "coordinate[e] with other partners in the creation of the one-stop system."

*The DWS was established by the Legislature and took over many DOE field offices*

After the federal Workforce Investment Act stimulated the DOE to form the Wyoming Workforce Development Council, the Legislature shortly thereafter began studying the provision of workforce services in the state. On July 1, 2002, the Department of Workforce Services was formally established according to statute (W.S. 9-2-2601 through 2607) with the transfer of staff and programs from the Department of Employment, the Department of Family Services, the Department of Health and the Community College Commission.

An initial strategic plan was prepared by July 1, 2003 outlining new performance requirements for the agency. The DWS signed

a memorandum of understanding (MOU) with the DOE in 2003 as well and the DWS took over many of DOE's offices as part of moving the DOE's Employment Resources Division to the DWS.

The DWS was modeled after the Utah Department of Workforce Services, though most states have DWS and UI programs united within one state-level department. States are required to have labor-exchange systems, which assist claimants to meet UI requirements to register and search for new jobs. During our research, we were told that at the local level, some of the DWS field offices have better working relationships with UID and ETD staff than others.

*Some inefficiencies identified*

It should be noted that since Wyoming's UI Program is the only state program that is not organized under the same agency as employment services, there are several areas that are not working together. For example, there is no longer an automated registration between the two agencies. This causes claimants to apply separately for unemployment benefits and with workforce services. The division is required to check on the status of each claimant's registration with workforce services prior to being awarded benefits.

In addition, outreach programs are not shared and organized the same as other states have set up. For example, Utah organizes mock interviews and workshops on resume, interviewing, technology, communication and budgeting. Furthermore, South Dakota offers internship placements, job search assistance, business workshops, and Career Expos within its local offices.

An example that illustrates the inefficiencies that are a result of the split of the two agencies is the fact that claimants have to go through different registration processes when filing for benefits with UI and register with Workforce Services. However, there is a significant overlap of required information that warrants the question as to why the two agencies fail to look into a dual application that would streamline the application process.

The CSR manually checks the DWS system after 14 days to see unemployment insurance claimants are registered for work. If not, the claimant's benefits are denied. Upon registration the

claimant receives benefits. To verify the weekly work search requirements, the system will randomly select claimants every 4-8 weeks. If selected, the CSR requests the job searches. The division will also request the job searches if there is probably cause that a work search is needed.

Staff admitted that the manual process is labor intensive and requires several hours a week to complete. There have been several meetings with UI and DWS to solve the problem, but no resolution has been found so far. Staff pointed out that the technology is available to automatically register claimants and serve them by DWS. Staff also informed us of the lack of a system that would notify UI once a claimant is no longer registered and when work referrals have been refused.

*UID and ETD still do have some field staff outside Casper*

Even though the DOE moved toward centralizing all UI staff, both the UID and the ETD continue to have a handful of staff positions allocated to field locations around the state. The DOE also still subscribes to field office locations for the Workers' Compensation program.

As shown in Table 6.3 below, there is some difference in the staff distribution philosophy between the DOE and the DWS. The DWS continues to focus on providing field offices in local communities to provide workforce matching services between workers and employers. The DOE does not have as extensive a network of field offices and it remains difficult for both agencies to co-locate staff to strive toward a "One-Stop" workforce service provision.

**Table 6.3**  
**Current Wyoming Workforce Field Staff (DOE and DWS)**  
**Includes UID and ETD Staff Distribution Outside of Casper**

Field Office Location (city or town)	Department of Employment			Department of Workforce Services	
	UID	ETD	Workers' Compensation	Vocational Rehabilitation	Employment Services Division
Afton					Yes
Casper	Yes	Yes	Yes	Yes	Yes
Cheyenne		Yes		Yes	Yes
Cody		Yes	Yes	Yes	Yes
Douglas				Yes	Yes

Field Office Location (city or town)	Department of Employment			Department of Workforce Services	
	UID	ETD	Workers' Compensation	Vocational Rehabilitation	Employment Services Division
Evanston				Yes	Yes
Gillette	Yes	Yes	Yes	Yes	Yes
Jackson			Yes	Yes	Yes
Kemmerer-Diamondville				Yes	Yes
Lander			Yes	Yes	Yes
Laramie			Yes	Yes	Yes
Newcastle					Yes
Powell					Yes
Rawlins				Yes	Yes
Riverton		Yes		Yes	Yes
Rock Springs		Yes	Yes	Yes	Yes
Sheridan	Yes		Yes	Yes	Yes
Thermopolis					Yes
Torrington	Yes			Yes	Yes
Wheatland					Yes
Worland				Yes	Yes
<b>Total Locations</b>	<b>4 locations</b>	<b>6 locations</b>	<b>8 locations</b>	<b>16 locations</b>	<b>21 locations</b>

Source: Legislative Service Office from information provided by DOE.

\*Not all field staff for DOE and DWS is co-located in offices in each community, even if different staff is designated to a given community.

**Recommendation:** DOE should study the impact of federal and state legislative initiatives since the late 1990s, to determine whether its current condition of providing services is adequate. It should also include any problems related to its current organizational structure and make its results available to the Management Audit Committee for further consideration.

Since the late 1990s, various federal and state legislative actions have shaped the manner in which various services are provided to Wyoming's unemployed. Much of the current condition was

prompted by the federal government through various grant programs, as well as federal legislation such as the Federal Workforce Investment Act (1998). Also, Wyoming legislation, which created the Department of Workforce Services, essentially consolidated staff and programs from similar departments. Given the increase in unemployment during the past three years, it may be an appropriate time for DOE to study ways in which services might be provided more effectively and efficiently.

.....

**Finding 6.2: DOE and DWS collaboration and coordination of workforce services functions for UI claimants continues to be a work in progress.**

As discussed in the previous finding, the Department of Workforce Services was established according to the Legislature's direction. By establishing this agency, the Legislature split the provision of workforce service functions between the DOE and the DWS. A key issue for UI claimants (as well as all state employers and workers) under this structure is that to comply with different workforce program requirements, the UI claimants must engage both agencies and generally supply similar information.

Consequently, it is imperative for these agencies to work closely together to provide more seamless and quality customer services for both workers and employers. This issue was recently reviewed by the DOL-ETA and it issued a consultant memorandum (January 2010) addressed to both the DOE and DWS. In this memorandum, the federal agency stipulated 22 separate recommendations that it feels will provide greater service to the agencies' common customers. See Table 6.5 for more detailed information.

**DWS and DOE Collaboration Vital**

*DWS and DOE collaborate to track UI* The central feature of the UI program for which the DOE must currently rely upon the DWS for support is to help verify that UI

*claimants' compliance to seek reemployment* claimants meet the work registration and “able and available” work search requirements. This requirement provides that within two weeks of UI claimants’ application to the UI program, claimants must register with their local workforce field office to begin to receive job referrals and otherwise search for gainful employment.

Under current UI program requirements, in order to maintain UI benefits eligibility, claimants must conduct at least two job searches each week that they receive benefits. The UID may request viewing a record of these claimant work searches at any time.

To accomplish this important task, the UID states it has a collaborative and cooperative relationship to facilitate reemployment of UI claimants. Due to the registration and work search requirements, UI claimants frequent DWS offices to look for workforce support, whether UI-related or not.

As stated in Chapter 2, the UID currently fulfills its monitoring requirement by manually checking the DWS workforce system (through read-only access) to review selected claimants’ compliance with these requirements. The DWS and DOE also transmit electronic files regarding UI claimants matched with work search individuals, but the UID stated that this electronic file transfer is not their primary means of review. In other words, it is a back-up method for staff to use as necessary.

*DWS provides additional services to UI claimants* As part of the inter-agency collaborative efforts and to demonstrate customer service the DWS has worked intermittently to provide other support services to UI claimants:

- Computer access to fill out initial or continuing internet claims applications;
- Providing phone lines so claimants can directly call the Remote Claims Center to initiate claims or converse about questions on the UI program;
- Providing fax lines to send paper UI claims application to the Remote Claims Center for UI staff processing;
- Providing training opportunities or referrals for approved training so claimants can remain eligible for UI benefits in

lieu of looking for work;

- Assessing UI claimants skills and profiling probable UI benefit exhaustees to better prepare individuals for available work; and
- Other worker support services.

*DWS provides the primary “face” to UI claimants*

Since DWS has 20 field office locations where it can match workers and employers together, it provides the basic front-line customer service to these customers. During our research, this was called being the “face” to the workforce customers. This makes great sense since the vast majority of UID and ETD staff is located in two central offices in Casper.

DWS has worked with DOE to obtain some marginal reimbursement of costs associated with DWS staff working with UI claimants. Table 6.4 below summarizes the DOE’s reimbursement to DWS during the height of the claims boom during the recent recession. In total, the DOE reimbursed the DWS for over \$533,000 during BFY 2009.

**Table 6.4**  
**DOE Compensation to DWS to Serve UI claimants**

Month	FY 2009		FY 2010	
	DWS Positions Compensated	Amount Compensated	DWS Positions Compensated	Amount Compensated
July	0.54	\$4,132.32	1.88	\$13,045.27
August	0.69	\$5,036.03	1.75	\$11,857.78
September	0.56	\$3,960.25	2.36	\$15,669.34
October	0.97	\$7,030.34	2.56	\$16,009.15
November	1.17	\$7,506.36	3.02	\$12,540.00
December	1.23	\$8,459.84	6.55	\$62,282.35
January	1.37	\$9,732.10	8.93	\$62,327.54
February	0.98	\$6,167.11	7.83	\$51,926.90
March	1.81	\$11,866.05	7.39	\$50,342.16
April	1.77	\$13,409.86	6.69	\$48,577.39
May	1.92	\$13,660.44	7.20	\$53,779.64
June	2.12	\$10,757.66	6.08	\$33,662.49
<b>Total</b>	<b>1.48</b>	<b>\$101,718.36</b>	<b>6.23</b>	<b>\$432,020.01</b>

Source: Legislative Service Office from information provided by DOE.

We were told by stakeholders that the DWS and UID-ETD have starkly different customer service philosophies. DOE was said

to be regulatory focused and termed control and compliance oriented. DWS was said to have a more pure customer service philosophy where the customer, not the agency drives the programs and services. In all, based on our research, Wyoming employers and workers may not view these agencies as separate, but more as interdependent components of the overall workforce services system.

*The DOL-ETA issued 22 recommendations for the DWS and DOE to consider to better serve common customers*

In the Fall 2009, the DWS requested for the DOL-ETA to review the DOE and DWS programs on how they worked with common customers in their systems. Upon reviewing these departments' respective systems, documents, and collaborative efforts, the DOL-ETA issued a consultation memorandum addressed to both agencies on what tasks and responsibilities needed to be better worked together between the agencies. Most simply stated, the DOL-ETA felt that the departments' missions and purposes are not decidedly different, but that the individual program requirements require better coordination and collaborative efforts to service customers.

Table 6.5 below summarizes the 22 recommendations made in this consultant memorandum. The vast majority of the recommendations (19 of 22) are addressed to both departments to enunciate how their activities can be better tied to more seamless customer service.

**Table 6.5**  
**DOL-ETA Consultation Memorandum Recommendations**

Recommendation Number	Recommendation	Agency Addressed	Recommendation Implemented?
<b>Customer Service</b>			
1	Implement dual registration for customers of both agencies	DOE and DWS	No
2	Assist claimants with long distance costs; review several options to reduce issue and costs to agency	DOE	No
3	Make direct deposit an option for claimants	DOE	No
4	Execute plans to update websites	DOE and DWS	Yes (partial and ongoing) *
5	Finalize strategy to use new technology in	DOE and DWS	No



Recommendation Number	Recommendation	Agency Addressed	Recommendation Implemented?
	workforce centers		
6	Offer a new “paper” application option for peak periods of high claims at workforce centers	DOE and DWS	No
7	Utilize DWS staff to help reduce training approval process for UI claimants	DOE and DWS	Yes
8	Implement an e-mail account to expedite verification of UI tax status	DOE and DWS	Yes (partial) **
9	Complete revisions of UI call center script for gathering information from UI claimants	DOE	Yes
<b>Communication</b>			
10	Issue joint communiqués to staff of both agencies on common actions to problems	DOE and DWS	Yes (partial and ongoing) *
11	Re-emphasize “no wrong door” philosophy, especially for UI claimants	DOE and DWS	Yes (partial and ongoing) *
12	Share organizational charts and staff directories	DOE and DWS	Yes
13	Ensure all offices have helpline numbers to call DOE claimants	DOE and DWS	Yes
<b>Infrastructure</b>			
14	Address infrastructure barriers with deadlines	DOE and DWS	No
15	Execute cross-training of staff	DOE and DWS	Yes (limited)
16	More closely align agency mission statements to emphasize a continuum of services to business and job seeing UI customers	DOE and DWS	No
17	Utilize a Memorandum of Understanding (MOU) to specify joint roles and responsibilities; current 2003 MOU is not viable or relevant for current environment	DOE and DWS	No
18	Increase privacy measures	DOE and DWS	Yes (partial)
<b>Resources</b>			
19	Submit a jointly developed re-employment eligibility assessment application	DOE and DWS	No
20	Maximize utilization of temporary hires and existing DWS staff	DOE and DWS	Yes (partial and ongoing) ***
21	Consider installing a scanner and adaptive telefax machines to transmit directly to DOE	DOE and DWS	No

Recommendation Number	Recommendation	Agency Addressed	Recommendation Implemented?
	e-mail address		
22	Consider expanding the current use of the UI feasibility study to include looking at interfaces with DWS information technology	DOE and DWS	No
<b>Total Recommendations and Implementation Status</b>		<b>DOE (3) DWS (0) DOE &amp; DWS (19)</b>	<b>Fully (4); Partial (7); and Not Implemented (11)</b>

Source: Legislative Service Office from information provided by DOE.

\*These recommendations have been partially implemented and will need to be on-going for the agencies to meet the intent of the recommendation

\*\*This recommendation was addressed, but the solution was for the DWS to stop requiring employers verify UI tax standing before working with DWS services.

\*\*\*Only UID has worked with temporary employee (under contract) and DWS stated that it is not allowed to do so under federal rules.

*DOE has made some headway with DWS to implement the DOL-ETA recommendations*

As shown in the above table, the DOL-ETA notes 19 different areas in which the DOE and DWS have overlapping of parallel concerns with the operations of their programs. The departments appear to have settled on some recommendations that were easier to address (i.e. changing UI's script for claimants; installing additional fax and phone lines, etc.). However, many of these recommendations require ongoing support and vigilance to ensure that the departments do not become complacent as workloads decrease or change for one or the other.

Of particular note, some recommendations address issues that we were told were already discussed and decided. For example, we were told that the UI program updated its website in November 2009, though this memo (sent two months later) stipulated that more could be done for both departments' programs. Furthermore, we were told that the requirements of the MOU between the agencies really haven't changed since 2003, though this memo specifically notes that this MOU is insufficient for current department/program conditions.

Also, though the MOU states that more cross-training could be better for both agencies, the UID stated that its philosophy is to limit the training of the UI program for DWS staff. This is so primary assistance will always come from the UID. In other words, they prefer that DWS staff forward claimants to the UI program.

Finally, DOE staff claims that they rarely are confronted with claimants that are either illiterate, barely literate or have limited English proficiency. They argued that the telephone claims eliminate some of those issues with literacy since it is all done verbally. Obviously, the telephone claim will not help the claimant when it comes time to review the claim and read the notice of a decision or deal with an appeal. Moreover, DWS staff pointed out that they do occasionally help illiterate claimants with their UI forms as much as possible. It appears as if the literacy problem is somewhat mitigated to DWS since this is the agency that “offers a face” to the customer.

**Recommendation: The DOE should revisit its 2003 MOU agreement with DWS and revise the cooperation and collaborative requirements necessary to better identify and implement UI program information tracking requirements and meet today’s customer service expectations of Wyoming’s unemployed workforce.**

We learned during our research that the needs of the UI program to work with the DWS have changed since 2003 after DWS was created and the original MOU was signed. Each agency has moved separately to implement different solutions. For example, information technology solutions that have impacted the agencies’ effectiveness to serve their respective common customers as well as the mechanics of information exchanges and field support to Wyoming workers has changed. This issue was also specifically noted as an area for DOE-DWS revision by the DOL-ETA January 2010 consultant memorandum.

**Recommendation:** The DOE should hold more formal, periodic coordination and planning meetings with the DWS to discuss and address the issue outlined in the January 2010 DOL-ETA consultant memorandum. These meetings should set specific goals and deadlines for how to better meet the intent of the memo's recommendations.

Some of the recommendations stated in the January 2010 U.S. DOL memorandum have already been implemented by the DOE and DWS. However, according to the agencies, not all recommendations have been discussed or decided upon as to how they meet the needs of Wyoming's workforce. It is important that the DOE move forward with DWS to explore, discuss, and decide on additional steps that should be taken with respect to these recommendations to better educate and equip agency staff to serve Wyoming workers and employers.

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## Chapter 7

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**The ETD does not systematically monitor or oversee field staff audit and collections activities or write-off uncollectible accounts.**

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**Finding 7.1: The ETD’s manual process of audit and collections is not the most efficient way to actively manage delinquent tax debt.**

According to recent and past peer reviews of the ETD’s tax system, performance of this system has generally met federal performance benchmarks. A comprehensive Tax Performance System (TPS) review was conducted in August 2010 (conducted every four years), with limited substantive findings on how the system currently operates. Reviews also focus broadly on collection to identify if “some collection” activities have occurred at the state level.

According to ETD, this is determined by looking at percentage changes related to various measures such as the percent of amounts due paid in a timely manner. Officials also stated that all processes including first notices, statements of account, jeopardy assessments, notice of lien hearings and lean filings all show “some collection activity” for the most recent quarter. However, ETD’s manual process appears to be causing ETD to not be as efficient as possible in its collections activities.

For example, the division is owed over \$9.4 million (includes tax owed as well as interest and penalties) with active employers holding about 38% of these obligations. Also, 53% of these obligations are older than 4 years, which includes taxes, interest, and penalties on active and closed accounts. It should also be noted that ETD has no way to routinely break out collections, interests, or penalties with respect to delinquent accounts. Rather, ETD relies on a manual process of retrieving past notices and collections actions within its imaging system, as

needed. The imaging system holds images back to 1999, while earlier documents are contained within microfilm and paper files.

An internal audit completed of the ETD's field compliance unit showed several systemic areas that are at increased risk of failure under current staffing and operation procedures. These issues remain significant since the ETD has primarily focused its resources on meeting federal auditing standards and a lack of focus on providing automated solutions to field staff collections activities. Finally, the division only actively monitors the most recent four years of delinquent accounts.

*The State relies on an experience-based UI taxing system*

The ETD told us that Wyoming's federal UI trust fund become insolvent during the last major unemployment boom in the 1980s. Based on a study group and with legislative changes, Wyoming changed its UI taxing system to be more flexible and moderate due to three basic factors:

- Employers' experience contributing workers to the unemployment pool impacts the annual variation in tax rates;
- The variable increases and decreases from year-to-year in UI taxable wages paid to workers impacts the maximum taxable wage base on which employers pay taxes (2010 maximum taxable wage base was \$22,800); and
- Trust fund adjustment factors that account for non-charged and ineffectively charged benefits that are not otherwise accounted for by employers' experience-based tax rates.<sup>1</sup>

Several important conditions impact an employers' compliance with the UI program: 1) employers may not deduct the UI tax contributions from employees wages; 2) employers must submit required reports, wage lists, and pay their taxes each quarter or they become delinquent; and 3) employers can have separate accounts for different business locations, though each account is separately subject to reporting and payment requirements.

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<sup>1</sup> Non-charged benefits are benefits paid to claimants that cannot be charged back to an employer due to a number of reasons (i.e. – an employer appeals benefits paid to a former employee and wins means that employer will not be liable for any benefits already paid out). Ineffectively charged benefits may be from when an employer has already reached the maximum UI tax limit (8.5% by statute) and therefore cannot have additional benefits charged to their account; these benefits must be balanced off against the entirety of the system funding level.

Table 7.1 summarizes the number of active (open tax accounts with employers currently registered and covered by the UI program).<sup>2</sup>

**Table 7.1**  
**Number of Active Accounts**  
**September 30, 2010**  
**(North American Industrial Classification System – NAICS)**

NAICS Category	Number of Employers - Active	
	Number Tax-based	Number Reimbursing
Raw Materials and Energy Production	1,508	22
Goods Production	4,377	
Distribution and Transportation of Goods	3,958	10
Information	273	21
Finance, Insurance, Real Estate, and Rental and Leasing	1,711	5
Professional and Business Services	3,885	15
Education, Health and Social Assistance	1,742	167
Leisure, Accommodation and Food Service	2,053	16
Other Services (except Public Administration)	1,662	33
Public Administration	118	210
Not Elsewhere Classified	145	3
<b>Total</b>	<b>21,432</b>	<b>502</b>

Source: Legislative Service Office from information provided by the ETD.

*Most ETD accounts receivables are for employers with accounts older than 4 years* The ETD stated that some data and physical files on current and past employers may go back as far as 65 years. However, the current mainframe data system is programmed to “roll-up” delinquent accounts greater than 16 quarters old and delegate many of those. For debts over four years old, the system shows the cumulative dollar amount, but the ETD loses the ability to track debts by specific quarters and years on the old debts. As a result, ETD encourages field staff to work the most recent delinquencies before they roll up.

For accounts that have not rolled up however, ETD can track delinquent debts by each quarter, by jeopardy assessment, and

<sup>2</sup> ETD has information in its data system concerning employers with closed accounts, but stated it was not feasible to summarize the data according to the major industrial classifications in the allotted time to complete this audit.

general taxes owed. Every night, the data system updates account balances. However, field staff only receives monthly (not daily or weekly) delinquent analysis spreadsheets. These spreadsheets are used by staff to continue working delinquent taxes.

Also, ETD does not routinely track delinquent taxes by employer. Rather, it is most interested in tracking total dollars owed, not which employer owes the money. In other words, most tracking is done by quarter and by dollar amounts, not by individual or groups of employers.

ETD accounting and field staff focus on the most recent receivables and those for active employers. Table 7.2 summarizes the current accounts receivables on active and closed tax-based employers.

**Table 7.2**  
**Delinquent Accounts**  
**Delinquencies as of 9/30/10**

Length Employer/Account Delinquent on UI Taxes	Number of Employer Accounts		*Amount Taxes Delinquent		Amount Interest/ Penalties Delinquent	
	Active	Closed	Active	Closed	Active	Closed
One Quarter Delinquent	629	18	\$583,367.28	\$25,985.33	\$15,940.39	\$590.43
Two Quarters Delinquent	239	14	\$451,754.07	\$44,552.00	\$26,683.38	\$2,594.15
Three Quarters Delinquent	97	22	\$231,894.59	\$16,951.38	\$20,507.06	\$2,788.36
1 year Delinquent	88	24	\$221,823.27	\$38,493.66	\$25,306.34	\$5,667.72
1.1 - 2 Years Delinquent	178	137	\$640,960.01	\$193,961.57	\$104,522.75	\$48,588.05
2.1 - 3 Years Delinquent	65	160	\$399,088.33	\$313,865.55	\$155,429.88	\$155,793.64
3.1 - 4 Years Delinquent	39	113	\$189,303.70	\$258,461.29	\$73,960.98	\$151,895.84
Beyond 16 Qtrs. - In Roll-up	36	927	\$227,116.75	\$1,798,299.79	\$176,944.44	\$2,825,470.49
<b>**Total</b>	<b>1,371</b>	<b>1,415</b>	<b>\$2,945,308.00</b>	<b>\$2,690,570.57</b>	<b>\$599,295.22</b>	<b>\$3,193,388.68</b>

Source: Legislative Service Office from information provided by DOE.

\*Totals include \$849,767.32 (open accounts) and \$2,085,486.43 (closed accounts) of jeopardy tax assessments, pursuant to W.S. 27-3-510 (c). Since the 15 day time limit to file appeals has passed on these amounts, they are now considered "binding assessments" by ETD. It should be noted, that ETA does not require states to report jeopardy assessments or interest and penalties as delinquencies. They measure delinquencies by the amount of actual taxes due and payable.

\*\*According to ETD, it collected \$1,010,466.81 on delinquent accounts for the period 8/15/10 through 9/15/10 based on filed reports, which is reflected in the total amount(s) above.



*Delinquent tax collection is managed by the Compliance Unit's field staff*

Wyoming's Field Unit consist of one (1) Supervisor and ten (10) auditors: one (1) lead auditor; eight (8) field auditors (with combination audit and collections responsibilities); and one (1) compliance auditor who only handles out-of-state employer account collections. Most field auditors split their time between collections and compliance assignments (40%), and UI payroll audits (60%).

For CY 2009, the field staff conducted audits of more than 2% of active contributory employers. This met the DOL-ETA performance standard. Under the combination audit-collections responsibilities, the ETD's audit and collections responsibilities are showing in Table 7.3.

**Table 7.3**  
**Summary of Field Staff Audit and Collections Practices**

Field Audits	Delinquent Tax Collections
<ul style="list-style-type: none"> <li>• Auditors receive a list (by District) of accounts to audit (usually 25 at a time) from the Field Supervisor;</li> <li>• All audit assignment lists have a due/complete by date, and each audit on the assignment list must be completed once assigned, or a reasonable explanation of why it wasn't or can't be completed;</li> <li>• Types of Audit Assignments               <ul style="list-style-type: none"> <li>○ <b>Random Selection (47%)</b> - Random selection by field district (not audited in last 3 years);</li> <li>○ <b>Targeted Selection (40%)</b> - Random selection by industry code (NACIS) &amp; field district (not audited in last 3 years);</li> <li>○ <b>Referred (11%)</b> - Audits of employers where a problem is suspected</li> <li>○ <b>Verifications (2%)</b> - Wage Verification from Registration Unit; new UI accounts, where the employer is reporting no wages; or employer has requested to close a new account without ever reporting any wages; or ETD has closed a Corporation for reporting eight quarters of no wages, etc.;</li> </ul> </li> <li>• The Field Auditors use an Excel spreadsheet</li> </ul>	<ul style="list-style-type: none"> <li>• Wyoming's system will generate (same day) a Balance Due letter, if an employer submits quarterly reports on a paper form without full tax payment; employers can submit reports via the WIRE reporting system (49% of employers do so), but cannot submit electronic tax payments (payment are by coupon and check remittance)</li> <li>• Delinquent employers receive monthly Statements, dated the first business day of each month, as long as their account is in delinquent status. (Balance Due or missing Reports)</li> <li>• Employers who have not submitted their quarterly report will receive a "First Notice" (FN missing report statement) approximately 15 days after the due date.</li> <li>• Approximately 15 days after the FN statement, employers who still haven't submitted their quarterly report will receive a packet with a Notice of Estimated Taxes or Jeopardy Assessment (JA).</li> <li>• Approximately 31 days after the report due date employers who still haven't submitted or paid their quarterly report will receive another monthly statement. This is the second statement of the quarterly delinquency cycle or the JA statement.</li> <li>• Wyoming Statute (27-3-511(c)) states: before filing a lien the delinquent employer shall be given an</li> </ul>

Field Audits	Delinquent Tax Collections
<p>program to complete and document the field work.;</p> <ul style="list-style-type: none"> <li>• Account corrections, updates, and amended reports are submitted after field work is finished, usually prior to completing the narrative or final Audit Report;</li> <li>• Audits resulting in less than \$5 in tax and interest due are considered “No Change” audits for state criteria and are not keyed;</li> <li>• If an audit finds that any individual employees’ wages change by \$25 or more in a quarter, an amended wage list must be submitted;</li> <li>• If the audit finds substantial discrepancies, such as a 5% increase in tax due or reporting problems appearing to the auditor to have been present in other reporting periods, the audit is to be extended to the scope necessary to properly account for all payments for personal services.</li> </ul>	<p>opportunity for a hearing before the Commission or its duly authorized representative. Notice of the time and place of the hearing shall be mailed at least 15 days prior to the hearing.</p> <ul style="list-style-type: none"> <li>• Liens are filed after the Lien Hearings have been held. Wyoming’s current policy is to file liens on accounts with balances due of \$50.00 or more; it is also policy that liens be filed within two quarters of completion of the Automated Delinquency Cycle.</li> <li>• If the State has a bad address for an employer, or the delinquency control cycle is suspended due to staff request, audit, bankruptcy, or appeal, etc, the delinquent quarter(s) never completes the automated delinquency control cycle, and the employer may not receive notice, JA’s or lien hearing letter for the delinquent quarter(s).</li> <li>• If a current address is obtained for an account or the reason for the suspension of the delinquency cycle is resolved, the delinquency control cycle will start/restart.</li> </ul>

Source: Legislative Service Office from information provided by DOE.

### **W.S. 27-3-510 through 515 Sets Statutory Guidance**

Currently, the basic criteria and processes for Wyoming’s UI taxing system is detailed in W.S. 27-3-510 through 516. Section 510 details penalty interest that can be assessed on delinquent accounts, allows the DOE to pursue civil action against employers to recover taxes and interest, allows the department to issue jeopardy assessments (tax estimates for non-reporting employers), and to assess bonds on habitually delinquent employers. Section 511 allows the DOE to file liens on real property of the employer and to enter into installment agreements with employers.

A key feature of statute is to provide the ETD with criteria for keeping or canceling delinquent employer accounts. According to an ETA official however, it does not actively adjust or cancel delinquent accounts. Section 515 provides that direction as follows:

**27-3-515.** Adjustment or refund for erroneous collection; reduction of contributions and interest in certain cases; recovery by department.

*(a) An employer may apply to the commission or the commission may on its own motion provide for an adjustment of contributions or interest or for a refund if the adjustment cannot be made. This subsection applies only to payments made within three (3) years before the date of application or determination. Upon determination of an erroneous collection, the department shall grant an adjustment without interest for future contribution payments or if the adjustment cannot be made, refund the amount without interest from the fund.*

*(b) The department may upon its own motion or written application reduce or waive the amount of interest due under W.S. 27-3-510(a) if the collection of the full amount of interest is against equity and good conscience. If an employer is no longer subject to this act pursuant to W.S. 27-3-502, the department may reduce or cancel the amount of contributions or interest due upon a determination based on findings entered into the record that the employer is:*

- (i) Adjudicated insolvent by a court of competent jurisdiction with no remaining assets;*
- (ii) Deceased with no estate or the estate is closed and all assets are distributed;*
- (iii) A dissolved corporation with no remaining assets;*
- (iv) Not found within three (3) years after the date of termination of coverage under this act and has no property located in the state; or*
- (v) Not capable of paying the total amount due within three (3) years after the date of termination of coverage under this act, has no property in the state and failure to accept a partial amount of the total as settlement may result in a substantial loss to the fund.*

*(c) Subsection (b) of this section does not prevent the department from collecting the balance of interest and contributions not paid if its action was based upon a misrepresentation or omission of facts or if amounts due under this act are collectible at a future date.*

***ETD reviews  
delinquent accounts  
monthly and quarterly***

Under current statute, the ETD classifies employers delinquent if they do not pay their tax obligations and/or if they do not provide the appropriate tax report or wage lists each quarter. The ETD's current and continuous monitoring of employer delinquent accounts occurs quarterly as well as monthly thereafter.

Basically, the ETD updates its primary data file batch run of delinquencies each quarter after employer tax obligations are due to be reported and paid. Then, the ETD produces an Excel spreadsheet to specifically outline which employers are monetarily delinquent, reporting delinquent, or both. During each quarter's intervening two months, the ETD updates this spreadsheet with collections made by accounting and field auditing staff.

To accomplish this account monitoring, the ETD has both automated and field staff responsibilities to identify and collect

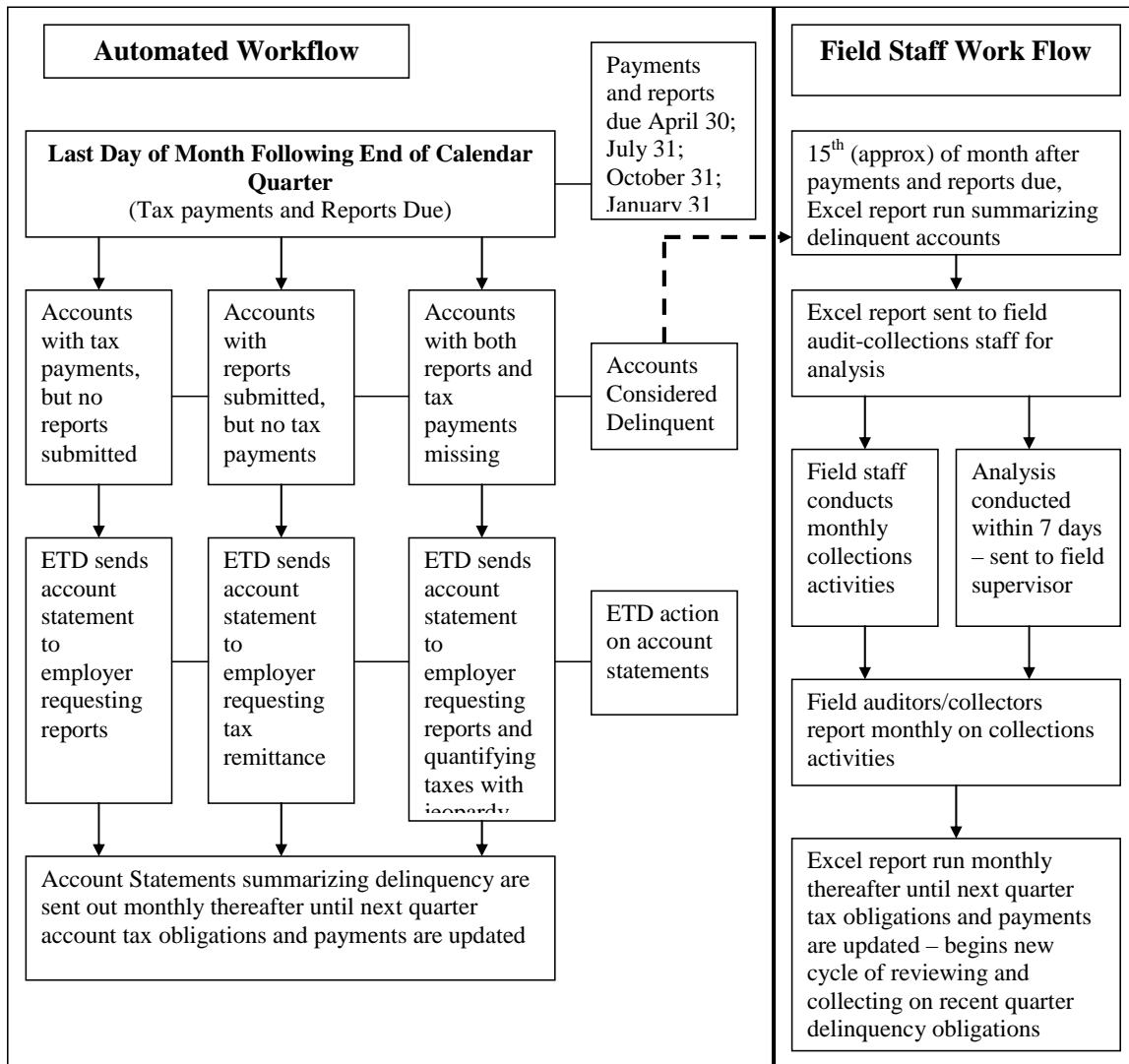
on delinquent employer accounts. Table 7.4 below shows the effective dates of the quarterly cycle of automated delinquent notices to employers. Figure 7.1 below the table shows the automated process in parallel to field staff manual workflow to collect on delinquent accounts. According to the ETD, there are some instances when the automated notices are suspended, including at field staff requests, when employers enter bankruptcy, when account actions are on appeal, and when employers cannot be found due to outdated (“bad”) contact information and addresses.

**Table 7.4  
Quarterly Effective Dates and Delinquency Tracking and Notice Cycle  
for Tax-Based Employers**

Quarter:	1ST	2ND	3RD	4TH	
<b>QE - Quarter Ending</b>	3/31	6/30	9/30	12/31	- Fixed
<b>DL - Delinquency Date</b>	4/30	7/31	10/31	1/31	- Adjustable
<b>FN - First Notice</b> Scheduled system update closes to the 15th of the month	5/15	8/15	11/15	2/15	Automated Process
<b>JA- Jeopardy Assessment</b> Notices/packets sent last week of FN month (Starting 2/07)	5/30	8/30	11/30	2/28	
<b>JA-Statement/2nd Stmt of Cycle</b> Monthly Statements dated 1st Business Day of each Month	6/01	9/01	12/01	3/01	
	JA Notice only on Monthly Statements until Q2				
<b>LH - Lien Hearing Letter</b> Around the 15th or middle of the Month	6/15	9/15	12/15	3/15	Manual Process
<b>Lien Hearings</b> Scheduled during first full week of the month	July 1-10	Oct 1-10	Jan 1-10	April 1-10	
<b>LF - Lien Filed</b> Lien filing begins immediately following the Lien Hearings	Jul - Dec	Oct - Mar	Jan - Jun	April - Sept	

Source: Legislative Service Office from information provided by DOE.

**Figure 7.1  
Delinquent Account Work Flow**



Source: Legislative Service Office from information provided by DOE.

**2010 Evaluations Showed Areas for Improvement**

At the request of the field compliance supervisor, the ETD internal auditor completed systems reviews in March 2010 of ETD’s field auditing and collections. Table 7.5 below summarizes the findings of those audits and shows that two of the six systems reviewed for field collections activities, poses

internal control risks.

**Table 7.5**  
**Areas needing improvement for ETD field staff audit/collections activities,**  
**as of March 30, 2010**

<b>Review Subject</b>	<b>System/Control at Risk?</b>	<b>Recommended Action-Action Taken by ETD</b>
<b>Audit Activities</b>		
Recorded Information and Instructions	Yes	Field audit manual updated as of August 2010
Training	Yes	Due to low staffing, turnover and hiring freeze, action limited to lower this risk
Recoding of Transactions and Events	No	No action required
System to Assure Execution of Events	No	No action required
Review of Completed Work	Yes	Audit supervisor and senior auditor share review workload; limited due to low staffing
Additional Controls	No	No other issues identified; no action required
<b>Collection Activities</b>		
Recorded Information and Instructions	Yes	Staff consensus and e-mail policies address individual case circumstances
Training	No	No action required
Recoding of Transactions and Events	No	No action required
System to Assure Execution of Events	No	No action required
Review of Completed Work	Yes	Develop systematic, consistent review procedures for collections actions taken; move toward automated rather than manual processes
Additional Controls	No	No other issues identified; no action required

Source: Legislative Service Office from information provided by DOE.

### **Managing Tax Debt**

Though W.S. 27-3-515 offers several ways in which the ETD may reduce or cancel employer tax debt and interest under certain conditions, the ETD stated that it generally does not write-off accounts for several reasons:

- When liens are attached, a collection can be made on older accounts;

- Bankruptcies are not always reported to the division where assets no longer exist to recover on the debt;
- As prescribed in statute, when an employer can be found, collection must continue – in the internet age, finding an employer is much easier than in the past, so collection activities must be pursued; and
- Verifying assets of employers when found is time consuming and difficult to assess.

Therefore, the ETD maintains a continuous balance of delinquent accounts, some older accounts. It focuses collection efforts on active accounts that are younger than four years when possible. With the automated notice system, the ETD will continue to update employer accounts whenever action is taken on the accounts. Though payments that are posted to delinquent employer accounts will alter the balance owed by certain employers, the state ETD office and field staff do not have a consistent way of easily tracking how field collections activities and methods impact accounts receivables for the Division.

*ETD does not track delinquency collections separate from regular tax assessments*

One of the central issues we found during our review of ETD's delinquent tax collection is that the division does not routinely track delinquency tax collection separately from regular tax collection. Generally, whether an employer pays on a delinquency directly to the state office or submits payment through a field auditor or collector, all tax payments are posted to accounts and not tracked according to regular or delinquency payment. This issue is addressed in the finding noted above in Table 7.5 related to data systems not supporting field staff collections activities.

According to ETD officials, the division will apply payments to taxes, beginning with current taxes due, then to fees and interests. However, if directed by the employer, the division may apply payment to previous quarters. It should also be noted that if an employer requests a statement summary of activity on delinquent accounts, the division does not have the ability to routinely provide account summaries from its mainframe. However, it does have the ability to provide imaged documents to illustrate previous actions.

Once delinquent accounts have been established, statute provides for the ETD to pursue or encourage delinquency collection via multiple means: 1) filing lien on property of the employer via data system generated lien hearing notice; 2) subpoena documents to support account delinquency establishment and to support collections actions; 3) file claims in small claims court for delinquency amounts less than \$5,000; 4) pursue civil court action against employers with \$5000 or more in delinquency debts; and 5) do not issue Certificates of Good Standing upon request for employers that remain delinquent.

According to ETD officials, other states' legislation has examples of ways to enhance collection activities. For example, Iowa statute allows its program to file and execute "distress warrants" upon a lien filed against a delinquent employer "*if the employer does not resolve the delinquency for which the lien was issued.*" Officials also cited Maine, which allows its program to file levies against third parties for delinquent taxes. Finally, an ETD official suggested that requiring employers who have various licensure requirements, to be in good standing with UID prior to granting licensure (i.e. licenses related to serving liquor, sales/use tax, plumbing, electrician, etc.). From what we understand however, UID or DOE officials have not formally suggested such alternatives to the Wyoming Legislature.

*Other processes are not automated* Currently, the ETD's data system does not systematically track the use of several collections methods, including small claims court filings-decisions and civil cases (though this avenue is not pursued often). The division also does not track subpoenas to individual employers, though the ETD was able to provide aggregate counts of subpoenas issues during each year (2000-present) due to a marker in its imaging system.

Tables 7.6 below shows a summary of liens filed through September 30, 2010 against active delinquent employers and Table 7.7 shows the total number of administrative subpoenas issued to delinquent employers to obtain required documentation on the employers' accounts.



**Table 7.6**  
**Number of Liens Filed by ETD**  
**September 30, 2010**

<b>NAICS Category</b>	<b>Employers with Liens Attached</b>
Raw Materials and Energy Production	57
Goods Production	377
Distribution and Transportation of Goods	194
Information	8
Finance, Insurance, Real Estate, and Rental and Leasing	47
Professional and Business Services	146
Education, Health and Social Assistance	62
Leisure, Accommodation and Food Service	165
Other Services (except Public Administration)	64
Public Administration	1
Not Elsewhere Classified	0
<b>Total</b>	<b>1,121</b>

Source: Legislative Service Office from information provided by DOE.

**Table 7.7**  
**Number of Subpoenas Served by ETD**  
**September 30, 2010**

<b>CY</b>	<b>Subpoenas by Calendar Year *</b>
2000	177
2001	198
2002	61
2003	87
2004	118
2005	30
2006	168
2007	177
2008	188
2009	252
2010	143
<b>Total</b>	<b>1,599</b>

Source: Legislative Service Office from information provided by DOE.

\* The ETD states that it does not track subpoena actions within its mainframe data system; these numbers represent counts from the Division's imaging system.

**Recommendation: ETD needs to better incorporate automated data tracking fields to collect and summarize field staff delinquency collections activities for both active and closed employers. It should also modify its mainframe data tracking system to run reports on delinquent accounts greater than four years (16 quarters old) to allow ETD staff to periodically review long-term active and closed employers' delinquent accounts and collections progress. Finally, ETD should work to develop a process to routinely generate account activity by employer.**

As stated in the 2010 collections systems audit conducted by the ETD's internal auditor, field staff collections activities are not systematically reviewed by the field staff supervisor. In addition, the division's policy of rolling up long-term delinquent accounts (whether active or close) from the current field staff tracking sheet after 16 quarters signals to field staff that these accounts are not important for maintaining a fully funded system. Also, if this potential revenue is never collected, it gives the appearance of future cash flow that is over inflated. If the data system can be effectively modified to better track and review UI delinquent tax collections, the field staff could operate more efficiently under current, limited staffing levels. Finally, rather than reliance on its imaging system, it should also work to develop a process to routinely generate statement activity for employers.

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## Chapter 8

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**Even under federal guidance, states have discretion to manage and implement their own program requirements and processes.**

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### **Wyoming Compared to Other States**

Wyoming's unemployment insurance program has to a large extent functioned admirably during recent years' swell of unemployment claims (see Table 8.1). Although Wyoming consistently meets federal performance benchmarks and requirements, there are always areas to improve. Researching other states helps us to discover alternative and progressive ways of conducting unemployment program functions.

### **Methodology**

To identify and review other states' UI programs, we took a three step process as follows:

1. Reviewed and analyzed federal Department of Labor and Employment, Training, and Administration (ETA) performance management scores for various western and rural states to help gauge where states ranked nationally and which states ranked similar to Wyoming in UI program performance;
2. Evaluated other states' publicly accessible website, education and other materials; and
3. Surveyed selected states to learn detailed information about their individual programs.

The following table provides a comparison of Wyoming and selected states as ranked to all 50 states in various areas.

**Table 8.1**  
**Comparison of Selected States to All States**  
**Federal Core Areas**

UI Performs Core Measures	Core Measure Rank of Comparator States							
	Wyoming	North Dakota	South Dakota	Montana	Idaho	Utah	Colorado	New Mexico
First Payment Promptness:	5	2	1	7	4	3	6	8
Nonmonetary Determination Time Lapse:	3	4	1	8	5	2	7	6
Nonmonetary Determination Quality-Nonseparations:	*	*	*	*	1	2	*	3
Nonmonetary Determination Quality-Separations:	*	*	*	*	3	1	*	2
<b>Overpayment Measure</b>								
Detection of Overpayments:	6	3	1	2	7	5	8	4
<b>Appeals Measures</b>								
Average Age of Pending Lower Authority Appeals:	2	4	5	6	7	8	3	1
Average Age of Pending Higher Authority Appeals:	6	8	3	2	1	7	4	5
Lower Authority Appeals Quality:	*	1	*	3	*	1	*	*
<b>Reemployment Measure</b>								
Facilitate Reemployment:	5	2	4	3	1	6	7	8

UI Performs Core Measures	Core Measure Rank of Comparator States							
	Wyoming	North Dakota	South Dakota	Montana	Idaho	Utah	Colorado	New Mexico
<b>DOL Secretary Standards in Regulation</b>								
First Payment Promptness (Interstate 14/21 days)	5	1	2	6	3	4	7	8
First Payment Promptness (Intrastate 35 days)	6	1	2	5	4	3	7	8
First Payment Promptness (Interstate 14/21 days)	5	1	2	8	3	4	6	7
First Payment Promptness (Interstate 35 days)	6	1	2	8	4	3	5	7
Lower Authority Appeals (30 days)	8	4	6	2	3	1	5	7
Lower Authority Appeals (45 days)	7	4	5	2	3	1	6	8

Source: Legislative Service Office from Department of Labor reports.

\* States did not submit any reports for the period.

From our overall analysis, we concluded that North Dakota, Montana, South Dakota, and Colorado were essential states to explore further. To expand our scope, we chose to include Idaho, Utah, New Mexico based on comparison factors. More specifically, selected states had similar performance on federal core measures, as did Wyoming. In addition, we selected states because of their contiguous proximity to Wyoming, as well as other factors such rural demographics.

All states, other than North Dakota, responded. From these replies, we have organized additional tables and discussion on respondent states to indicate trends, practices, and other program function ideas.

## Other States' Description

*Internet is becoming the most accepted method when taking claims*

**Claims Processing:** In Wyoming, the most common methods to take UI claims applications is through telephone and via the Internet. Though Wyoming also accepts claims applications through mail and fax, staff stated that this rarely occurs.

In other states, Internet claims submission is becoming the most popular method. For example, Idaho stated that it takes 99% of its claims over the Internet. North Dakota makes several references to Internet claim filing when reviewing information data or when calling the claims center. However, South Dakota and Wyoming are the only states that still take the majority of claims via the telephone. The following table provides additional information.

**Table 8.2**  
**Wyoming and Other States' Claims Taking and Processing Practices**

Survey Question	Wyoming	Utah	Idaho	South Dakota	Montana	New Mexico	Colorado
What types of applications methods are used	Internet, phone, mail, fax	Phone, Internet	Phone, Internet	Phone, Internet	Phone, Internet	NA	NA
Which method is used most often?	Phone	Internet	Internet (99%)	Telephone	Internet	NA	NA
Which method is used second most often?	Internet	IVR and/or Phone	Phone	Internet	Phone	NA	NA
Do staff manually modify claims submitted through the Internet	Yes	No	Yes	Yes	No	NA	NA
Are debit cards an option for payment?	Yes	Yes-2004	Yes-2010	Yes-2008	No	Yes-2008	Yes-2008
Is direct deposit an option for payment?	No	Yes	Yes-2009	Yes	Yes	Yes	Yes-2009

Survey Question	Wyoming	Utah	Idaho	South Dakota	Montana	New Mexico	Colorado
Are checks an option for payment?	Yes	No	No	No	Yes	Only when claimant switches from DC to DD	No

Source: Legislative Service Office from information provided by selected states.

*Direct deposit is the most used option for benefit payments*

As illustrated above, direct deposit is becoming the number one option for unemployment insurance payment. Every state that we surveyed had direct deposit, except for Wyoming. Most states also had debit card as an option for payment. Montana does not use debit card.

Another trend is the discontinuance of using paper checks as an option for benefit payment. Wyoming and Montana still use the check option; New Mexico only uses checks during the interim when claimants switch from debit card to direct deposit while account processing occurs.

*Other states organize unemployment and work services under the same agency*

**Program Organization:** Programs within other states are organized differently than that of Wyoming; as stated in the previous chapter, Wyoming split the basic workforce functions between two agencies: 1) the DOE; and 2) the Department of Workforce Services.

With Wyoming being the exception, every other state we reviewed has unemployment insurance and employment services located within the same agency. Furthermore, all the states we surveyed had UI benefits and tax functions within the same agency.

In addition to this overall agency organization structure, the majority of comparable states conduct claims taking within one or multiple claims centers. The variability in states' office locations include Montana's two claims centers and North Dakota's combination of claims centers and field offices. It should be noted that Idaho has 24 field offices around the state. The following table provides additional information on other states' organizational practices.

**Table 8.3**  
**Wyoming and Other States' Agency Organizational Practices**

Survey Question	Wyoming	Utah	Idaho	South Dakota	Montana	New Mexico	Colorado
<b>Are the UI benefit and tax functions within one agency?</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Is UI and employment services located within the same agency?</b>	No	Yes	Yes	Yes	Yes	Yes	Yes
<b>Explanation</b>	Work force services and UID divisions	WFS Department; UID, and Employment Services Divisions	DOL	DOL	DOL and Industry	Workforce transition Services Division	Same Department; Different Divisions: UI, Workforce, and Labor Market Information
<b>Claims center or field offices?</b>	Claims center	Claims center	24 local offices	Claims center	Two claims centers	Claims center	Claims center

Source: Legislative Service Office from information provided by other states.

**Alternate Language Materials:** As previously mentioned in the report, states are offering more available services and accommodations for claimants who speak alternate languages. For example, several states have translated their respective claimant and employer handbooks into other languages (primarily Spanish). States have also implemented telephone services in Spanish. However, states do not seem to track claimant literacy issues at this time. The following table provides additional information.



**Table 8.4**  
**Wyoming and Other States' Customer Education Materials and Practices,**

State	Wyoming	North Dakota	Utah	Idaho	South Dakota	Montana	New Mexico	Colorado
Are there Handbooks for claimants and employers?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Is there an alternate language for the claim application?	No	Yes	Yes	No	No	No	Yes	No
Is there an alternate language for instructional website content?	No	NA	No (There is instructional content on their website)	No	No	No	No	No
Is there an alternate language for Claimant & Employer Handbooks?	No	N	Yes for Claimants	Yes	No	Yes	Yes	No
Are there alternate languages for telephone applicants (Spanish, hearing impaired, etc)	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Are claimant literacy issues tracked?	No	NA	No	No	No	No	NA	NA
Is there an intrastate toll-free number available?	No	NA	Yes	No	No	No	NA	NA

Source: Legislative Service Office from information provided by other states.

**Staff, Training, and Oversight:** The number of merit staff ranges from eleven to 100. Several states were able to hire temporary employees, which ranged from zero to 50. Utah was not able to hire temporary employees, however, South Dakota only has between one to two temporary employees. Wyoming hired 19 temporary employees within the last year to assist several UID sections in handling the increases in claims and appeals processing.

Other states solicit customer service feedback in different ways. Wyoming uses Internet surveys, while other states sample based on activity, telephone surveys, optional surveys in local offices, or through complaint response. For example, South Dakota logs and tracks complaints through the complaint resolution. The following table provides additional information.

**Table 8.5**  
**Wyoming and Other States' Staff Training and Oversight Practices**

State	Wyoming	Utah	Idaho	South Dakota	Montana
What skills are staff evaluated on to show competence?	None Prescribed	NA	Review claims for errors, fact-finding, and issue eligibility determinations	Customer service, work quality, professionalism	Managers monitor calls, fact-finding, adjudication via BTQs, production, and timeliness
What training is used before staff are allowed to function?	Job Shadowing	NA	Shadowing and supervisor review	On the job	Classroom training
What skills are needed during the hiring & interviewing process?	Statute interpretation	NA	Ability to deal with difficult customers, assessing needs, interpreting policies, procedures, presentation skills, written skills, computer skills	Prior clerical and customer service experience	Spelling, data entry, listening, and skill-specific tests. Supplemental and behavioral interviews

State	Wyoming	Utah	Idaho	South Dakota	Montana
# of merit-based staff? *	34 (claims center)	30	100	11 claimstakers; 10 benefit processors; 5 adjudicators	100-110
# of temps? *	13	0	50	Usually 1 or 2	40+
Have additional staff been hired due to the increase in claims?	Yes- temps	No	Yes	Yes	Yes
Are there benefit fraud or overpayment investigators?	Yes	Yes	Yes	Yes	Yes
How do states survey for customer service?	Internet survey	Does not do	Optional surveys in claim and local offices	Sample based on recent activity	Telephone survey, complaint response, follow-up
Are claimants sampled multiple times during the process?	No	NA	No	No	NA
Are complaints tracked?	Yes	Constituent Affairs probably does	No, complaints are investigated	Yes	No, we respond to complaints

Source: Legislative Service Office from information provided by other states.

\* It is unclear that each state included only benefits/claims processing staff in their responses to the number of merit and temporary staff available for benefits and claims processing.

**States' IT systems face a variety of challenges** Tax and benefit systems have been updated anywhere from 1985 to being implemented in 2011. Montana reviewed both systems together, while other states implemented systems separately. Challenges that were mentioned included cost, time, training, and the ability for it to maintain priority.

From our surveys, we became aware that each state has automatic error detections built into their systems. Error notices include creating daily reports, detecting overpayments, producing delinquency reports, prompting if there is wrong data entered, not allowing payments until issues are resolved, finding bad addresses, identifying aliens, and tracking appeals,

overpayments and wage cross matches. The following table provides additional information.

**Table 8.6**  
**Wyoming and Other States' Information Technology Systems and Challenges**

State	Wyoming	Utah	Idaho	South Dakota	Montana	New Mexico	Colorado
<b>When was the tax assessment &amp; tracking system updated? Cost</b>	1987 (est.)	2007; \$2 million for Phase I	25 years ago	NA	2004; \$3.1 million	Implementing in 2011	1985; \$300K
<b>When was the benefit claims system updated? Cost?</b>	1985	2006; \$14 million for Phase I	25 years ago	NA	2001; \$7.5 million	2005	1996; multi-million
<b>Were systems reviewed together or separate?</b>	Separate	Separate	Working on consortium	NA	Together	Separate	Separate
<b>Any challenges?</b>	NA	NA	NA	NA	NA	Cost, time, training	Ability to maintain priority
<b>Is the state CIO involved in data system projects?</b>	Some	NA	No	Manages all IT resources	No	Reviewing & approving new systems and enhancements	Approving
<b>Does your system automatically detect errors?</b>	Yes, some	Yes	Yes. Error notices; daily error reports	Yes. Detects overpayments; produces delinquency reports	Yes. Reports for payments, bad addresses, aliens, appeals, overpayments, claims, wage cross matches	Yes. Prompts if there is a wrong date; will not pay unless issues are resolved	Yes

Source: Legislative Service Office from information provided by other states.

**Delinquent Tax Staff:** There are anywhere from five to 24 tax staff dedicated to delinquent tax identification and collection in the various states we surveyed. Unemployment insurance tax auditors and collectors often work together; however some states have two separate functions.

Every state that we surveyed also has fraud and overpayment investigators. Debt can remain unpaid for three to five years. Enforcement tools to settle delinquencies include subpoenas, withholds, garnishments, vendor intercepts, bonds, liens, writs, seizures, distress warrants, small claims judgments, levies, offsets, waivers, penalties, and interest. None of the state trust funds are reviewed by an actuary. Nevertheless, Idaho is required to notify the governor or legislature of solvency concerns. The following table provides additional information.

**Table 8.7**  
**Wyoming and Other States' UI Taxing Systems**

State	Wyoming	Utah	Idaho	South Dakota	Montana
Is bankruptcy cause to write-off employers' delinquent tax debts?	Yes	Yes	NA	No	Yes after discharge & beyond 3 years
What is the length of time debt remains unpaid?	Indefinite	3 years	5+ years	NA	5 years
Are delinquent debt records archived after a write-off?	Yes	Yes	No	NA	Yes
# of auditors dedicated to delinquent tax identification and collection? *	11 (including supervisors)	24	19	9	11
# of collectors dedicated to delinquent tax identification and collection? *	All but one staff are combination auditors-collectors	5	11	9	11

State	Wyoming	Utah	Idaho	South Dakota	Montana
<b>Do auditors and collectors work together or separately?</b>	All but one staff are combination auditors-collectors	Separately	Depends on staff abilities	Same staff; work together	Same staff; work together
<b>What enforcement tools are used to settle delinquencies?</b>	Subpoenas, Liens, Small Claims, Interest, Certificate of Good Standing, Civil Litigation	Subpoena, withholds, garnishments, vendor intercepts, bonds	Subpoena, liens, writs, seizures	Subpoena, liens, distress warrants, small claims judgments	Subpoena, liens, garnishments, levies, offsets, waivers, penalties, interest
<b>Is Trust Fund solvency reviewed by an actuary?</b>	No	No	No	No	No
<b>Is UI required to notify the Gov. or the Legislature of solvency concerns?</b>	No	No	Yes	No	No
<b>Is there an employer experience based taxing system to fund UI?</b>	Yes	Yes	Yes	Yes	Yes
<b>What is used to ensure Trust Fund solvency?</b>	Variable, experience-based tax system	Contribution rate formula	Fund is tied to tax rates and benefits	Surcharge	Reserve ratio method

Source: Legislative Service Office from information provided by other states.

\* It is unclear that each state noted separate tax field staff for auditing and collections functions; Wyoming's field staff are specifically tasked with both auditing and collections duties.

**Other Appeals Handbook:** Colorado provides claimants with an appeals process handbook. It describes in detail the step-by-step procedure of what to expect during a hearing. Unlike Wyoming's process of the claimant calling clerical staff to provide their personal number for the hearing officer to call them during the hearing, Colorado claimants are responsible for contacting the hearing officer.

For example, appellants initiate the call during the hearing. They are not contacted by the hearing officer. Therefore the accountability for appearing at the hearing is left up to the

claimant. For example, the handbook explains how serious hearing timeliness is and that the hearing will not be held if the appealing party is not on time.

Colorado's handbook also details the formality of the hearing including preparation steps, the procedure, cross-examinations, and the hearing officer's role. However, Wyoming appellants are repeatedly caught off-guard by the legality and processes of hearings. Having a detailed, informative handbook would assist an appellant in preparing for a hearing.

**Agency Websites:** Montana's website is notable. It offers the claimant handbook electronically in English, Spanish, and audio. There is an electronic calendar that posts every event that goes on throughout each month. This includes board meetings, panel discussions, and open sessions. The website also has an interactive benefit calculator that estimates a claimant's UI benefits.

## Summary of Other States' Review

Technology is changing and Wyoming must work proactively in order to best utilize staff, time, and resources. The state of Wyoming's operations remains highly manual despite countless options for improvement.

Several states have shown progression within their claims taking process, payment methods, and agency websites. However, UID continues to use its data system from the 1980s, which does not allow the particular features that other states currently operate. Rather than allowing direct deposit payments take over the paper check process, the agency continues printing, counting, and mailing checks in each payment week. In addition,

Wyoming has not implemented innovative techniques to engage and educate the public through its website, nor has it begun to translate significant materials into alternate languages. If the agency continues prolonging these critical functions, it will have to catch up later, wasting time and valuable resources.





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# Chapter 9

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## Conclusion

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The Management Audit Committee requested LSO to audit the effectiveness and efficiency of the UI program on a variety of fronts. In doing so, we encountered some challenges and contradictions in how the UI program is administered or how administration is complicated by the federal-state split in authority and oversight.

For example, though the program is required to meet various federal performance measures on both the benefits and tax sides, the program is still cited as a partnership between the federal and state governments. It requires extensive state statutory authority to manage the system and finances. Yet we confronted the issue of not gaining access to program primary data which limited our ability to provide a clearer and more detailed evaluation of the program. It remains unclear, despite the necessary state statutory authorization for both the UI program and LSO audits, that the Wyoming Legislature should be able to more effectively oversee and review the UI program.

Moreover, of particular concern during this audit is that the UI program is administered in a reactive manner rather than proactive manner. The best example of this approach is the fragmented way in which the divisions' information technology systems have progressed despite the BFY 2003 budget footnote requiring the divisions to re-write the mainframe data systems. Data system modifications made to date have addressed some customer needs for easier participation (i.e. internet application, etc.), but there have been fewer enhancements to alleviate the paper-intensive work steps for their own staffs.

Though funding and staff time are always challenging for programs, the lack of progress on such a system plan, let alone a full system re-write between 2004 and 2008, sets the tone for how the program could react to such a glut of claims in late 2008. In addition, under current AWIN project expectations, the divisions do not anticipate a tested and implemented system for up to five years (if AWIN is brought to fruition), making the

system re-write more than ten years out from the original legislative expectation.

Overall, many claimant, employer, or other constituent complaints about the UI program made over the last few years must be considered in context with the immense increase in claims over this time period. UI permanent program staffing in both the UID and ETD have remained level during this time and state executive branch agencies have even confronted the challenge of the state executive branch hiring freeze since Spring 2009. The divisions did attempt to supplement with temporary contract staff over the last year, but training these staff combined with their limited role to perform only certain duties has modestly worked to alleviate the immense workload.

As unemployment claims hopefully decrease in the coming months and years, the UID and ETD will be better able to resolve the findings discussed in this report. The divisions have stated such intent to use the expected down time to, for example, prioritize changes to its IT system (i.e. for direct deposit electronic payment of benefits and for electronic payment of employer taxes, etc.). It will also be necessary for the UID to more strategically and proactively address staff training, claimant education and customer service, and streamlined claims and appeals processing policies and procedures.

The divisions' path should be to not only consider easier or automated methods for customers to interact with them, but also focus on gaining as much automation and streamlining for program staff. We also encourage the divisions to work closer with the Department of Workforce Services to resolve issues identified by the DOL-ETA earlier this year. The agencies should strive for more seamless customer services by the agencies to Wyoming workers and employers.

Finally, Wyoming, as every other state in the United States, has had an unbelievable increase in claims in recent years. This is due to the recent recession. Wyoming's recession was not unexpected. Rather, it was anticipated. Instead of preparing for the increased unemployment, UID appears to have taken a passive role. When workload was enhanced, the division was

forced to react to the situation. To avoid another similar instance, Wyoming needs to become proactive now. Claims are beginning to decrease, which will give staff more time to implement new suggestions. One of the best ways to discover progress ideas is to review what other comparable states have implemented during or prior to the rise in unemployment rates.



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# **AGENCY RESPONSE**

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**Wyoming Unemployment Insurance Division**

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**DAVE FREUDENTHAL**  
GOVERNOR

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November 29, 2010

The Honorable David R. Miller  
Chairman, Management Audit Committee  
c/o Wyoming Legislative Service Office  
213 Capitol Building  
Cheyenne, WY 82002

The Honorable John Hines  
Vice Chairman, Management Audit Committee  
c/o Wyoming Legislative Service Office  
213 Capitol Building  
Cheyenne, WY 82002

Dear Chairman Miller and Vice Chairman Hines:

We appreciate the opportunity to respond the Legislative Service Office's (LSO) audit report, findings and recommendations dated December 15, 2010, specific to the Wyoming Unemployment Insurance (UI) program. The LSO evaluation team is to be commended for their substantive research and analysis, as evidenced by the detailed report on this complex program. We thank them for their professionalism throughout the audit.

The Department of Employment (DOE) acknowledges and is appreciative of LSO's conclusion and comment that, "Overall, the Legislature needs to know that the UI program is being administered in an efficient and effective manner to adequately serve Wyoming workers and employers." Audits of this magnitude, by their intrinsic nature, foster potential for differing interpretations and sentiments. Accordingly, the Department's response will concentrate largely on LSO's consequential recommendations, versus addressing either the inferences or judgments on which recommendations are based and we may differ.



## **BACKGROUND**

Nationally, the “Great Recession” has imposed heavy burdens, to include financial, on state unemployment insurance programs. On December 14, 2009, Jane Oates, Assistant Labor Secretary, was quoted as saying, “We are getting benefits to about 10 million people a week,” and “We are dealing with an unprecedented caseload.” Currently, 32 state programs have become insolvent and borrowed over \$40 billion from the federal government to cover the cost of unemployment benefits. The U.S. Department of Labor (USDOL) has projected as many as 40 states will accumulate loans of nearly \$65 billion before the system begins to recover.

In October 2008, with the degradation of energy prices, Wyoming entered the worst recession we have witnessed since the bust in the 1980s. Economists have rightfully noted that Wyoming’s ride has been even more violent than that experienced nationally. With the national job loss just above six percent from the peak, Wyoming’s loss as a share of the labor market is noted to have actually exceeded the nation’s. In short, our decline was very painful and rapid with employment in the state falling at a greater pace than at a national level, losing more than 21,000 jobs between November 2009 and January 2010. The state’s unemployment rate rose to 7.5% by December 2009, more than double the December 2008 rate of 3.4%. It is important to note that unemployment rates do not reflect the nonresident caseload, which is statistically attributed to the worker’s state of residence, but nonetheless comprises approximately one-fifth (1/5) of Wyoming UI’s caseload. A total of 37,312 individuals lost their jobs in Wyoming during this time period. As noted in the LSO report, “Benefits for BFY 2009 account for more than half (52%) of the total benefits paid during the last eight fiscal years.” Although the claims workload has improved and we are below the claims level of 2009, we are not down to the level realized during 2007-2008. In fact, October 2010 data documents an increase of 74.8% total UI claims filed over September 2010. Claims activity for November appears to be on the increase as well, although in part, normal seasonal patterns contribute.

In spite of proactive management initiatives, the sheer volume of applications and inquiries attained levels exceeding expectations, challenging technological and human resource capabilities. Tables 1 and 2 below illustrate the claims and claimant counts for calendar years 2007-2009 and provide an excellent snapshot of the overwhelming increase in UI beneficiaries and benefits. As a direct consequence of the increased UI caseload, protests and requests for appeals have increased proportionately, thereby also impacting the UI Hearings Unit.



**Table 1: Non-Normalized Comparison of Claims and Claimant Counts, 2007 - 2009**

Year	Initial Claims	Continued Weeks Claimed (Regular UI)	Unique Continued Claimants (Regular UI)	Extended Benefit Weeks Claimed	Total Weeks Claimed <sup>1</sup>
2007	21,794	140,307	14,436	0	140,307
2008	28,102	180,938	18,611	13,821	194,759
2009	56,359	524,033	39,922	127,205	651,238

**Table 2: Percentage Change Statistics for Claims and Claimant Counts, 2007 - 2009**

Comparison	$\Delta^2$ Initial Claims	$\Delta$ Continued Weeks Claimed (Regular UI)	$\Delta$ Unique Continued Claimants (Regular UI)	$\Delta$ Extended Benefit Weeks Claimed	$\Delta$ Total Weeks Claimed
2007 - 2008	28.9%	29.0%	28.9%	N/A	38.8%
2008 - 2009	100.6%	189.6%	114.5%	820.4%	234.4%
2007 - 2009	158.6%	273.5%	176.5%	N/A	364.2%

1. Total Weeks Claimed = Continued Claims (Regular UI) + Extended Benefit Weeks Claimed

2.  $\Delta$  is a symbolic abbreviation for "Change"

To briefly further illustrate the impact of the realized workload, total continued weeks claimed in November 2009 were 42,604 with another 22,412 extended benefit weeks claimed. This means in November the Division collectively processed 65,016 individual benefit weeks. The Claims Center's call volume has been phenomenal; between July and December of 2009 a total of 358,908 calls were received, an average of 59,818 calls per month. The Claims Center was originally staffed with 9 claims takers and 1 supervisor.

## **FEDERAL-STATE PROGRAM/PARTNERSHIP**

The federal-state Unemployment Compensation (UC) program, created by the Social Security Act (SSA), provides temporary and partial wage replacement to eligible unemployed workers. State unemployment benefits are financed through state payroll taxes, which are held in individual state accounts in the federal Unemployment Trust Fund in the U.S. Treasury. The administrative costs of the UC programs in the states are provided through grant funding from the Federal Unemployment Tax Act (FUTA) tax revenues, as deemed necessary, and authorized by the provisions of Title III of the SSA. The administration of a state UC program encompasses the following: (1) processing initial and continued claims and benefit payments for both state and federal claims; (2) collecting unemployment taxes; (3) preventing improper payments and fraud; (4) answering questions received from UI claimants and employer taxpayers; and (5) adjudicating disputes about job separations between UI claimants and employers. Both during and subsequent to the recession, nationally the unprecedented number of initial claims filed and continued weeks claimed have created a plethora of administrative challenges for state programs, Wyoming included.

The UC program is a unique federal-state partnership within which state laws authorize state unemployment insurance programs under the auspices of federal law. SSA and FUTA set forth broad coverage and benefit provisions, the federal tax base and rate, and administrative requirements. The federal Employment and Training Administration (ETA), an entity of the USDOL, is vested with the authority and responsibility for organizing, implementing and putting into operation employment and training policies, programs and activities pertinent to FUTA and UC. Specific to state UC programs, the major functions of the federal government are to:

- Ensure conformity and substantial compliance of state law, regulations, rules, and operations with federal law;
- Determine administrative fund requirements and provide money to states for proper and efficient administration;
- Set broad overall policy for administration of the program, monitor state performance, and provide technical assistance as necessary; and
- Hold and invest all money in the Unemployment Trust Fund until drawn down by states for the payment of compensation.

## **FEDERAL PERFORMANCE OVERSIGHT**

Intrinsic to ETA's stewardship of the UI program is the State Quality Service Plan (SQSP). The statutory basis for the SQSP is Title III, Section 302 of the Social Security Act that authorizes the Secretary of Labor to provide funds to administer the UI program and Sections 303(a)(8) and (9) governing the expenditure of those funds. An annual State Quality Service Plan is required of all states and serves as the state's management and service plan. With a focus on continuous improvement, it is the grant document through which states receive federal UI administrative funding. Plans are prepared annually as administrative funds for UI operations are appropriated each year based on a projected workload and serve as the vehicle ETA uses to identify areas in which they will focus attention and resources for overall UI program planning. Contingency funds are provided to states after-the-fact to compensate for workloads processed in excess of initial projections. However, this revenue is not part of the initial administrative funding and obviously cannot be relied upon long-term. It is through this funding mechanism and methodology that ETA over time has successfully fine-tuned and essentially directed the administrative operations, to include staffing levels, call center centralization efforts, etc., of all states.

The SQSP serves as the implementing document for the comprehensive performance management system for state UI programs. The SQSP is used to plan, record and manage states' improvement efforts focused on service excellence and client centered services. The system includes both criterioned (Core Measures) and non-criterioned (Management Information) measures. The Core Measures are indicators of how well programs perform critical activities. These encompass performance standards specific to Tax, Benefits, Appeals, and Reemployment and incorporate 11 standards, which predominately address timeliness and quality. Management Information Measures, a total of 66, provide additional insight into UI program operations and performance. The USDOL website addressing UI Performance Management is located at: <http://www.ows.doleta.gov/unemploy/performance.asp> with explanation and voluminous detailed performance analyses and reports available on all individual states.

The SQSP is a dynamic document utilized to embrace continuous improvement through strategic planning and establish priorities through the planning process. The annual SQSP incorporates the following:

- Responses to federally identified priorities;
- Performance assessment information;
- Short- and long-term strategies for achieving performance targets;
- Corrective Action Plans (CAPs) for failure to meet core performance criteria; and



- State strategies for evaluating customer satisfaction and gaining customer input to promote performance excellence.

Regarding performance, it is noteworthy that on October 23, 2007, the Wyoming Department of Employment Unemployment Insurance Division was the recipient, for the second consecutive year, of a national USDOL award for Timely and High-Quality Unemployment Insurance Claimant Decisions. This award is for excellence in the UI system and acknowledges agencies who have demonstrated the highest levels of performance in key areas of state UI operations that are most critical to success. Emily Stover DeRocco, Assistant Secretary for USDOL ETA, wrote the following to Governor Freudenthal, “It is gratifying to know that workers and businesses in your state are receiving the outstanding services offered by staff at the Wyoming Department of Employment.”

### **UNEMPLOYMENT INSURANCE DIVISION (UID) & UNEMPLOYMENT TAX DIVISION (UTD) AUDIT OVERSIGHT**

Consistent with and in addition to the federal performance oversight as noted above, UID and UTD are also subject to a multitude of additional ongoing audits and reviews. To illustrate, audits conducted within the past 12 months include:

- McGee, Hearne and Piaz pursuant to Single Audit Examination/Comprehensive Annual Financial Report (CAFR).
- USDOL audit of Emergency Unemployment Compensation and Federal Assistance Compensation claims.
- USDOL Four (4) Year Joint Federal/State Tax Performance System (TPS) audit.
- Annual Tax Performance System (TPS) audits. These are conducted by the internal auditor for UTD annually throughout the year. TPS is a required activity encompassing 12 UI tax functions that cover all aspects of UI tax. Each function has a threshold UTD must pass to remain in compliance with USDOL requirements; two or more failures in a given area require corrective actions identified in cooperation with USDOL.
  - USDOL’s 407 Handbook identifies the requirements for each function. These must be strictly followed by the TPS auditor. Each state’s TPS results are reviewed in-house once every four years by a team of USDOL Regional staff and TPS reviewers from other states.
- A contractor hired by USDOL, Office of Inspector General (OIG), to audit the status of the UI Modernization effort under Unemployment Insurance Policy Letter (UIPL) 14-09.
- As-is Reviews by IAG. The Arizona, Wyoming, Idaho, and North Dakota Information Technology (IT) Consortium (AWIN) vendor, IAG, sent three staff to Wyoming to review the UI tax and benefits programs as they exist today. Most UTD and many UID staff were involved at some level with this portion of the AWIN project which lasted approximately five weeks.

### **CONFIDENTIALITY & DISCLOSURE**

Federal regulations establish stringent standards for the confidentiality and disclosure of state UC information. Section 303(a)(1), of the Social Security Act, generally requires states to maintain the confidentiality of UC information. The Department of Labor interprets this section to include provisions

for maintaining the confidentiality of any UC information, which reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, and must include provisions for barring the disclosure of any such information. These standards are set forth in the Code of Federal Regulations (CFR) as follows:

- Title 20 - Employees' Benefits
- Chapter VIII - Employment and Training Administration, Department of Labor
- Part 603 - Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information
  - Subpart A - In General
  - Subpart B - Confidentiality and Disclosure Requirements
  - Subpart C - Mandatory Disclosure for Income and Eligibility Verification System (IEVS)

Specific to LSO's narrative regarding "Scope Limitation" and access to data systems, the Department does not completely agree with their assessment of our discussions and the course of events; however, further debate regarding this issue serves no constructive purpose. What does generate explanation and is germane to LSO's request for direct data systems' access to confidential UC information are the federal regulations specific to confidentiality and disclosure of state UC information in Subpart B, §603.2 through §603.12. As to the components required in an agreement, §603.12 leaves little latitude to states as to the specific provisions mandated in such. Because of the egregious sanctions that could be imposed upon the agency, as well as the employers of this state for noncompliance, the Department must and will conduct all appropriate due diligence to ensure compliance with SSA's requirements. It is notable that pursuant to §603.12, "How are the requirements of this part enforced?", the penalties imposed on the state UC agency and/or state for noncompliance with these regulatory provisions can potentially: 1) terminate payment from the Secretary of Labor for the state UC agency's administrative costs and, 2) result in a loss of the employers' FUTA credit (5.4% per employee on wages up to \$7,000 per year) because the Secretary of Labor shall make no certification to the Secretary of Treasury that the state's plan is in compliance. For SFY 2010, the Department received in excess of \$10 million for administrative funding. The average quarterly covered employment in the first quarter of 2010 was 260,439 individuals, which with the potential loss of the FUTA credit, translates into an impact to Wyoming's approximate 22,000 employers in excess of \$98 million annually. Hence, the ramifications for noncompliance would be devastating.

The Department deemed it prudent for the aforementioned reasons to defer to the confidentiality and disclosure regulations pertinent to UI and to USDOL's guidance to the Department. In USDOL's defense is Article I, Section 8 of the United States Constitution setting forth the Necessary and Proper clause, which implies that the federal government is allowed to take the necessary and proper measures to establish laws benefiting the greater good. Article VI of the Constitution conveys the supremacy clause, stating that a federal government's voice shall be the "Supreme Law of the Land," and judges in every state, regardless of the individual state's opinion on the matter, are obligated to obey the laws established by the federal government.

## AGENCY RESPONSE TO INDIVIDUAL RECOMMENDATIONS

LSO kindly prefaced their recommendations noting the importance of realizing the claims volume and workload processed by the UI program has increased substantially. In this context, the Department believes it is critical to note the timeliness of our ability to follow through on commitments on the following recommendations is predominately predicated on workload and the commensurate availability of resources, which can be inadvertently affected by a multitude of external factors. We are cautiously optimistic that with a gradual improvement in the economy, the workload will ultimately normalize, thereby once again affording the opportunity to operate in a proactive manner. Following are the Department's respective responses to LSO's nineteen (19) recommendations:

**Chapter OSM, Recommendation Number N/A, page xi:** "The Management Audit Committee may wish to consider requesting that the U.S. Senate Committee on Health, Education, Labor, and Pensions request that the Government Accountability Office (GAO) review confidentiality provisions within the SSA and related CFRs to determine if a State audit exception is needed to ensure appropriate and independent State oversight of UI programs across the nation."

**Agency Response: NA**

**Chapter 2, Recommendation Number 1, page 30:** "The UID should thoroughly review its current manual work steps for processing application and appeals and work with its information technology staff on solutions to lessen paper and manual task for staff. Immediate emphasis can be placed on moving toward making less or no staff reviews required on internet applications and can expand to other processes after management review."

**Agency Response: Partially Agree**

The second and third phase of the UID Telephone and Internet Claims Project (TIC), which is ongoing, should reduce the manual processing involved in claims taking. The goal of any automated system is to reduce the manual intervention; however, review by trained staff cannot totally be eliminated without affecting quality and potentially increasing overpayments.

The current rewrite of the Appeals package will reduce the time spent manually processing appeals. The speed of doing this is hindered by staff turnover and ongoing elevated incoming workflow.

In the AWIN project, the potential for efficiencies is being reviewed in all UI processes.

**Chapter 2, Recommendation Number 2, page 31:** "The UID should transfer the administrative functions, including scheduling of hearings, currently performed by the Chief Hearing Officer to section clerical staff. The Chief Hearing Officer should be scheduled to conduct hearings, particularly in times of increased workload."

**Agency Response: Agree**

The Chief Hearing Officer took on the scheduling of hearings upon the retirement of the office manager who had many years of experience, knowledge and judgment in this vital task. Due to the rapid



and increased workload and staff turnover, it has been difficult to “sit down” with the new clerical staff and train them on the many details of scheduling hearings. The transfer of this duty continues to be a priority, while training the new staff to meet the day-to-day challenges of all of the Appeals processes.

The Chief Hearing Officer has in the past and will continue to conduct hearings while also managing the Appeals section.

**Chapter 2, Recommendation Number 3, page 38:** “The UID should continue to revise its website and Claimant Handbook to provide more thorough information on significant topics including required claimant audits and reviews, the ReliaCard program, appeals processing, and appeals hearings.”

***Agency Response: Agree***

This is an existing ongoing process. Efforts will be expedited once key program areas and resources are not adversely impacted with workload.

**Chapter 2, Recommendation Number 4, page 39:** “The Unemployment Insurance program should initiate translating UI program website information and the Claimant Handbook into Spanish. In addition, UID should pursue bi-lingual staff hires when possible.”

***Agency Response: Partially Agree***

UID has and will continue to take the needs of non-English speaking claimants into consideration. Admittedly, we believe the needs of our constituency are being met, given the limited number of negative comments received as to our current procedures. Translating the Claimant Handbook into Spanish and development of a bi-lingual website will continue to be considered as resources become available, including greater access to individuals with these language skills.

UID staff has access to the language line for interpretation services for non-English speaking claimants, which affords assistance for multiple languages. Claims staff survey responses to questions about non-English speaking claimants, on pages C-3 through C-6, indicate that the language line is an effective tool.

According to recent Census information from a 2006-2008 American Community Survey, Wyoming’s percentage of Spanish or Spanish Creole speaking population was 4.2% and of those surveyed, 65.4% of them report that they speak English very well. UID is currently in compliance with both federal and state requirements to provide bi- or multi-lingual services. Please see USDOL Training and Employment Guidance Letter NO. 26-02 <http://wdr.doleta.gov/directives/attach/TEGL26-02.html> and Wyoming Statute §8-6-101, English as official language of Wyoming.

**Chapter 2, Recommendation Number 5, page 48:** “The Commission should require hearing officers to call appellants at the beginning of hearings with the most current contact information from the appealing parties.”

***Agency Response: Disagree***

This recommendation implies the agency is not currently calling appellants with the most current contact information. The hearing officers call the participating parties based upon the most current contact information requested of the parties through the "Notice of Telephone Hearing." The parties are sent the notice when the hearing is scheduled, which requests that both parties furnish the Telephone Number(s) and Name(s) of the Person(s) who will testify in the hearing at least 24 hours in advance of the hearing date as listed on the notice.

The notice tells both parties not to assume that the Appeals section has their phone number because they have previously provided it to some other employee within the Division. There is also a specific note on the notice that states: "If you do not receive a telephone call from the Appeals section at the number you furnished within ten (10) minutes after the above scheduled hearing time, call (307) 235-3246 or 235-3299."

In the "Instructions for Telephone Hearings" it states, "If you fail to answer the telephone number furnished by you, a decision will be made based on the available information and a default decision may be issued."

In the past, employers voiced concerns that by the Division calling the number of record it generally gave the claimant an unfair advantage in hearings. Claimant numbers on record were generally more current than employer numbers. Also, employers may have given a number upon registration that would not connect the hearing officer to the employer's witness party to the hearing. For these and other reasons, the above "Notice of Telephone Hearing" procedure is followed.

**Chapter 2, Recommendation Number 6, page 48:** "The UID should look into providing a supplement to the Claimant Handbook that provides more extensive and thorough information on the appeals process, particularly with respect to how hearings are conducted and how appealing parties must comply with hearing requirements."

***Agency Response: Partially Agree***

If it is necessary for a claimant to file a protest, they are sent detailed information regarding the process once their protest is received. A supplement to the Claimant Handbook would increase printing/postage costs for the Division. The Claimant Handbook will be reviewed to see if modified or additional language can be incorporated into the "Protesting a Decision/Determination" section of the Handbook, which was intended to provide a general overview of the process.

In addition, UID is converting a VHS tape of Appeals instructions done several years ago into a digital format for use on our website. This will provide a visual/audio supplement available to claimants/employers 24 hours a day.

**Chapter 3, Recommendation Number 7, page 56:** "The UID and ETD should scope out a long-term IT plan for the Legislature to detail how and when the agency can expect to meet the Legislature's BFY 2003 requirement to rewrite the tax and benefit mainframe data systems. This should include integrating functions performed by the current add-on system components."

***Agency Response: Partially Agree***

UID and UTD are aware of the existing requirements from the office of the Chief Information Officer (CIO) regarding information technology projects and have complied with and will continue to comply with those requirements. Contrary to LSO's statement, "From 2003 to 2009, neither division engaged in a project to rewrite the mainframe data systems...", twice UID and UTD hired consultants to provide recommendations for the best approach to rewrite the systems. The first study was started in 2003, conducted by Maximus, and resulted in a recommendation to work on small projects to create "quick wins" for employees and clients. The second study was conducted in 2005 and 2006 by Limelight Technologies and had the same results. Neither study provided adequate recommendations on the best technology to completely replace the mainframe programs. UID began the planning of the REX project (2008) to rewrite functions of the Benefit system moving from the mainframe to the internet server environment. These plans were cut short with the retirement in May 2009 of our AWEC in charge of developing the project.

UTD projects completed with rewrite monies include an automated Certificates of Good Standing program (2007), E-Registration for Employers (Internet application, 2008), and an Electronic Funds Transfer program for employers (in development). UTD used A&I's Master Service Agreement (MSA) processes for an outside developer to work on these projects. UID has been developing and implementing Internet Continued Claims (2005), integrated IVR (2009) and Telephone Internet Claims first phase (2010). Testing must be completed by experienced staff and balanced with their regular workloads, as UTD and UID cannot hire staff to backfill positions.

UID and UTD respectfully disagree with LSO's comment, "This should include integrating functions performed by the current add-on system components." Both the Maximus and the Limelight Technologies studies recommended development of add-on components to create "quick wins." Throughout the AWIN IT Consortium sessions, emphasis has been placed on modular programming to reduce the impact of problems in one area affecting the entire system. UID and UTD believe following information technology best practices is the desired approach.

**Chapter 3, Recommendation Number 8, page 57:** "The DOE needs to keep the Legislature and A&I ITD informed of the progress on the current AWIN project and to detail, when it becomes known, potential funding and implementation requirements and deadlines that may require the Legislature's and A&I ITD assistance."

***Agency Response: Agree***

DOE is aware of the existing requirements from the CIO's office regarding information technology projects and has complied with and will continue to comply with those requirements. DOE is also aware of the need for legislative approval on budget items and has complied with and will continue to comply with those requirements.

Project detail can be provided at many levels. Information gathered so far on the AWIN project fills approximately three 3-inch binders. DOE respectfully requests guidance from the Legislature regarding the specifics of any detail desired beyond currently established IT protocol and procedures.



**Chapter 3, Recommendation Number 9, page 61:** “The UID should develop a minimum and standard written training curriculum for new staff hires in each of its sections, particularly for staff in the claims center and appeals sections. UID supervisors should be instructed to evaluate staff during their probationary period based on the specific skill-set established by these written standards.”

***Agency Response: Partially Agree***

This recommendation does not take into account the commitment the UID has to ongoing training and actual training currently in progress at the time of the draft report. The realities of federal budgets, limited staffing and state policy make some training either unaffordable or more difficult to complete. Holding probationary staff to meet certain requirements, while not always being able to provide the resources to meet those requirements, is setting people up for failure in our assessment.

UID will pursue development of a more standardized checklist of areas where new staff needs to be trained for certain positions.

**Chapter 3, Recommendation Number 10, page 62:** “The UID should develop refresher training for longer-term staff and revisit its training curriculum periodically to formally incorporate or eliminate emergency changes as implemented through its e-mail staff notification process.”

***Agency Response: Partially Agree***

UID has been providing training as appropriate to existing staff. Recently due to the increased workload, it has been extremely challenging to train staff in groups as it reduces the number of employees available to answer phones. The e-mail notification system allows the notice to be sent to all staff immediately and if they have questions, answers are provided to the group.

Once the current workload has subsided, we will return to group training that offers the opportunity for questions and participation. In the past, we have used both in-person and on-line training.

**Chapter 4, Recommendation Number 11, page 72:** “The UID should reinstitute the Quality Control Team and begin monthly review and monitoring of BAM-identified errors to provide for a more coordinated and consistent feedback loop for section managers to work through necessary policy and procedures changes.”

***Agency Response: Agree***

Materials have been provided to team members to discuss with staff; meetings will begin this quarter.

**Chapter 4, Recommendation Number 12, page 79:** “The UID should establish a more formal and active method for reviewing, analyzing, and using survey feedback.”

***Agency Response: Agree***

UID will develop a review team.

**Chapter 5, Recommendation Number 13, page 89:** “The UID should prioritize its current work to set up the electronic direct deposit payment method for UI claimant beneficiaries. It should also set project planning and implementation benchmarks including deadlines for testing and full program implementation.”

***Agency Response: Partially Agree***

UID is managed by the Administrator as to the priorities arising each day, with the distinct goal of continuing the existing projects the Division has committed to and bringing such to fruition. Limited resources call for the shifting of staff to address production concerns which affect the payment of benefits. The Direct Deposit workgroup is currently meeting and working through our plan to develop and implement Direct Deposit in conjunction with the EFT process being developed by UTD.

**Chapter 5, Recommendation Number 14, page 89:** “UID should work with U.S. Bank to provide additional program information to which debit card claimants have easy and continual access when they use benefits and provide more program information on the DOE-UI website and Claimant Handbook.”

***Agency Response: Partially Agree***

Claimants have unlimited US Bank live Customer Service Representative (CSR) assistance available 24/7 for balance inquiries, transaction history, reporting lost or stolen cards, etc. They also have unlimited online access to that information.

If a claimant elects to be paid by debit card, they are advised by UID they will receive a ReliaCard from US Bank. Once US Bank receives the enrollment, they provide the claimant with a flyer advising they will receive a card, how to activate it, how to use it, contact information, etc. When the card is received, it is in a card carrier with explanations on how to use the card, contact information, etc. US Bank also sends a usage guide to claimants and a pamphlet of Frequently Asked Questions.

Posters are located in the Department of Workforce Services (DWS) Workforce Centers and libraries advising claimants they can opt to select debit card payments when they apply for benefits.

The UID Claimant Handbook includes three (3) paragraphs on debit cards. The ReliaCard number to activate the card is provided along with information on how benefits will be deposited on the card, security issues, and how the claimant can use the card without any fees. Once funds are deposited on the card, UID has no authority in the claimant’s card activity; no more than if a check payment was made to the claimant’s bank account. UID readily provides information to the claimant on when the funds were deposited on the card and researches any problems the claimant is unable to resolve with US Bank directly.

In the interest of promoting customer service, UID agrees and commits to sending a courtesy reminder to claimants that they will receive a debit card, how to use it at no cost to receive cash or make purchases, and how to contact US Bank with questions about the card.

**Chapter 5, Recommendation Number 15, page 94:** “The UID and ETD should combine current UI program reporting to the Legislature and provide a more detailed and comprehensive report of the UI



program statistics-finances as well as reporting requested under 2009 Laws, Chapter 161 to encompass both tax and benefit side issues.”

***Agency Response: Partially Agree***

W.S. 27-3-306(a)(i)(D) requests very limited benefits information, solely related to benefits paid to individuals receiving benefits as the result of relocation due to a job transfer of a spouse. UI tax and claims statistics are provided annually in a report to the Labor, Health and Social Services Committee that is due by September 30th of each year. This report includes Workers’ Compensation information that is reasonable to combine with UI data per W.S. 27-14-201(c).

DOE does not wish to unduly burden the Legislature with multiple reports containing duplicate information. Reports are submitted within the statutory timelines, making it difficult, if not impossible, to combine the two reports into one and still meet the statutory requirements. DOE respectfully requests guidance from the Legislature should additional reporting be desired to encompass pertinent components, data and time frames for submission. The Department has substantive ad-hoc capability and often produces reports for members of the Legislature specific to key issues; perhaps this represents a viable alternative.

***Chapter 6, Recommendation Number 16, page 104:*** “DOE should study the impact of federal and state legislative initiatives since the late 1990s, to determine whether its current condition of providing services is adequate. It should also include any problems related to its current organizational structure and make its results available to the Management Audit Committee for further consideration.”

***Agency Response: Disagree***

DOE has neither the staff resources nor federal funding authority for a study of the impact of federal and state legislative initiatives. UID and UTD are providing the services required of the UI program pursuant to the extensive oversight of the USDOL, which includes UI Performs, the comprehensive performance management system. Additional services such as job placements, résumé assistance, etc., are outside the scope of the UI program.

Any potential changes deemed appropriate to the current organizational structure would be handled through appropriate channels.

***Chapter 6, Recommendation Number 17, page 111:*** “The DOE should revisit its 2003 MOU agreement with DWS and revise the cooperation and collaborative requirements necessary to better identify and implement UI program information tracking requirements and meet today’s customer service expectations of Wyoming’s unemployed workforce.”

***Agency Response: Partially Agree***

The 2003 MOU is essentially appropriate as written. Admittedly, there is room for improvement in the identity and implementation of UI program information tracking requirements in cooperation with DWS. The tracking limitations are primarily related to technological limitations of the DWS job search program, [www.wyomingatwork.com](http://www.wyomingatwork.com). Services such as those offered in Utah and South Dakota (mock interviews, workshops on résumés, interviewing, technology, communication, budgeting, internship

placements, job search assistance, business workshops and Career Expos) are funded in those states through the Employment Services programs. These programs are within the scope of DWS in Wyoming. The UI program does not receive funds for these activities.

The data needed to expose claimants to suitable openings in the labor market is secured by UID during the claims taking process. Revising the current Wyoming at Work system, and any future systems, to retrieve this information and use it to assist claimants with re-employment would potentially further assist Wyoming's unemployed workforce.

**Chapter 6, Recommendation Number 18, page 112:** "The DOE should hold more formal, periodic coordination and planning meetings with the DWS to discuss and address the issue outlined in the January 2010 DOL-ETA consultant memorandum. These meetings should set specific goals and deadlines for how to better meet the intent of the memo's recommendations."

***Agency Response: Agree***

During this Administration, the two departments have conducted multiple periodic meetings for purposes of promoting efforts to enhance service delivery for our mutual customers. In fact, we did meet to review and discuss the memo's recommendations as set forth in the above referenced consultant memorandum. Regrettably, our respective needs to focus all available resources, in order to serve the public to the best of our abilities, temporarily preempted further planning sessions.

Given the anticipated changes at the Cabinet and administrative levels in at least our Department, such meetings would be best arranged after the end of the 2011 Legislative Session. It is our expectation the respective directors will be amenable and concur with this recommendation with the development and implementation of a strategy for more formal planning meetings.

We do have a cooperative, collaborative relationship in facilitating reemployment of UI claimants. Recipients must be actively registered for work with their nearest state Workforce Center within fourteen (14) days of filing an unemployment claim. UI beneficiaries are required to make an effort to find work with a minimum of two (2) employer contacts per week. Given these requirements, many unemployed claimants frequent the DWS offices. As part of our inter-agency coordination efforts and in the interest of customer service, computers, fax machines and direct lines have been installed in the DWS offices for immediate access to UI. At this time, UI is providing direct phone lines in Sheridan, Riverton, Jackson, Cody, Gillette, Rock Springs, Casper, Afton, Rawlins, Evanston, Kemmerer, Laramie, Worland, Lander, and Douglas. Powell was placed on hold because of a move. It is also notable that UI reimburses DWS on a monthly basis for FTE time billed for claimant assistance directly attributable to UI benefits.

DOE agrees communications can and should be improved between DOE and DWS and will continue ongoing efforts with DWS to optimize service delivery for UI claimants.

**Chapter 7, Recommendation Number 19, page 126:** "ETD needs to better incorporate automated data tracking fields to collect and summarize field staff delinquency collections activities for both active and closed employers. It should also modify its mainframe data tracking system to run reports on delinquent accounts greater than four years (16 quarters old) to allow ETD staff to periodically review long-term active and closed employers' delinquent accounts and collections progress. Finally, ETD should work to develop a process to routinely generate account activity by employer."



*Agency Response: Partially Agree*

UTD has multiple levels of automated collection activities, including issuing first notices, monthly statements of account, assigning Jeopardy Assessments (estimated taxes), and lien processes. The additional collection activities available to UTD field staff cannot be automated because of outside restrictions.


UTD respectfully disagrees with the statement within the report, "One of the central issues we found during our review of ETD's delinquent tax collection is that the division does not track delinquency tax collection separately from regular tax collection. Basically, whether an employer pays on a delinquency directly to the state office or submits payment through a field auditor or collection, all tax payments are posted to accounts and not tracked according to regular or delinquency payment." Payments are applied as required by UI rules. It would take staff time to identify each payment as "delinquent" or "timely." The mainframe is updated three times a week, so field staff has up-to-date access to the status of each employer's account. The field supervisor can track field staff activity based on monthly staff reports and changes in monthly delinquent reports. Tracking payments according to regular or delinquency payment would require manual identification of the payment prior to processing, negatively impacting existing efficiencies.

UTD agrees that greater detail on delinquencies greater than four years old would be beneficial. However, the benefits gained by changing the existing mainframe program to provide this information are more than offset by the difficulties and costs involved in making such a change. UTD prefers to direct current IT projects to changes that benefit a broad spectrum of individuals, including both employers and staff. Field staff can identify necessary information on old delinquencies, by employer, via the existing imaging system and do so regularly. The impact of this manual activity on their overall workload is small. During the AWIN discovery sessions, this additional detail has been requested.

Data on the mainframe program is tracked by employer and monthly delinquency reports all reflect individual employer information. Therefore, we are unclear as to the rationale behind the closing statement in the above recommendation, "Finally, ETD should work to develop a process to routinely generate account activity by employer."

In closing, please be assured that the Department of Employment remains dedicated to quality service provision for our customers, as substantiated by UID and UTD's exemplary efforts in these demanding times. We have and will continue to collaborate with our state and federal partners, proactively seeking and exercising all judicious measures to ensure acceptable customer service provision at all levels. Thank you for the opportunity to comment and for the Committee's anticipated review and counsel. We look forward to discussing the Report in greater detail with the Committee.

Sincerely,

A handwritten signature in blue ink that reads "Gary W. Child". The signature is fluid and cursive, with the first and last names being more prominent.

Gary W. Child  
Director



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# **APPENDICES**

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## **Wyoming Unemployment Insurance Program**

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# APPENDIX A

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## Legislative Service Office and U.S. Department of Labor, Employment and Training Administration Correspondence Concerning Audit Scope Limitation

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WYOMING LEGISLATIVE SERVICE OFFICE  
DAN J. PAULI, *Director*

September 17, 2010

Mike Causey, Senior Assistant Attorney General  
Wyoming Attorney General Office  
Capitol Building,  
Cheyenne Wyoming

Dear Mike:

Thank you for supplying LSO with the September 15 letter from the United States Department of Labor. I reviewed the letter with Gerry Hoppmann and Michael Swank and discussed our options. Rather than debate the interpretation of the pertinent CFRs with federal officials, at this time the LSO's plan is to carry forth with the program evaluation with limitations on access to information requested. The program evaluation staff will provide the Management Audit Committee with a report noting those limitations. The Committee can decide how it would like to proceed after receiving the report.

As Gerry noted in an email to you, program evaluation has requested the correspondence between the Division (or the State Department) and the United States Department of Labor regarding access to the information requested. We certainly appreciate the continued offers of cooperation you and Mr. Hopper have extended. We can't require cooperation from federal agencies, but in the interest of full disclosure to the Management Audit Committee of the reasons for the limitation of the scope of the audit, the program evaluation division will need to verify the referenced communications in light of Wyoming statutory requirements for agencies to fully assist the legislative service office during the course of an audit or review. Wyoming statutes require that assistance from state agencies and provide that the legislative service office shall have access to and authority to

examine all books, records, accounts, files, correspondence and all other documents, confidential or otherwise. (W.S. 28-8-113)

Along those lines, I note that the September 15 letter states the LSO has refused to sign an MOU with the Department. My understanding is that the LSO offered an alternative MOU to the Department, but the alternative was deemed insufficient. That might well have been conveyed to the federal officials, but that conveyance is not apparent from the September 15 letter. Likewise, what is not apparent from that letter is whether the federal officials were informed by the Department regarding other state statutes in place concerning particulars of program evaluations that might be relevant to the request made and response received, e.g., that LSO employees who receive confidential information in the course of a program evaluation are subject to immediate termination of employment if the information is disclosed. (W.S. 28-8-113). Again, the disclosure of correspondence requested by Gerry will allow the program evaluation division to make an informed report to the Committee.

While neither of us can interpret CFRs for the administering federal agencies, should you have further correspondence regarding this issue, it might be helpful to note a couple of items in the September 15 letter. Further clarification might help fill in my understanding of the federal position. The letter notes that an individual legislator would be a public official to whom is provided a limited exemption from the nondisclosure provisions, but that the legislative committee is not. First, that seems an incredibly narrow and strained interpretation. One legislator can be provided the information, but two asking jointly (or in this case a statutorily created committee exactly tasked with a program oversight duty) cannot? The letter also notes that the LSO in representing the Committee does not meet the definition of a public official. It seems that the very next paragraph of the cited CFR answers that question, as the information can be disclosed to an agent of a public official. "Agent" appears undefined, but certainly the LSO program evaluation division would appear to be an agent of the committee. I don't think anyone could seriously contest that the request is being made in performance of official duties.

Further, the suggestion from LSO, as I recall, was to rely upon 603.5(h) which states that disclosure can be made to an official with subpoena authority. Unlike (e), this provision is not limited to "public officials," so it appears the narrow construction referenced above would not be applicable. Even if it were, W.S. 28-1-109(a) authorizes "the presiding officer of either house of the legislature, the council, or a committee" to issue a subpoena upon request of a majority of the members of the body. When that entire statute is read, it seems clear that the chairman of a committee (as presiding officer) has authority to issue a subpoena. While "official" is not defined, even under the most restrictive interpretation it would appear that a chairman of a legislative committee tasked with oversight of program evaluations is an official for purposes of the CFR.

The letter notes that "any agreement" entered into between the UC and any recipient of data must contain information as to the specific uses of confidential data. It seems that section 603.10 does not require an agreement for all disclosures; in fact specific provisions are referenced and one not included is disclosure pursuant to 603.5(h). That makes perfect sense, as I'm sure a court would not take kindly to being informed that a state agency will not provide information in request to a subpoena unless the court agreed to reimburse the agency for its costs. But the Department of Labor apparently does not share this view, as the next to last paragraph states that even under disclosure to officials with subpoena authority an agreement is necessary and the agency must still request reimbursement for costs. Again, if you know or can determine what authority is being relied on to require an agreement under a 603.7(b)(2) disclosure, I'd appreciate knowing. As to costs, I'd note 603.8(b) only requires the agency to attempt to seek reimbursement of costs before using grant funds.

Nothing in the CFR that I can see details how that request is made. As noted in earlier conversations, the LSO has never reimbursed an agency for the cost of producing records in compliance with a program evaluation and W.S. 28-8-113 makes no provision for LSO to do so.

The September 15 letter contains a sentence regarding the need for information. I fail to see where in the CFRs there is any reference to the federal agency's "belief" regarding the Legislature's need for individual UC records and how that belief controls the exemptions from disclosure. If you know what provision of the CFRs that statement is based upon, that might help us should there be a need for additional future requests.

Mike, thank you, Gary and Randy for your continued cooperation. The issues noted above might well be due to my lack of understanding the CFRs and other applicable federal laws. As you know, with the session approaching, other items will take priority and perhaps the limited program evaluation will suffice. That's the Committee's determination to make down the road. For now we'll approach the issue as noted. In the meantime if you discover any further clarification/elucidation of the restrictions and requirements imposed, I'd appreciate being informed.

Sincerely,

Dave Gruver, LSO

Cc: Gary Child, Director, Department of Employment  
Randy Hopper, Administrator UI  
Dan Pauli, Director, LSO  
Gerry Hoppmann, Manager Program Evaluation

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**WYOMING LEGISLATIVE SERVICE OFFICE**  
**DAN J. PAULI, *Director***

September 21, 2010

Mike Causey, Senior Assistant Attorney General  
Wyoming Attorney General Office  
Capitol Building,  
Cheyenne Wyoming

Dear Mike:

Thank you for supplying LSO with the September 15 letter from the United States Department of Labor. I reviewed the letter with Gerry Hoppmann and Michael Swank and discussed our options. Rather than debate the interpretation of the pertinent CFRs with federal officials, at this time the LSO's plan is to alert the Management Audit Committee Chairman and Vice-Chairman as to the status of the request and carry forth with the program evaluation with limitations on access to information requested. Assuming that staff is not directed to proceed differently, the program evaluation staff will provide the full Management Audit Committee with a report noting those limitations. The full Committee can decide how it would like to proceed after receiving the report.

As Gerry noted in an email to you, program evaluation has requested the correspondence between the Division (or the State Department) and the United States Department of Labor regarding access to the information requested. We certainly appreciate the continued offers of cooperation you and Mr. Hopper have extended. We can't require cooperation from federal agencies, but in the interest of full disclosure to the Management Audit Committee of the reasons for the limitation of the scope of the audit, the program evaluation division will need to verify the referenced communications in light of Wyoming statutory requirements for agencies to fully assist the legislative service office during the course of an audit or review. Wyoming statutes require that assistance from state agencies and provide that the legislative service office shall have access to and authority to examine all books, records, accounts, files, correspondence and all other documents, confidential or otherwise. (W.S. 28-8-113)

Along those lines, I note that the September 15 letter states the LSO has refused to sign an MOU with the Department. My understanding is that the LSO offered an alternative MOU to the Department, but the alternative was deemed insufficient. That might well have been conveyed to the federal officials, but that conveyance is not apparent from the September 15 letter. Likewise, what is not apparent from that letter is

whether the federal officials were informed by the Department regarding other state statutes in place concerning particulars of program evaluations that might be relevant to the request made and response received, e.g., that LSO employees who receive confidential information in the course of a program evaluation are subject to immediate termination of employment if the information is disclosed. (W.S. 28-8-113). Again, the disclosure of correspondence requested by Gerry will allow the program evaluation division to make an informed report to the Committee.

While neither of us can interpret CFRs for the administering federal agencies, should you have further correspondence regarding this issue, it might be helpful to note a couple of items in the September 15 letter. Further clarification might help fill in my understanding of the federal position. The letter notes that an individual legislator would be a public official to whom is provided a limited exemption from the nondisclosure provisions, but that the legislative committee is not. First, that seems an incredibly narrow and strained interpretation. One legislator can be provided the information, but two asking jointly (or in this case a statutorily created committee exactly tasked with a program oversight duty) cannot? The letter also notes that the LSO in representing the Committee does not meet the definition of a public official. It seems that the very next paragraph of the cited CFR answers that question, as the information can be disclosed to an agent of a public official. "Agent" appears undefined, but certainly the LSO program evaluation division would appear to be an agent of the committee. I don't think anyone could seriously contest that the request is being made in performance of official duties.

Further, the suggestion from LSO, as I recall, was to rely upon 603.5(h) which states that disclosure can be made to an official with subpoena authority. Unlike (e), this provision is not limited to "public officials," so it appears the narrow construction referenced above would not be applicable. Even if it were, W.S. 28-1-109(a) authorizes "the presiding officer of either house of the legislature, the council, or a committee" to issue a subpoena upon request of a majority of the members of the body. When that entire statute is read, it seems clear that the chairman of a committee (as presiding officer) has authority to issue a subpoena. While "official" is not defined, even under the most restrictive interpretation it would appear that a chairman of a legislative committee tasked with oversight of program evaluations is an official for purposes of the CFR.

The letter notes that "any agreement" entered into between the UC and any recipient of data must contain information as to the specific uses of confidential data. It seems that section 603.10 does not require an agreement for all disclosures; in fact specific provisions are referenced and one not included is disclosure pursuant to 603.5(h). That makes perfect sense, as I'm sure a court would not take kindly to being informed that a state agency will not provide information in request to a subpoena unless the court agreed to reimburse the agency for its costs. But the Department of Labor apparently does not share this view, as the next to last paragraph states that even under disclosure to officials with subpoena authority an agreement is necessary and the agency must still request reimbursement for costs. Again, if you know or can determine what authority is being relied on to require an agreement under a 603.7(b)(2) disclosure, I'd appreciate knowing. As to costs, I'd note 603.8(b) only requires the agency to attempt to seek reimbursement of costs before using grant funds. Nothing in the CFR that I can see details how that request is made. As noted in earlier conversations, the LSO has never reimbursed an agency for the cost of producing records in compliance with a program evaluation and W.S. 28-8-113 makes no provision for LSO to do so.

The September 15 letter contains a sentence regarding the need for information. I fail to see where in the CFRs there is any reference to the federal agency's "belief" regarding the Legislature's need for individual UC

records and how that belief controls the exemptions from disclosure. If you know what provision of the CFRs that statement is based upon, that might help us should there be a need for additional future requests.

Mike, thank you, Gary and Randy for your continued cooperation. The issues noted above might well be due to my lack of understanding the CFRs and other applicable federal laws. As you know, with the session approaching, other items will take priority and perhaps the limited program evaluation will suffice. That's the Committee's determination to make down the road. For now we'll approach the issue as noted. In the meantime if you discover any further clarification/elucidation of the restrictions and requirements imposed, I'd appreciate being informed.

Sincerely,

Dave Gruver, LSO

Cc: Senate President John Hines  
Speaker Colin Simpson  
Chairman David Miller  
Gary Child, Director, Department of Employment  
Randy Hopper, Administrator UI  
Dan Pauli, Director, LSO  
Gerry Hoppmann, Manager Program Evaluation

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## U. S. Department of Labor



## Employment and Training Administration

Region IV  
Dallas Regional Office  
525 S. Griffin St., Room 317  
Dallas, Texas 75202

September 15, 2010

Gary W. Child  
Director  
Department of Employment  
1510 E. Pershing Blvd.  
Cheyenne, WY 82002

Dear Mr. Child:

Per request from your office for written guidance, this letter is in response to a confidentiality issue concerning the Wyoming Legislative Services Office's (LSO) which, based on our understanding, plans to conduct an audit on the Department of Employment's (DOE) unemployment compensation (UC) program. The LSO was appointed by a legislative committee to perform the audit. We understand, this audit stems from constituents' complaints to Wyoming Legislators as a result of the DOE's untimely processing of UC claims and excessive call wait times in DOE's UC call center.

Our understanding is the proposed audit is to include a review of all UC claims filed during fiscal year (FY) 2010. In addition, LSO plans to send out surveys to individuals who had any UCI claim activity during this time period. We understand the LSO has refused to sign a memorandum of understanding (MOU) with the DOE to: (1) ensure the confidentiality of claimants' and employers' personally identifiable information contained in the UC data is secure; and (2) reimburse any incurred costs to the UC program for producing copies and/or running ad hoc reports of the data.

As the DOE is aware, the confidentiality and disclosure regulations for the UC program are found at Title 20 Code of Federal Regulations (CFR) Part 603. These regulations are based on Section 303(a)(1) of the Social Security Act which has been interpreted to require confidentiality of claimant and employer UI information. The basis for this requirement is that disclosure could:

- Deter individuals claiming benefits from exercising their rights under the law;
- Deter employers from furnishing information necessary for UC operations;
- Impede the proper and efficient administration of the UC program; and
- Create notoriety for the UC program if any information is lost, stolen or misused.

Section 603.4(b) of the regulations requires that states maintain "the confidentiality of any UC information which reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, *and must include provisions for barring the disclosure of any such information.* . . ."

Section 603.5(e) of the regulation permits states to disclose confidential UI information to public officials for use in performing their official duties. "Public official" is defined in Section 603.2(d) of the regulation as "an official, agency, or public entity within the executive branch of Federal, State, or local government who (or which) has responsibility for administering or enforcing a law, or an elected official in the Federal, State, or local government." While individual legislators meet that definition, the legislative committee (or in this case the LSO that represents the committee) as an entity does not.

Moreover, Section 603.10(b) of the regulation requires that any agreement entered into between the UC agency and the recipient of data contain information as to the specific uses of the confidential data. Except for disclosures of information in response to a constituent request, we do not believe the legislature has a need for individual, identifiable UC records, rather than for aggregate information on unemployment, claims, and/or wages.

In the absence of a MOU, the legislative committee must issue a subpoena, and the agency must move to quash it. Section 603.7(b)(1) of the regulation permits the agency to turn over the data without making a motion to quash should the state have an established precedent allowing the agency to do so; however, we are unaware of any such precedent within the State. Based on our understanding of the LSO's data request, it appears that compliance with the extent of this request would be unduly burdensome to the agency, and we would recommend that, should the agency lose the motion to quash, it ask the court to narrow the scope of the information requested. That is, rather than providing all data on all new claims filed within FY 2010, the agency could ask to be permitted to provide data for only one quarter, or only in those cases where first payment was made more than 21 days following the date the claim was filed.

Even if the agency applies Section 603.7(b)(2), referring to officials with subpoena authority, to permit disclosure without requiring service of subpoena and without making a motion to quash, an agreement would be necessary, and the agency must still request reimbursement for costs. If the agency makes a motion to quash a subpoena and loses, and if it asks the court to order reimbursement for the costs of providing the data and loses, the DOE may not charge the UC administrative grant the costs of responding to the request for data.

If you have any questions, please feel free to contact Ann Cole at (972) 850-4625, Bob Kenyon at (972) 850-4632, or me at (972) 850-4600.

Sincerely,



JOSEPH C. JUAREZ  
Regional Administrator

cc: Randy Hopper, Administrator, Unemployment Insurance, DOE



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# APPENDIX B

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## Selected statutes

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### APPLICABLE FEDERAL LAWS

**Social Security Act, as amended** – 42 U.S.C. 301 et seq

**Internal Revenue Code Provisions** – Chapter 23, Federal Unemployment Tax Act (FUTA)

**Trade Act of 1974, as amended by the Trade Act of 2002**

**Robert T. Stafford Disaster Relief and Emergency Assistance Act (DUA)**

**Temporary Emergency Unemployment Compensation Act of 2002 (Public Law 108-11)**

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### TITLE 9 – ADMINISTRATION OF GOVERNMENT

#### CHAPTER 2 – AGENCIES, BOARDS, COMMISSIONS AND DEPARTMENTS

#### GENERALLY

#### ARTICLE 20 – GOVERNMENT DEPARTMENTS

#### **9-2-2002. Department of employment created; director appointed; structure.**

(a) As part of the reorganization of Wyoming state government, there is created the Wyoming department of employment consisting of the agencies, programs and functions specified in this section. The provisions of the Wyoming Government Reorganization Act of 1989, W.S. 9-2-1701 through 9-2-1707, apply to this section.

(b) The administrative head of the department shall be a director appointed by the governor not later than July 1, 1989. The director shall prepare a plan for reorganization of the agencies, programs and functions specified in this section and submit it to the governor for approval. The department reorganization plan, as approved, shall be submitted to the joint senate labor and federal relations and house labor, health and social services interim committee and the joint minerals, business and economic development interim committee of the legislature and made available to the public. Each committee shall hold at least one (1) public hearing regarding the plan before the 1990 budget session of the legislature convenes. The plan, as approved by act of the legislature, shall be implemented not later than July 1, 1990.

(c) The following agencies are assigned to the department of employment under a Type 1 transfer:

- (i) Employment security commission;
- (ii) Department of labor and statistics including the commissioner of labor;
- (iii) Fair employment commission;
- (iv) Repealed By Laws 2002, Ch. 100, § 4.
- (v) Occupational health and safety commission and administration;
- (vi) State mines inspector including the board of mines and the examining board;
- (vii) Repealed By Laws 2002, Ch. 100, § 4.

(d) The department reorganization plan shall reflect that the following functions or programs are assigned from or to the agency or department specified under a Type 2 transfer:

**PROGRAM; FROM; TO**

- (i) Worker's compensation division; Treasurer; Employment
- (ii) Repealed By Laws 2002, Ch. 100, § 4.
- (iii) Repealed By Laws 2002, Ch. 100, § 4.
- (iv) Repealed By Laws 2002, Ch. 100, § 4.

(e) As used in this section:

- (i) "Education" means the department of education;
- (ii) "Employment" means the department of employment created under this act;
- (iii) "Governor" means the office of the governor;
- (iv) "HSS" means the department of health and social services;
- (v) "Treasurer" means the office of the state treasurer.

(f) The governor may:

- (i) Eliminate any council or commission within the department which is not created under state law if no longer required as a condition to receiving federal funds or if no longer necessary to conform with federal law or regulations;
- (ii) Consolidate any council or commission within the department which is required in accordance with federal law, but not created under state law, with any other council or commission if the consolidation does not violate federal law or regulations.

(g) Information obtained by any division in the department may be transferred to other divisions within the department so long as the transfer is not restricted by federal law, rule or contract. Such information shall not be disclosed outside of the department except as otherwise provided by law. Any employee who discloses information outside of the department in violation of federal or state law may be terminated without progressive discipline.

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**TITLE 27 – LABOR AND EMPLOYMENT**  
**CHAPTER 3 – UNEMPLOYMENT COMPENSATION**  
**ARTICLE 1 – IN GENERAL**

**27-3-101. Short title.**

This act is and may be cited as the "Wyoming Employment Security Law".

**27-3-102. Definitions generally.**

(a) As used in this act:

- (i) "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year or any other twelve (12) month period specified by commission regulation. A calendar quarter used in one (1) base period of a valid claim shall not be used in a subsequent base period. If a combined wage claim under W.S. 27-3-608, the base period is as provided under law of the paying state;

- (ii) "Benefit" means a payment to an individual for unemployment under this act;
- (iii) "Benefit year" means:
  - (A) The fifty-two (52) consecutive calendar week period beginning the first week of a claim series established by the filing of a valid initial claim for benefits following the termination of any previously established benefit year; or
  - (B) The fifty-three (53) consecutive calendar week period beginning the first week of a claim series if filing a new valid claim results in the overlapping of any quarter of the base period of a previously filed claim; or
  - (C) If a combined wage claim under W.S. 27-3-608, the benefit year is as provided under law of the paying state.
- (iv) "Calendar quarter" means a period of three (3) consecutive calendar months ending on March 31, June 30, September 30 or December 31;
- (v) "Commission" means the unemployment insurance commission of Wyoming within the department of employment;
- (vi) "Contribution" means payments to the unemployment compensation fund required by this act including payments instead of contributions under W.S. 27-3-509;
- (vii) "Employing unit" means any individual or type of organization employing one (1) or more individuals in this state including any partnership, association, trust, estate, corporation, domestic or foreign insurance company or corporation, a receiver, trustee in bankruptcy, trustee or a successor or the legal representative of a deceased person and including any limited liability corporation. Also, any individual or organization not previously subject to this act shall be an employing unit upon acquiring any entity already subject to this act. An individual performing services within this state for any employing unit maintaining two (2) or more separate places of business in the state is employed by a single employing unit. An individual employed to perform for or assist any agent or employee of an employing unit is employed by the employing unit whether hired or paid directly by the employing unit or by the agent or employee if the employing unit had actual or constructive knowledge of the work;
- (viii) "Employment office" means a free public employment office or branch operated by any state as part of a state controlled system of public employment offices or by a federal agency administering an unemployment compensation program or a system of free public employment offices;
- (ix) "Fund" means the unemployment compensation fund established by this act;
- (x) "Hospital" means any institution, building or agency maintaining, furnishing or offering hospitalization of the sick and injured or chronic or convalescent care by individuals employed by the state or any political subdivision;
- (xi) "Institution of higher education" means any college or university in this state and any other public or nonprofit educational institution:
  - (A) Admitting as regular students only high school graduates or the recognized equivalent;
  - (B) Legally authorized to provide post secondary education in this state; and
  - (C) Providing an educational program for which a bachelor's or higher degree is awarded or which is accepted as full credit toward this degree, providing a program of postgraduate or postdoctoral study or a training program preparing students for gainful employment in a recognized occupation.
- (xii) "Insured work" means employment for employers;
- (xiii) "Nonprofit hospital" means any institution performing services specified by paragraph (x) of this subsection and organized and operated under W.S. 35-2-302(a)(vi) and authority of the state department of health;

(xiv) "State" means any of the fifty (50) states of the United States, the District of Columbia, the commonwealth of Puerto Rico or the Virgin Islands;

(xv) "Unemployment" means any week in which an individual performs no services and receives no wages or performs less than full-time work if wages payable for that week are less than his weekly benefit amount and are in accordance with regulations of the commission;

(xvi) "Valid claim" means a claim filed by an individual earning wages for insured work in amounts specified under W.S. 27-3-306(d) for which no misrepresentation is made of unemployment requirements of this act;

(xvii) "United States" used in a geographical sense means the fifty (50) states, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(xviii) "Wage" means remuneration payable for services from any source including commissions, bonuses and cash. The reasonable cash value of remuneration other than cash or check shall be prescribed by rule of the commission. To the extent the following are not considered wages under 26 U.S.C. §§ 3301 through 3311, "wage" does not include:

(A) For purposes of W.S. 27-3-503 through 27-3-509, remuneration greater than fifty-five percent (55%) of the statewide average annual wage calculated pursuant to W.S. 27-3-303(a) and rounded to the lowest one hundred dollars (\$100.00), which is paid during any calendar year to an individual by each employer or a predecessor within any calendar year including employment under any other state unemployment compensation law unless the amount is subject to a federal tax against which credit may be taken for contributions paid into any state unemployment fund;

(B) Any premium paid by an employing unit under a plan, system or into a fund for insurance or annuities to provide an employee or class of employees retirement, sickness or accident disability, medical and hospitalization expenses for sickness or accident disability or death benefits if the employee cannot receive any part of this payment instead of the death benefit or any part of the premium if the benefit is insured and cannot assign or receive cash instead of the benefit upon withdrawal from or termination of the plan, system, policy or services with the employing unit;

(C) A payment by an employing unit not deducted from an employee's remuneration for the tax imposed under 26 U.S.C. § 3101;

(D) Dismissal payments which the employing unit is not obligated to make;

(E) That portion of tips or gratuities not reportable under 26 U.S.C. § 3306(s);

(F) The value of any meals or lodging furnished by and for the convenience of the employer to the employee if the meals are furnished on the business premises of the employer or in the case of lodging, the employee is required to accept lodging on the business premises of his employer as a condition of his employment;

(G) Remuneration received by an employee as sick pay following a six (6) month continuous period of illness;

(H) Any benefit under a cafeteria plan specified by 26 U.S.C. § 125, excluding cash;

(J) Wages of a deceased worker paid to a beneficiary or estate following the calendar year of the worker's death;

(K) Services received under any dependent care assistance program to the extent excluded from gross income under 26 U.S.C. § 129;

(M) Repealed By Laws 2010, Ch. 66, § 2.

(N) Services or benefits received under any educational assistance program;

(O) Any benefit or other value received under an employee achievement award;

- (P) The value of any qualified group legal services plan to the extent payments are excluded from gross income under 26 U.S.C. § 120;
  - (Q) Costs of group term life insurance;
  - (R) Repealed By Laws 2010, Ch. 66, § 2.
  - (S) Any moving expenses;
  - (T) Employer contributions to any qualified retirement and pension plan or individual retirement account and distributions from qualified retirement and pension plans and annuities under 26 U.S.C. § 403(b);
  - (U) Benefit payments under any supplemental unemployment compensation plan; and
  - (W) Any benefits paid under the Wyoming Worker's Compensation Act or any other worker's compensation law of another state.
- (xix) "Week" means a period of seven (7) consecutive calendar days beginning Sunday and the commission may by regulation prescribe that a week is within the benefit year which includes the greater part of that week;
- (xx) "Department" means the divisions within the department of employment established under W.S. 9-2-2002 which contain the principal operating units that administer the unemployment compensation program pursuant to the Social Security Act;
- (xxi) "Casual labor" means service not within the normal course of business and for which the remuneration paid is less than fifty dollars (\$50.00);
- (xxii) "This act" means W.S. 27-3-101 through 27-3-706.

**27-3-103. "Employer" defined; qualifications; employment services in other states included.**

- (a) As used in this act, "employer" means any employing unit:
- (i) For whom a worker performs service as an employee;
  - (ii) Acquiring the organization, business, trade or substantially all of the assets of an employer subject to this act at the time of acquisition;
  - (iii) Electing coverage under this act pursuant to W.S. 27-3-502(d);
  - (iv) Not otherwise qualifying as an employer under this section and liable for any federal tax on services employed against which credit may be taken for contribution payments into any state unemployment fund;
  - (v) Not otherwise qualifying as an employer under this section and as a condition for full tax credit against the tax imposed by 26 U.S.C. §§ 3301 through 3311, is required to be an employer under this act;
  - (vi) Employing services defined as employment under W.S. 27-3-105(a)(i), except as provided by paragraphs (viii) and (ix) of this subsection;
  - (vii) Employing services defined as employment under W.S. 27-3-105(a)(ii), except as provided by subsection (b) of this section;
  - (viii) Employing agricultural labor defined under W.S. 27-3-107;
  - (ix) Employing domestic service defined under W.S. 27-3-107(g); or
  - (x) That is an Indian tribe, as defined by section 3306 of the federal Unemployment Tax Act, for which service in employment, as defined by this act, is performed.
- (b) Domestic service shall not be considered by the department in determining if an employing unit is an employer under paragraph (a)(i), (vi), (vii) or (viii) of this section. Agricultural labor shall not be considered by the department in determining if an employing unit is an employer under paragraph (a)(i), (vi), (vii) or (ix) of this section.

(c) Employment under this section shall include services performed entirely within another state pursuant to an agreement under W.S. 27-3-608(b) and otherwise qualifying as employment under this act.

**27-3-104. "Employment" defined; generally; exceptions.**

(a) As used in this act, "employment" means service:

- (i) Performed by an employee defined under 26 U.S.C. § 3306(i) including service in interstate commerce, except 26 U.S.C. § 3121(d)(2) does not apply;
- (ii) Subject to any federal tax against which credit may be taken for contribution payments into any state unemployment fund;
- (iii) Required to be employment under this act as a condition for full tax credit against the tax imposed by 26 U.S.C. §§ 3301 through 3311; and
- (iv) Otherwise specified under W.S. 27-3-104 through 27-3-108.

(b) An individual who performs service for wages is an employee for purposes of this act unless it is shown that the individual:

- (i) Is free from control or direction over the details of the performance of services by contract and by fact;
- (ii) Repealed by Laws 1991, ch. 153, § 1.
- (iii) Repealed by Laws 1995, ch. 121, § 3.
- (iv) Repealed by Laws 1995, ch. 121, § 3.
- (v) Represents his services to the public as a self-employed individual or an independent contractor; and
- (vi) May substitute another individual to perform his services.

**27-3-105. "Employment" defined; employment for state, and other organizations; exceptions.**

(a) Employment under this act includes service performed for:

- (i) This state, any of its political subdivisions, including service as an appointed official of any political subdivision, or for this state and any other state or its political subdivisions and this service is excluded from employment under 26 U.S.C. §§ 3301 through 3311 solely by 26 U.S.C. § 3306(c)(7);
- (ii) A religious, charitable, educational or other organization if excluded from employment under 26 U.S.C. §§ 3301 through 3311 solely by 26 U.S.C. § 3306(c)(8) and the organization employed four (4) or more individuals for part of one (1) day for twenty (20) weeks within the current or preceding calendar year; and
- (iii) An Indian tribe, as defined by section 3306 of the federal Unemployment Tax Act, if the service is excluded from employment, as defined by the federal Unemployment Tax Act, only because of the application of section 3306(c)(7) of that act and is not otherwise excluded from employment as defined by this act.

(b) Subsection (a) of this section does not include service performed:

- (i) For a church or convention or association of churches;
- (ii) For an organization operated primarily for religious purposes and supervised, controlled or principally supported by a church or convention or association of churches;
- (iii) As an ordained, commissioned or licensed minister of a church in the exercise of his ministry;
- (iv) As a member of a religious order in the exercise of required duties of the order;
- (v) As an elected official;

- (vi) As a member of a legislative body or the judiciary of the state or any political subdivision;
- (vii) As a member of the state national guard or air national guard;
- (viii) For a governmental agency as a temporary employee for fire, storm, snow, earthquake, flood or similar emergencies;
- (ix) By a major nontenured policymaking or advisory position pursuant to law or by a policymaking or advisory position not ordinarily requiring more than eight (8) hours of service per week;
- (x) By an individual receiving rehabilitative services from a facility providing rehabilitation programs for individuals with impaired earning capacities because of age, physical or mental deficiencies or injury or providing remunerative work for individuals not readily absorbed into the labor market because of physical or mental deficiencies;
- (xi) By an individual receiving a wage as part of a work experience or workfare program assisted or financed by the federal government or any state or local government, except for those programs employing an individual in on-the-job training for which wages are wholly or partially paid by the employer;
- (xii) By an inmate of a state custodial or penal institution; or
- (xiii) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services performed as an election official or election worker is less than one thousand dollars (\$1,000.00).

**27-3-106. "Employment" defined; employment outside United States; exceptions; "American employer" defined; localized service specified.**

- (a) Employment under this act includes service performed outside the United States except in Canada and the Virgin Islands by a United States citizen for an American employer if:
  - (i) The employer's principal place of business in the United States is located in this state;
  - (ii) The employer has no place of business in the United States and is a resident of this state, a corporation organized under state law or a partnership or trust and the number of partners or trustees resident of this state is greater than the number of residents of any other state;
  - (iii) The employer elected coverage under this act; or
  - (iv) A claim for benefits based on this service is filed under this act and the employer failed to elect coverage in any state.
- (b) As used in subsection (a) of this section, "American employer" means a:
  - (i) Resident of the United States;
  - (ii) Partnership and two-thirds (2/3) or more of the partners are residents of the United States;
  - (iii) Trust and the trustees are United States residents; or
  - (iv) Corporation organized under federal or any state law.
- (c) Notwithstanding subsection (a) of this section, employment includes service performed in this state, both in and outside this state or in Canada if the service is:
  - (i) Localized in this state;
  - (ii) Not localized in any state, a part of the service is performed in this state and the base of operations is located in this state or if the base of operations is not located in any state, the individual is a resident of this state; or

(iii) Not subject to the law of any state or Canada and the service is directed or controlled from a location in this state.

(d) Service not covered under subsection (c) of this section, performed entirely outside this state and contributions are not required or paid under federal or any state law is employment under this act if the individual performing the service is a resident of this state and the department approves the election of the employing unit for coverage under this act.

(e) Service is localized within a state if it is performed entirely within the state or both within and outside the state if the service performed outside the state is incidental.

**27-3-107. "Agricultural labor" defined; "farm" defined; "crew leader" defined; when domestic services included; exception.**

(a) As used in this section, "agricultural labor" means remunerated service performed:

(i) On a farm for any person involving cultivating the soil or raising or harvesting any agricultural or horticultural commodity including training and managing livestock, bees, poultry, wildlife or furbearing animals;

(ii) For the owner, tenant or other operator of a farm involving the maintenance of the farm and any tools and equipment if the major part of the service is performed on the farm;

(iii) For the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, delivering to storage or market in its unmanufactured state or delivering to a carrier for transportation to market, any agricultural or horticultural commodity if the operator produced more than fifty percent (50%) of the commodity;

(iv) For the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes;

(v) In the production or harvesting of an agricultural commodity as defined under 12 U.S.C. § 1141j(g);

(vi) For a group of farm operators or a cooperative organization of which the operators are members for services specified under paragraph (iii) of this subsection if the operators produced more than fifty percent (50%) of the commodity. This paragraph does not apply to service involving commercial canning, commercial freezing or any agricultural or horticultural commodity after delivery to a terminal market for distribution for consumption.

(b) As used in subsection (a) of this section, "farm" means stock, dairy, poultry, fruit and furbearing animal operations, truck farms, ranches, nurseries, ranges, orchards, greenhouses and other operations primarily engaged in the raising of agricultural or horticultural commodities.

(c) Agricultural labor is employment under this act if it is performed for a person who:

(i) Paid cash wages of twenty thousand dollars (\$20,000.00) or more during any calendar quarter in the current or preceding calendar year to individuals employed in agricultural labor; or

(ii) Employed ten (10) or more individuals in agricultural labor for a part of one (1) day for twenty (20) calendar weeks within the current or preceding calendar year.

(d) For purposes of this section, any member of a crew furnished by a crew leader to perform service in agricultural labor for any other person is an employee of the crew leader if:

(i) The crew leader is certified under 29 U.S.C. 1801 through 1872; or

(ii) Substantially all crew members operate or maintain tractors, mechanized harvesting or crop dusting equipment or other mechanized equipment provided by the crew leader; and

(iii) The individual is not an employee of any other person under W.S. 27-3-104 through 27-3-108.

(e) As used in this section, "crew leader" means an individual who:



- (i) Furnishes individuals to perform agricultural labor for any other person;
  - (ii) Pays for himself or for others the cash wages of individuals furnished by him for agricultural labor; and
  - (iii) Has not entered into a written agreement with the other person designating the individuals as employees of that person.
- (f) If an individual furnished by a crew leader to perform agricultural labor for another person is not an employee of the crew leader pursuant to subsection (d) of this section, the other person is the employer and shall pay cash wages of the individual equal to the amount paid by the crew leader for the service performed for that person.
- (g) Employment under this act includes domestic service performed for a person in a private home, local college club or local chapter of a college fraternity or sorority for which cash wages of one thousand dollars (\$1,000.00) or more are paid for any calendar quarter of the current or preceding calendar year.
- (h) Service performed during any period in which exemptions from federal unemployment tax liability are provided for under 26 U.S.C. § 3306(c)(1)(B) including any amendments or extensions thereto, by an alien admitted to the United States to perform service in agricultural labor under 8 U.S.C. §§ 1101 through 1503, is exempt from this section.

**27-3-108. Services excluded from scope of employment.**

- (a) Employment under this act does not include service performed:
- (i) By an individual for his spouse or child or by a person under twenty-one (21) years of age for his parent or for a partnership consisting only of his parents;
  - (ii) For the federal government or any federal agency exempt from this act by federal constitution, except service for those agencies otherwise required by law to contribute to any state unemployment compensation fund;
  - (iii) For an employer or employee representative defined under 45 U.S.C. § 351 et seq. unless an agreement is in effect pursuant to W.S. 27-3-608;
  - (iv) By an individual under the age of eighteen (18) distributing or delivering newspapers or shopping news excluding the delivery or distribution at any point for further delivery or distribution;
  - (v) By a licensed real estate broker or salesman receiving as sole compensation a commission based on the sale or rental of real estate;
  - (vi) In the employ of a school, college or university by a student enrolled and regularly attending the school, college or university or by the spouse of a student if the spouse is informed at the time employed that employment is provided under a financial assistance program and the employment is not covered by unemployment compensation;
  - (vii) By an individual enrolled in a full-time program of an educational institution combining academic instruction with work experience if the service is an integral part of the program and is certified by the institution to the employer. This paragraph does not apply to service performed in a program established for an employer or group of employers;
  - (viii) By a hospital patient employed by the hospital;
  - (ix) In a barber shop licensed under W.S. 33-7-108 or salon licensed under W.S. 33-12-127 if:
    - (A) Use of shop facilities by an individual performing services is contingent upon payment of a flat rate of compensation to the shop owner; and
    - (B) The individual performing services receives no compensation from the shop owner for services performed.
  - (x) By an individual who is the owner and operator of a motor vehicle which is leased or contracted with driver to a for-hire common or contract carrier. The owner-operator shall not be an employee for purposes of this act if

he performs the service pursuant to a contract which provides that the owner-operator shall not be treated as an employee for purposes of the Federal Insurance Contributions Act, the Social Security Act, the Federal Unemployment Tax Act and income tax withholding at source;

(xi) Services performed as casual labor;

(xii) Repealed By Laws 2010, Ch. 66, § 2.

(xiii) By a member of a limited liability company, unless the limited liability company elects coverage in accordance with W.S. 27-3-502(d).

#### **27-3-109. Amendment and repeal; vested rights denied.**

The legislature reserves the right to amend, modify or repeal all or any part of the Wyoming Employment Security Law at any time. There is no vested private right of any kind under this act.

## **ARTICLE 2 – FUND ADMINISTRATION**

#### **27-3-201. Establishment and composition of unemployment compensation fund.**

(a) The unemployment compensation fund is established and shall be administered by the department for purposes of this act.

(b) The fund shall consist of:

(i) Contributions collected under this act, excluding revenues for the employment support fund under W.S. 27-3-505(a);

(ii) Funds received under 42 U.S.C. § 1321;

(iii) Interest earned on the fund balance;

(iv) Any property or securities acquired by the fund and any earnings of the acquired property or securities;

(v) Any other funds received for the fund from any other source; and

(vi) Funds credited to Wyoming's account in the unemployment trust fund pursuant to 42 U.S.C. § 1103.

#### **27-3-202. Administration of fund.**

(a) The state treasurer is the custodian of the fund and shall administer the fund and issue warrants upon the fund in accordance with the directions of the department or regulations of the commission. He shall maintain a clearing account, an unemployment trust fund account and a benefit account separately within the fund.

(b) All funds payable to the fund shall be deposited by the department or its authorized representative with the state treasurer in the clearing account. In addition, all funds collected from the employment support fund under W.S. 27-3-505(a) shall be deposited by the department in the clearing account, for clearance only, and shall not become a part of the fund. After clearance, funds collected for the employment support fund under W.S. 27-3-505(a) shall be deposited in the employment support fund created by W.S. 27-3-211. Thereafter, refunds payable pursuant to W.S. 27-3-515 may be paid from the clearing account upon warrants issued by the treasurer under regulation of the commission. Remaining funds in the clearing account shall be immediately deposited with the United States secretary of the treasury in Wyoming's account within the unemployment trust fund established pursuant to 42 U.S.C. § 1104(e).

(c) The benefit account consists of all funds withdrawn from Wyoming's account in the unemployment trust fund. Funds shall be withdrawn from Wyoming's account only for the payment of benefits in accordance with regulations of the commission, except as provided by W.S. 27-3-204. The department shall withdraw funds from the unemployment trust fund in amounts necessary to pay benefits for a reasonable future period. Withdrawals from the unemployment trust fund shall not

exceed the balance of Wyoming's account within the trust fund. Upon receipt, the treasurer shall deposit the funds in the benefit account and shall issue warrants for the payment of benefits from the benefit account. Any funds remaining unclaimed or unpaid in the benefit account after the expiration of the period for which they were withdrawn shall be deducted from estimates and used for the payment of benefits during succeeding periods or deposited with the United States secretary of the treasury in Wyoming's account in the unemployment trust fund.

(d) Except as otherwise provided by this act, the state treasurer may deposit funds of the clearing and benefit accounts, under regulation of the commission and separate from other state funds, in an approved public depository in the manner provided by W.S. 9-4-801 through 9-4-815. Any collateral pledged for this purpose shall be separate from collateral pledged to secure other state funds. All funds recovered from losses sustained by the fund shall be deposited by the treasurer into the fund. The department may request an examination of any return or report of a national banking association required by this act pursuant to 26 U.S.C. § 3305(c).

(e) Warrants for payment of benefits and refunds from the benefit and clearing accounts shall be signed by the treasurer and the department or its authorized agent.

#### **27-3-203. Discontinuance or nonmaintenance of fund; disposition of assets.**

If the unemployment trust fund is discontinued or Wyoming's account is no longer maintained, the provisions of W.S. 27-3-201 and 27-3-202 relating to the unemployment trust fund are no longer effective. All funds, properties or securities of the Wyoming unemployment compensation fund shall be transferred to the state treasurer. The treasurer shall hold, invest, transfer, sell, deposit and release the funds, properties or securities in a manner approved by the commission in accordance with law and this act. Any investment shall allow sufficient conversion of fund assets for payment of benefits.

#### **27-3-204. Withdrawal funds credited to federal unemployment trust fund.**

(a) Funds credited to Wyoming's account in the unemployment trust fund pursuant to 42 U.S.C. § 1103 may be withdrawn only for the payment of benefits and expenses for the administration of this act pursuant to this section except as provided by W.S. 27-3-208 and for the payment of expenses for the administration of public employment offices administered by the department of workforce services pursuant to W.S. 9-2-2601(e).

(b) Funds shall be withdrawn for administrative expenses by legislative appropriation. The appropriation shall:

- (i) Specify the amounts and purposes for which the funds are appropriated;
- (ii) Limit the period in which the funds may be obligated to not more than two (2) years after the date of enactment; and
- (iii) Limit the amount which may be obligated to an amount which does not exceed the amount by which the amounts transferred to Wyoming's account pursuant to 42 U.S.C. § 1103 exceed the aggregate of the amounts used by Wyoming pursuant to this act and charged against the amounts transferred to Wyoming's account.

(c) Funds withdrawn for payment of administrative expenses pursuant to this section shall be deposited in the employment security administration account and shall remain a part of the unemployment fund until spent. The department shall maintain a separate record of the deposit, obligation, expenditure and return of funds deposited. Any funds deposited and not spent for purposes specified within the legislative appropriation or remaining at the expiration of the period specified by the appropriation shall be deposited with the United States secretary of the treasury in Wyoming's account in the unemployment trust fund.

#### **27-3-205. Employment security administration account.**

(a) The employment security administration account is established and shall be administered by the state treasurer. The treasurer may deposit funds within the account separate from other state funds in an approved public depository in accordance with W.S. 9-4-801 through 9-4-815. Funds deposited into the account are available to the department for expenditure in accordance with this act and shall not be transferred to any other account. Account expenditures, except funds received pursuant to W.S. 27-3-204, shall be only for the payment of necessary administrative expenses of this act as

determined by the United States secretary of labor and for the establishment and maintenance of public employment offices pursuant to W.S. 9-2-2601(e). All funds deposited into the account pursuant to W.S. 27-3-204 shall remain a part of the unemployment compensation fund and shall be used in accordance with W.S. 27-3-204.

(b) The account shall consist of:

- (i) Funds appropriated by the legislature, funds received under 29 U.S.C. § 49 et seq. and other federal funds and funds received from any other source for purposes specified in this section;
- (ii) Federal funds and funds from any other state received as compensation for services or facilities supplied from the account;
- (iii) Funds from any surety bond, insurance policy or other source for losses sustained by the account including damage to equipment or supplies purchased by the account; and
- (iv) Any proceeds from the sale or disposition of equipment or supplies purchased by the account.

**27-3-206. Replacement of certain funds; how implemented; reports.**

The state shall replace any federal funds received under 42 U.S.C. § 501 et seq., any funds granted to the state under 29 U.S.C. § 49 et seq. and any funds of the state or any political subdivision which are matched by federal funds under 29 U.S.C. § 49 et seq. and found by the federal government to be lost or spent for purposes other than or in amounts in excess of those amounts necessary for the administration of this act. Replacement of funds pursuant to this section shall be by legislative appropriation from the state general fund to the employment security administration account for expenditure as provided by W.S. 27-3-205. The department shall report to the governor and the governor to the legislature through the report required under W.S. 9-2-1014 the amount required for the replacement.

**27-3-207. Employment security revenue account.**

(a) The employment security revenue account is created as a separate account in the employment security administration account. Monies within the account may only be expended by legislative appropriation. The account shall be used:

- (i) To replace any funds pursuant to W.S. 27-3-206;
- (ii) For necessary expenses of this act for which no federal funds are available provided the expenditures from the account are not substituted for federal funds which would otherwise be available; and
- (iii) Instead of federal funds requested but not received provided the account is reimbursed upon receipt of requested federal funds.

(b) Notwithstanding W.S. 27-3-201, 27-3-202 and 27-3-205, the employment security revenue account shall consist of:

- (i) Interest collected under W.S. 27-3-510(a) and deposited in the clearing account, provided a sufficient balance is kept within the clearing account to pay interest refunds; and
- (ii) All federal funds accruing to the Wyoming unemployment trust fund with the United States secretary of the treasury under 26 U.S.C. § 3301 et seq. which are for administrative purposes.

(c) Funds deposited in the Wyoming unemployment trust fund pursuant to paragraph (b)(ii) of this section may be withdrawn according to procedures established by the United States secretary of the treasury.

**27-3-208. Advances from federal unemployment trust fund.**

(a) The governor may apply for and receive advances to the state of Wyoming from its account in the federal unemployment trust fund and shall be responsible for the advances in accordance with the conditions specified in Title XII of the "Social Security Act", as amended, in order to secure to Wyoming the advantages available under that title.

(b) Principal repayments shall only be made from federal revenues credited to or received by Wyoming under this act or interfund borrowing under section 5 of this act [Laws 1983, Sp. Sess., ch. 2, § 5, as amended by Laws 1984, ch. 50, § 2] and

repayments of interest, if any, shall only be made from revenues available by a legislative appropriation for that purpose or interfund borrowings under section 5 of this act [Laws 1983, Sp. Sess., ch. 2, § 5, as amended by Laws 1984, ch. 50, § 2].

**27-3-209. State unemployment insurance trust fund established.**

(a) There is established the state unemployment insurance trust fund. All state unemployment insurance contributions collected under W.S. 27-3-503 through 27-3-505, less refunds, shall be deposited into the fund and held in trust for the sole and exclusive use of payment on unemployment insurance benefits. The state treasurer shall invest available revenues in the fund in accordance with law, and earnings from those investments shall be credited to the workforce development training fund established in W.S. 9-2-2604.

(b) The director may determine when and in what amounts withdrawals from the state unemployment insurance trust fund for payment of benefits are necessary. Amounts withdrawn for payment of benefits shall be immediately forwarded to the secretary of the treasury of the United States of America to the credit of the state's account in the unemployment trust fund.

(c) If the state unemployment insurance trust fund is dissolved, all money then in that fund, less earnings, shall be immediately transferred to the credit of the state's account in the unemployment compensation fund, regardless of other provisions of law. Earnings from the state unemployment insurance trust fund shall be credited to the workforce development training fund established in W.S. 9-2-2604. The governor may dissolve the state unemployment insurance trust fund if he finds it to be unnecessary based upon the solvency of the unemployment compensation fund and need for training for Wyoming workers.

**27-3-210. Repealed By Laws 2002, Ch. 100, § 4.**

**27-3-211. Employment support fund established.**

(a) There is established the employment support fund. Revenues allocated pursuant to W.S. 27-3-505(a) shall be credited to the employment support fund by the state treasurer. The state treasurer shall invest available revenues in the fund in accordance with law, and earnings from those investments shall be credited to the fund. The monies in the employment support fund shall not revert to the general fund at the end of any fiscal year, except that any unappropriated amounts remaining in the fund at the end of any fiscal year shall be transferred by the state treasurer to the state unemployment insurance trust fund created pursuant to W.S. 27-3-209.

(b) Monies from the employment support fund shall be expended only upon appropriation by the legislature and shall be withdrawn solely for unemployment compensation benefits or administrative expenses to:

- (i) Offset funding deficits for program administration under this act;
- (ii) Collect and administer the revenues collected under W.S. 27-3-505(a);
- (iii) Further support programs to strengthen unemployment fund solvency;
- (iv) Support employment office programs administered by the department of workforce services.

## ARTICLE 3 – BENEFITS

### 27-3-301. Definitions.

(a) As used in this article:

- (i) "Additional benefits" means benefits payable under state law to exhaustees due to high unemployment conditions or other special factors and totally financed by any state;
- (ii) "Applicable benefit year" means an individual's most recent benefit year or an individual's current benefit year if at the time of filing a claim for extended benefits his benefit year is unexpired only in the state in which filing;
- (iii) "Eligibility period" means those weeks in an individual's benefit year beginning in an extended benefit period and if his benefit year ends within the extended benefit period, any weeks beginning in this period;
- (iv) "Extended benefits" means benefits payable to an individual under this article for weeks of unemployment in his eligibility period including benefits payable to federal employees and veterans under 5 U.S.C. § 8501 et seq.;
- (v) "Most recent benefit year" means the benefit year with the latest ending date for individuals filing a claim for extended benefits with unexpired benefit years in more than one (1) state or, if the benefit years have the same ending date, the benefit year in which the latest continued claim for regular benefits was filed;
- (vi) "Regular benefits" means benefits, excluding extended and additional benefits, payable to an individual under this act or any other state law including dependent's allowances and benefits payable to federal employees or veterans under 5 U.S.C. § 8501 et seq.;
- (vii) "State law" means the unemployment insurance law of any state approved by the United States secretary of labor under 26 U.S.C. § 3304.

### 27-3-302. Payment; liability.

- (a) Benefits provided by this article are payable from the unemployment compensation fund established by W.S. 27-3-201. All benefits shall be paid through department offices in accordance with regulations of the commission.
- (b) The department is liable for benefit payments only to the extent provided by this act and to the extent that funds are available within the fund.

### 27-3-303. Weekly amount; computation; payment.

- (a) Subject to subsection (d) of this section, the weekly benefit amount for an eligible individual is four percent (4%) of his total wages payable for insured work in that quarter of his base period in which his wages were highest computed to the next lower multiple of one dollar (\$1.00). The amount shall not be more than the statewide weekly wage multiplied by fifty-five percent (55%) and computed to the next lower multiple of one dollar (\$1.00). The statewide weekly wage is the total wages reported by employers, excluding the limitation on the amount of wages subject to contributions under this act, for employment during the calendar year preceding June 1 divided by the product of fifty-two (52) times the twelve (12) month average of the number of employees in the pay period and rounded to the nearest cent. The statewide average annual wage is the total wages reported by employers, excluding the limitation on the amount of wages subject to contributions under this act, for employment during the calendar year preceding June 1 divided by the twelve (12) month average of the number of employees in the pay period and rounded to the nearest cent. The pay period reported by employers shall include the twelfth day of each month during the same year. The minimum and maximum weekly benefit paid under this subsection to any individual applies only to the benefit year beginning on or after July 1.
- (b) Repealed by Laws 1985, ch. 175, § 3.
- (c) An eligible individual unemployed in any week shall be paid his weekly benefit for that week less any earnings payable to him for that week which exceeds fifty percent (50%) of his weekly benefit amount. The reported earnings and resulting payment shall be computed to the next lower multiple of one dollar (\$1.00).

(d) Effective April 1, 1984, and any other time thereafter, when the revenues in the fund excluding legislative appropriations and interfund borrowing are certified by the governor to be inadequate to pay the benefits computed as provided in subsection (a) of this section and inadequate to repay interfund or federal loans, the weekly benefit of any individual whose benefits computed under subsection (a) of this section would equal or exceed ninety dollars (\$90.00) per week shall be reduced to eighty-five percent (85%) of that computed under subsection (a) of this section rounded to the next lower multiple of one dollar (\$1.00). No individual receiving benefits of ninety dollars (\$90.00) or more per week shall receive less than ninety dollars (\$90.00) per week because of the reduction provided under this subsection. The reduced benefits shall continue until the governor and the state treasurer certify to the department that the fund is adequately solvent to pay the benefits computed under subsection (a) of this section. A reduction in an individual's weekly benefit amount resulting from the imposition of this provision will not increase the number of full weeks of benefits to which the individual would otherwise have been entitled had the provision not been invoked. The amounts paid under this subsection shall be in complete satisfaction of a claimant's rights and benefits under this act.

(e) Upon periodic certification by the governor to the state treasurer of inadequate revenues, the state treasurer may authorize interfund loans from the permanent Wyoming mineral trust fund or any other available permanent fund not subject to interest earning trust obligations, for cumulative amounts not exceeding twenty million dollars (\$20,000,000.00), to the unemployment compensation fund as needed to repay revenues borrowed pursuant to W.S. 27-3-208 or to pay benefits through January 1, 1995, which are not able to be paid due to the insufficiency of any available revenues except for those obtained through W.S. 27-3-208. Loans pursuant to this subsection shall bear no interest and shall be repaid when the unemployment compensation fund is adequately solvent to repay the loans and to continue paying the benefit obligations.

#### **27-3-304. Maximum payment.**

Except as provided by W.S. 27-3-316, the maximum amount of benefits payable to any eligible individual in a benefit year shall not exceed twenty-six (26) times his weekly benefit or thirty percent (30%) of his wages payable for insured work in his base period, whichever is less. This amount shall be computed to the next higher multiple of his weekly benefit.

#### **27-3-306. Eligibility requirements; waiver or amendment authorized; unemployed waiting period; registration and referral for suitable work.**

(a) An unemployed individual is eligible for benefits under this article for any week if he:

(i) Registers for work with the department of workforce services and actively seeks work in accordance with regulations of the commission, unless he will be recalled to full-time work:

(A) By an employer who paid fifty percent (50%) or more of his base period wages;

(B) Within twelve (12) weeks by an employer.

(ii) Files a benefit claim for that week in accordance with regulations of the commission;

(iii) Is able and available for work;

(iv) Repealed By Laws 2005, ch. 186, § 3.

(v) Earned wages for insured work in amounts specified by subsection (d) of this section;

(vi) As a corporate officer, is unemployed, certifies unemployment and otherwise satisfies the requirements of this subsection;

(vii) Continues to report to a department office in accordance with regulations of the commission; and

(viii) Participates in reemployment services such as job search assistance services if the individual is determined to be likely to exhaust regular benefits and to require reemployment services pursuant to a profiling system established by the department, unless the department determines:

(A) The individual has completed reemployment services; or

(B) There is justifiable cause for the claimant's failure to participate in these services.

(b) The commission may by regulation waive or amend the requirements of this section for individuals attached to regular work or other situations in which these requirements are inconsistent with this act. Regulations of the commission shall not conflict with W.S. 27-3-303.

(c) Repealed By Laws 2005, ch. 186, § 3.

(d) To qualify under paragraph (a)(v) of this section, an individual shall have earned:

(i) Wages for insured work during his base period of not less than eight percent (8%) of the statewide average annual wage computed under W.S. 27-3-303(a) rounded to the lowest fifty dollars (\$50.00);

(ii) Repealed by Laws 1993, ch. 19, § 2.

(iii) Wages for insured work of one and four-tenths (1.4) times the high quarter earnings in his base period; and

(iv) Not less than eight (8) times the weekly benefit amount of his current claim for services after the beginning of the next preceding benefit year in which benefits were received. This paragraph applies only if the base period is the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of the benefit year. Services under this paragraph must be performed in an employer-employee relationship but are not required to qualify as employment under W.S. 27-3-104 through 27-3-108.

(e) The department of workforce services shall register and refer eligible benefit claimants under this article to suitable work meeting criteria prescribed by W.S. 27-3-312 for regular benefits and by W.S. 27-3-317(e) for extended benefits.

**27-3-307. Eligibility when enrolled in approved training program; standards for training program approval.**

(a) Notwithstanding W.S. 27-3-306(a)(i) and (iii) or 27-3-311(a)(ii) and (iii) or any federal law relating to availability for, active search for, failure to apply for or refusal to accept suitable work, an otherwise eligible individual is eligible for benefits for any week if he is:

(i) Enrolled in a training program approved by the department pursuant to subsection (b) of this section; or

(ii) In training approved under federal law.

(b) Standards for training program approval under subsection (a) of this section are:

(i) Licensed or accredited by the appropriate agency;

(ii) Preparation for job skills for occupations with good employment opportunities;

(iii) Individual interest, aptitude and motivation determined necessary by the department to complete the course successfully;

(iv) Regular class attendance, satisfactory progress in course work and individual compliance with other training requirements of the institution;

(v) Training is to prepare an individual for entry level or upgraded employment in a recognized skilled vocational or technical occupation and such training is designed to facilitate the learning of particular skills; and

(vi) Current skills of the individual are obsolete or offer minimal employment opportunities.

(c) Notwithstanding W.S. 27-3-311(a)(i), an otherwise eligible individual is eligible for benefits in any week if he:

(i) Is in training approved under federal law; or

(ii) Left work to enter approved training if the work is not suitable, as defined under federal law.

(d) Notwithstanding W.S. 27-3-306(a)(i) and (iii) or 27-3-311(a)(i) through (iii) or any federal law relating to availability for, active search for, failure to apply for or refusal to accept suitable work, an otherwise eligible individual is eligible for benefits for any week if he is not receiving wages or compensation while participating in training in an apprenticeship program approved by the department if he:



- (i) Is attending instruction related to the program when the instruction does not exceed eight (8) weeks during the benefit year of the individual and the attendance in the instruction is required as a condition of the individual's continued enrollment in the apprenticeship program;
- (ii) Provides the department with a copy of his apprenticeship agreement;
- (iii) Files claims in accordance with the rules of the department;
- (iv) Establishes to the satisfaction of the department that the training is an approved apprenticeship program; and
- (v) Has his most recent employer approve his participation in the training.

**27-3-308. Services excluded for eligibility.**

- (a) An individual is not eligible for benefits based on service:
  - (i) In an instructional, research or principal administrative capacity for an educational institution for any week of unemployment beginning between two (2) successive academic years, two (2) regular terms whether or not successive or during a paid sabbatical leave and he has a reasonable assurance to perform services in any such capacity for any educational institution in the second academic year or term or end of the paid sabbatical leave;
  - (ii) In any other capacity for any educational institution for weeks of unemployment beginning September 3, 1982, and thereafter for any week of unemployment beginning between two (2) successive academic years or terms if he is employed in the first academic year or term with a reasonable assurance for employment in the second year or term for any educational institution. If compensation is denied to any individual under this paragraph and he was not offered an opportunity to perform services for the educational institution for the second academic year or term, the individual is entitled to retroactive payment of compensation for each week he filed a timely claim for compensation but was denied compensation solely because of this paragraph;
  - (iii) For training, preparing and participating in sporting or athletic events for any week of unemployment beginning between two (2) successive seasons or periods if he is employed in the first season or period with reasonable assurance of employment in the second season or period.
- (b) With respect to any service described in paragraphs (a)(i) and (ii) of this section, benefits are not payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess. With respect to any services described in paragraphs (a)(i) and (ii) of this section, and in this subsection, benefits shall not be payable on the basis of services in any such capacities as specified in paragraphs (a)(i) and (ii) of this section, and in this subsection, to any individual who performed the services in an educational institution while in the employ of an educational service agency and who has a reasonable assurance of continued employment with an educational service agency. For purposes of this subsection, "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing the services to one (1) or more educational institutions. With respect to services to which W.S. 27-3-105(a)(i) and (ii) applies, if the services are provided to or on behalf of an educational institution, benefits shall not be payable under the same circumstances and subject to the same terms and conditions as described in paragraphs (a)(i) and (ii) of this section and this subsection.

**27-3-309. Eligibility of aliens; standard of proof required.**

- (a) Benefits shall not be payable on the basis of services performed by an alien unless the alien was lawfully admitted for permanent residence in the United States at the time the services were performed, was lawfully present for purposes of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, pursuant to section 212(d)(5) of the Immigration and Nationality Act.
- (b) Information necessary to determine alien status for benefit eligibility shall be uniformly required of all benefit applicants. Determination of benefit eligibility under this section shall be by a preponderance of the evidence.

**27-3-310. Eligibility after receiving worker's compensation.**

Notwithstanding requirements for the base period and other compensation factors provided under this act, an individual receiving compensation under the Wyoming Worker's Compensation Act for a continuous period of sickness or injury resulting in temporary total disability and otherwise eligible for benefits under this article may preserve unused wage credits for the four (4) completed calendar quarters immediately preceding the date identified as the date of injury under the Wyoming Worker's Compensation Act. Benefit rights shall not be preserved unless a benefit claim is filed within sixty (60) calendar days following the date notice is mailed to the claimant that he is no longer eligible to receive temporary total disability benefits pursuant to W.S. 27-14-404(c) and within the thirty-six (36) month period immediately following the date of injury.

**27-3-311. Disqualifications from entitlement; grounds; forfeiture.**

(a) An individual shall be disqualified from benefit entitlement beginning with the effective date of an otherwise valid claim or the week during which the failure occurred, until he has been employed in an employee-employer relationship and has earned at least eight (8) times the weekly benefit amount of his current claim for services after that date, if the department finds that he:

- (i) Left his most recent work voluntarily without good cause attributable directly to his employment, except:
    - (A) For bona fide medical reasons involving his health;
    - (B) If returning to approved training which meets the requirements of W.S. 27-3-307;
    - (C) If forced to leave the most recent work as a result of being a victim of documented domestic violence; or
    - (D) If unemployed as a result of relocation due to the transfer of the unemployed individual's spouse, either within or outside the state, from which it is impractical to commute to the place of employment, and upon arrival at the new residence, the individual is in all respects able and available for suitable work and registers for work with the department of workforce services or an equivalent agency of another state where the individual is residing. To qualify under this subparagraph, the individual shall be married to a member of the United States armed forces whose relocation is the result of an assignment on active duty as defined in 10 U.S.C. 101(d)(1), active guard or reserve duty as defined in 10 U.S.C. 101(d)(6), active duty pursuant to title 10 of the United States Code, or training or other duty performed by a member of the army national guard of the United States or the air national guard of the United States under section 316, 502, 503, 504 or 505 of title 32 of the United States Code. Any benefits awarded under this subparagraph shall be noncharged benefits and shall not affect an employer's experience rating account. This subparagraph is repealed effective July 1, 2018.
  - (ii) Failed without good cause to apply for available suitable work;
  - (iii) Failed without good cause to accept any offer of suitable work;
  - (iv) Repealed by Laws 1983, Sp. Sess., ch. 2, § 3.
  - (v) Following four (4) weeks of unemployment, failed to apply for or accept an offer of suitable work other than in his customary occupation offering at least fifty percent (50%) of the compensation of his previous insured work in his customary occupation; or
  - (vi) Following twelve (12) weeks of unemployment, as a member of a labor organization fails to apply for or accept suitable nonunion work in his customary occupation.
  - (vii) Repealed by Laws 2003, Ch. 73, § 2.
- (b) Repealed by Laws 1983, Sp. Sess., ch. 2, § 2.
  - (c) Repealed by Laws 1993, ch. 19, § 2.
  - (d) Repealed by Laws 1985, ch. 175, § 3.

(e) Any person who knowingly files a claim for benefits which contains a false statement or misrepresentation of a material fact, as determined by the department, shall be disqualified from receiving benefits for a fifty-two (52) week period beginning the week in which the false statement or misrepresentation was made or beginning the week following the date that notice of the overpayment is mailed to the person who filed the claim.

(f) An individual shall be disqualified from benefit entitlement beginning with the effective date of an otherwise valid claim or the week during which the failure occurred, until he has been employed in an employee-employer relationship and has earned at least twelve (12) times the weekly benefit amount of his current claim for services after that date, if the department finds that he was discharged from his most recent work for misconduct connected with his work.

**27-3-312. Determination of suitable work.**

(a) In determining if work is suitable for purposes of W.S. 27-3-311(a), the department shall consider:

- (i) The risk involved to an individual's health, safety and morals;
- (ii) The individual's physical fitness;
- (iii) The length of unemployment of the individual;
- (iv) The prospects for securing local employment in the individual's customary occupation;
- (v) The distance of available employment from the individual's residence; and
- (vi) If the individual is capable of performing the work.

(b) Notwithstanding any other provision of this act, work is not suitable if:

- (i) It is available because of a strike, lockout or other labor dispute;
- (ii) The wages, hours or other conditions are substantially less favorable for the individual than those prevailing for similar work within the locality; or
- (iii) An individual is required to join a company union or resign from or refrain from joining any bona fide labor organization as a condition for employment.

(c) Repealed by Laws 1984, ch. 50, § 3.

**27-3-320. Benefit withholding for federal income taxes; department notification; procedure; withholding status election.**

(a) The department shall at the time of filing, advise an individual filing an initial claim for benefits payable under this act that:

- (i) Benefits are subject to federal income tax;
- (ii) Estimated federal income tax payments are required by the federal internal revenue service;
- (iii) Effective January 1, 1997 and each year thereafter, federal income tax may be deducted and withheld from benefits at the amount specified by federal law upon election by the individual; and
- (iv) Previously elected federal income tax withholding status under this section may be changed once during any one (1) benefit year.

(b) Effective January 1, 1997 and each year thereafter and upon request by an individual filing an initial claim for benefits payable under this act, the department shall, subject to subsection (d) of this section, deduct and withhold federal income tax from benefits payable to the individual in the amount specified by federal law and in accordance with procedures specified by the United States department of labor and the internal revenue service. Amounts deducted and withheld pursuant to this section shall remain in the fund until transferred to the internal revenue service as payment of federal income tax.

(c) The department shall by rule and regulation establish procedures for administering this section and shall permit an individual to change his withholding status once during each benefit year.

(d) Amounts shall not be deducted and withheld under this section until amounts are deducted and withheld for any overpayment, child support obligation or any other amount required or allowed to be deducted and withheld under this act.

**27-3-321. Disclosure of food stamp overissuance required; notification; amount withheld; payment; applicability of provisions.**

(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he owes an uncollected overissuance of food stamp coupons as defined in section 13(c)(1) of the Food Stamp Act of 1977. The department shall notify the department of family services of any individual who discloses that he owes an uncollected overissuance and who is determined to be eligible for unemployment compensation.

(b) The department shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance of food stamps:

(i) The amount specified by the individual to the department to be deducted and withheld under this section;

(ii) The amount determined pursuant to an agreement under section 13(c)(3)(A) of the Food Stamp Act of 1977 and submitted to the department of family services; or

(iii) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13(c)(3)(B) of the Food Stamp Act of 1977, whichever is greater.

(c) Any amount deducted and withheld under this section shall be paid by the department to the department of family services.

(d) Any amount deducted and withheld under subsection (b) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the department of family services as repayment of the individual's uncollected overissuance.

(e) For purposes of this section, the term "unemployment compensation" means any benefits payable under this act and any amounts payable by the department pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment.

(f) This section applies only if arrangements have been made for reimbursement by the department of family services for the administrative costs incurred by the department under this section which are attributable to the repayment of uncollected overissuances to the department of family services.

## **ARTICLE 4 – BENEFIT CLAIMS**

**27-3-401. Filing and posting.**

(a) Benefit claims shall be filed in accordance with regulations of the commission.

(b) Employers shall post information on benefit rights in locations accessible to employed individuals. Copies of regulations and information on benefit rights shall be supplied by the department at no cost.

**27-3-402. Determination; generally; referral to special examiner; redetermination; notice; appeal.**

(a) Determination of a claim filed pursuant to W.S. 27-3-401(a) shall be made promptly by a deputy designated by the department. If a claim is denied, the determination shall state the reasons for denial. Except as provided by subsection (c) of this section, a determination is final unless a party entitled to notice applies for redetermination or appeals the determination within fifteen (15) days after notice is mailed to his last known address of record.

(b) Repealed By Laws 1999, ch. 73, § 3.

(c) A monetary determination at the beginning of a benefit year shall specify if the claimant earned wages in amounts required by W.S. 27-3-306(d) and, if so, the first day of the benefit year, his weekly benefit amount and the maximum total amount of benefits payable for the benefit year. The deputy may reconsider a monetary determination if he finds an error in computation or identity, or discovers wages of the claimant relevant to but not considered in the determination. A monetary determination is final unless a party entitled to notice files a timely protest provided, however, that the department in its discretion may make a monetary redetermination at any time prior to the end of the benefit year whether or not a party has filed a timely protest.

(d) Notice of a determination shall be mailed promptly to the claimant at his last known address of record. Notice of a determination involving application of W.S. 27-3-308, 27-3-311(a)(i) and (f) and 27-3-313(a)(i), together with reasons, shall be given to the last employing unit of the claimant at the last known address of record of the employing unit or, if the address is unavailable, the best available address. Notices shall be mailed to all base period employers at the address of record.

(e) The claimant or any other party entitled to notice of a determination may appeal the determination to an appeal tribunal. The appeal shall be filed with the tribunal within fifteen (15) days after notice is mailed to the last known address of record of the interested party.

**27-3-403. Determination; disputed claims; hearing; decision; notice.**

(a) The commission shall appoint an impartial appeal tribunal to hear and decide disputed claims. The tribunal shall be a salaried examiner or a body consisting of three (3) members, one (1) a salaried examiner serving as chairman, one (1) a representative of employers and one (1) a representative of employees. The representatives of employers and employees shall serve at the pleasure of the commission and shall receive not more than ten dollars (\$10.00) per day of service plus necessary expenses. No person shall serve or participate on behalf of the commission if he is an interested party to the proceeding. The commission may designate an alternate to serve in the absence or disqualification of a member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any member. A hearing shall not proceed unless the chairman is present.

(b) After providing interested parties notice of and reasonable opportunity for hearing, the appeal tribunal shall make findings and conclusions and shall render a decision to affirm, modify or reverse a determination. If an appeal involves a question of services performed by a claimant in employment or for an employer, the tribunal shall give special notice of the issue and the pendency of the appeal to the employing unit and to the commission. After notice, both are parties to the proceeding and shall be given opportunity to offer evidence bearing on the question.

(c) Notice of the tribunal's decision shall be given promptly to the interested party by delivery or by mail to his last known address of record. The notice shall include a copy of the decision and the findings and conclusions in support of the decision. The decision is final unless further review is initiated pursuant to W.S. 27-3-404.

**27-3-404. Determination; review by commission; disposition; notice; reconsideration.**

(a) The commission may within fifteen (15) days after notice is mailed or delivered:

(i) Review a decision of an appeal tribunal;

(ii) Review a determination of a special examiner; or

(iii) Grant an appeal from a decision upon application filed by any party entitled to notice. An appeal shall be granted if a decision is not unanimous or if a determination is not affirmed by the appeal tribunal.

(b) Upon review or appeal and based on evidence previously submitted or upon additional evidence it may direct be taken, the commission may affirm, modify or reverse the findings and conclusions of the appeal tribunal. Proceedings before an appeal tribunal may be removed to the commission or transferred to another tribunal. A proceeding removed to the commission prior to completion of the hearing shall be heard by the commission in accordance with requirements for tribunal proceedings.

(c) The commission shall promptly notify parties to a proceeding of its decision including findings and conclusions. The decision is final unless judicial review is initiated pursuant to this article. A denial of an appeal by the commission is subject

to judicial review. Review shall be initiated within the prescribed time beginning from the date notice of the denial is mailed or delivered.

(d) Subject to limitations prescribed under W.S. 27-3-402(c), the commission may reconsider a determination provided by a final decision of an appeal tribunal and may apply to the tribunal for a revised decision.

**27-3-405. Conduct of hearing or appeal; consolidation of claims; record; witness expenses.**

(a) A hearing or appeal before a tribunal under this article shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(b) Hearings on claims by more than one (1) individual or on claims by an individual for two (2) or more weeks of unemployment may be consolidated for purposes of adjudication if there is substantially similar evidence and the examiner or tribunal with jurisdiction determines the consolidation is not prejudicial to any party.

(c) A record shall be kept of all testimony and proceedings before a special examiner or an appeal tribunal. Records shall be maintained under this subsection until final disposition of the matter.

(d) Witnesses subpoenaed pursuant to this act shall be reimbursed at a rate determined by the commission. The commission may refuse reimbursement to any employer who after notice fails to voluntarily appear for any determination of liability. Expenses of witnesses subpoenaed on behalf of the commission or any claimant are part of the expense of administering this act.

**27-3-406. Determinations deemed conclusive; matters of law binding; limiting actions.**

(a) Except for reconsideration pursuant to W.S. 27-3-402(c) and 27-3-404(d), a right, fact or matter in issue adjudicated in a final determination, redetermination or decision on appeal under this article is conclusive for purposes of this act. Subject to appeal proceedings and judicial review and regardless of notice, a determination, redetermination or decision on benefit rights is not subject to collateral attack by an employing unit.

(b) Unless expressly or impliedly overruled by the commission or a court of competent jurisdiction, principles of law adjudicated under a final decision of the commission or an appeal tribunal are binding on the commission, a special examiner and an appeal tribunal in proceedings involving similar questions of law.

(c) Any determination, redetermination, finding of fact, conclusion of law, order, decision or final judgment entered or made by a deputy, appeal tribunal, special examiner, the department, the commission or a court of competent jurisdiction pursuant to this act or the rules and regulations of the commission is binding only between the department and all adverse parties thereto, and is not binding, conclusive or admissible in any separate or subsequent action or proceeding between an individual and employing unit previously subject to this act, regardless of whether the prior action before the department or commission was between the same or related parties or involved the same facts.

(d) Any determination, finding of fact, conclusion of law, order, decision or final judgment, not made or entered by the department or commission, is not binding upon the department when administering this act except when the department or commission was a party to an action or proceeding brought in a court of competent jurisdiction of this state or of the United States.

**27-3-407. Right to judicial review; appeal to supreme court; entry of order by commission.**

(a) Any person aggrieved or adversely affected by a final decision under this act may obtain judicial review by filing a petition for review with the district court of jurisdiction. Review by the court shall be as provided by the Wyoming Administrative Procedure Act and shall be given precedence over all other civil cases except those under the Wyoming Worker's Compensation Act.

(b) A decision of the district court may be appealed to the supreme court. The appeal shall be taken in the same manner as other civil cases.

(c) Exceptions to the ruling of the commission and posting of bond are not required to initiate a proceeding for judicial review or to enter an appeal from the decision of the court. The commission shall enter an order in accordance with the court decision.

**27-3-408. Right of department and commission to notice and representation; fees; access to records.**

(a) The department and commission shall be treated as one (1) party entitled to notice in any proceeding before a special examiner, an appeal tribunal or a court of appeal. In any proceeding for judicial review under W.S. 27-3-407, the department and commission may be represented by a qualified attorney employed pursuant to W.S. 27-3-609.

(b) A claimant shall not be assessed fees for proceedings under this act by the department, commission or the court. The claimant may be represented by counsel or other authorized agent at the claimant's expense.

(c) Records of the department are open to inspection by the claimant, the employer or their legal representatives to the extent necessary to present or contest a claim or appeal in any proceeding under this act.

**27-3-409. Payment of benefits upon determination; repayment of overpaid benefits; penalty.**

(a) Benefits shall be paid in accordance with a determination, redetermination or decision until modified or reversed by a subsequent or pending redetermination or decision. A proceeding for judicial review under this article shall not operate as a supersedeas or stay nor shall the commission or the court issue an injunction, supersedeas, stay or other writ or process suspending the payment of benefits. If a determination, redetermination or decision is reversed or modified, an employer's account shall not be charged for benefits paid under an erroneous determination and benefits shall be paid or denied in accordance with the modifying or reversing redetermination or decision.

(b) An individual receiving benefits under this act to which he is not entitled shall be liable for and repay the benefit. Repayment of the benefits shall be had by any combination of recoupment, recovery by civil action or voluntary reimbursement agreement:

(i) The department in its discretion, may recoup the benefit amount liable to be repaid by offsetting, without civil action, against future benefits payable to the individual under this act within five (5) years from the effective date of the claim resulting in the overpayment if the claim was not fraudulent. If the claim resulting in the overpayment was fraudulent, the five (5) year limit on recoupment shall not apply. The department shall waive recoupment if an individual is without fault in receiving the benefits and it defeats the purpose of this act or is against equity and good conscience as considered by the department in accordance with regulations of the commission;

(ii) The department may also recover overpaid benefits from an individual by civil action brought in the name of the department;

(iii) The department in its discretion, without civil action, may accept repayment of overpaid benefits by reimbursement from an individual pursuant to a payment schedule approved by the department.

(c) The department may recoup or recover overpayment of benefits to any individual under another state law if a state certifies to the department the facts involved, the overpaid individual is liable for repayment of benefits and the state requests the department to do so. Repayment either by recoupment or recovery shall be had pursuant to subsection (b) of this section. Repayment shall be equal to the amount of overpayment determined by the requesting state.

(d) Any overpayment of benefits fraudulently received shall be assessed a penalty equal to five percent (5%) of the amount of overpayment and an additional five percent (5%) penalty on the remaining unpaid balance at the end of every six (6) months. Amounts collected pursuant to this subsection shall be paid into the employment security revenue account. The department shall utilize the collected amounts for administrative costs of overpayment collection, fraud investigation, developing and providing educational programs for this act. Offset shall not be used to recover amounts due under this section.

(e) The department shall cancel the amount of overpayment or penalty due on any overpayment when:

(i) The individual is deceased with no estate or the estate is closed and all assets are distributed; or

- (ii) The individual is adjudicated insolvent by a court of competent jurisdiction with no remaining assets.
- (f) The department may cancel the amount of overpayments or penalty due on any overpayment after eight (8) years from the effective date of the claim resulting in the overpayment when:
- (i) The individual cannot be located;
  - (ii) The individual is totally unable to work; or
  - (iii) The department's records show the individual earned covered wages of less than one-half (1/2) the average weekly wage within Wyoming in the most recent calendar year.

## ARTICLE 5 – EMPLOYER CONTRIBUTIONS

### 27-3-501. Definitions.

(a) As used in this article:

- (i) "Benefit ratio" means the quotient of total benefits charged to an employer's account and paid during the preceding experience period divided by total taxable wages payable by the employer for that experience period excluding any portion of wages for which contributions were not paid as of July 31 of the preceding calendar year;
- (ii) "Experience period" means the thirty-six (36) consecutive month period or, in the case of a new employer not previously subject to this act the twenty-four (24) consecutive month period, ending June 30 of the preceding year;
- (iii) "Ineffectively charged benefits" means benefits charged to an employer's experience rating account after benefits previously charged to his account qualified him for the maximum rate of contributions;
- (iv) "Noncharged benefits" means benefits not charged to an employer's experience rating account pursuant to W.S. 27-3-504(e) and 27-3-608(b);
- (v) "Nonprofit organization" means an organization defined by 26 U.S.C. 501(c)(3) and exempt from federal income tax under 26 U.S.C. 501(a);
- (vi) "Organization" means a hospital, institution of higher education, this state or any political subdivision, an Indian tribe as defined under section 3306 of the federal Unemployment Tax Act and a group of organizations established pursuant to regulations of the commission for purposes of joint accounts, employing services qualifying as employment under W.S. 27-3-105(a)(i);
- (vii) "Client" means any entity that utilizes one (1) or more workers that have been contracted for and supplied by a service supplier. The client has the right to control the manner and means of the workers performing services for it;
- (viii) "Service supplier" means any entity that is primarily engaged in the business of contracting with the client to provide one (1) or more workers to perform services for the client and performs all of the following functions:
  - (A) Assigns the worker to perform services for the client;
  - (B) Sets the rate of pay of the worker, whether or not through negotiations;
  - (C) Pays the worker directly;
  - (D) Retains the authority to assign or refuse to assign a worker to other clients if the worker is unacceptable to a specific client;
  - (E) Determines assignments of workers even though the worker may retain the right to refuse specific assignments;
  - (F) Negotiates with the client on matters of time, place, type of work, working conditions, quality and price of the service.



(ix) "Temporary service contractor" means any individual, firm, association, partnership, limited liability company, corporation or other type of organization conducting a business that employs individuals directly for the purpose of furnishing services of the employed individuals on a temporary basis to others. "Temporary service contract" does not include a service supplier as defined in paragraph (viii) of this subsection;

(x) "Temporary worker" means a worker whose services are furnished to another employer on a temporary basis to substitute for a permanent employee on leave or to meet an emergency or short-term workload need. "Temporary worker" does not include a person working for a service supplier as defined in paragraph (viii) of this subsection;

(xi) For purposes of W.S. 27-3-507 and 27-3-706, "person" means an individual or entity, including any partnership, association, trust, estate, corporation, limited liability company, domestic or foreign insurance company or corporation, a receiver, trustee in bankruptcy, trustee, successor or the legal representative of a deceased person.

**27-3-502. Determination of employer and employment; election of coverage; records and reports; injunction; service suppliers.**

(a) Upon its own motion or application of an employing unit and after notice and opportunity for hearing, the department may determine if an employing unit is an employer and if services performed for the employing unit qualify as employment. The department shall consider employment occurring during a ten (10) year period preceding the date of employer determination. A determination by the department is final as to the employing unit fifteen (15) days after mailing its findings and determination to the employing unit. The employing unit may appeal a determination in accordance with W.S. 27-3-506.

(b) Except as provided by subsection (d) of this section, an employing unit qualifying as an employer within any year is subject to this act for that entire calendar year.

(c) An employer enumerated under this subsection may apply in writing to the department before January 31 for termination of coverage under this act for that calendar year. The department may waive the application filing requirement for good cause. Employers to which this subsection applies include:

(i) Repealed By Laws 1999, ch. 73, § 3.

(ii) An agricultural employer paying wages of less than twenty thousand dollars (\$20,000.00) each quarter during the preceding calendar year or employing less than ten (10) workers on any day of twenty (20) or more different weeks within a calendar year;

(iii) A domestic employer paying wages of less than one thousand dollars (\$1,000.00) in each quarter of the preceding calendar year;

(iv) A nonprofit organization paying wages for less than four (4) individuals or for less than twenty (20) weeks in the preceding year.

(d) An employing unit not qualifying as an employer or for which services not qualifying as employment are performed may elect coverage under this act for a period of not less than two (2) years by filing written notice of its election with the department. If the department approves the election in writing, coverage is effective on the date of approval. Application for termination of coverage as an employer under this subsection shall be filed in writing with the department not less than thirty (30) days before January 1 of any year following the initial two (2) years of coverage and for termination of coverage of employment, not less than thirty (30) days after January 1. The department may terminate coverage under this subsection for good cause by giving notice to the employer.

(e) An employing unit shall maintain accurate employment records containing information prescribed by the commission. Records shall be open to inspection by and submitted to the department upon request. An employing unit shall submit reports on employees upon request of the department or an appeal tribunal.

(f) Any employing unit subject to this act shall not commence business or engage in work within this state without registering under this act and otherwise complying with this act. A prime or general contractor subcontracting any part of a contract shall require notification and compliance by any subcontractor under this subsection before awarding a contract or permitting a subcontractor to begin work. The state, a county, municipality or any other political subdivision shall require the prime or general contractor to register and comply with this act before authorizing the contractor to begin work under any public contract. The secretary of state shall report to the department the names and addresses of all business entities

registering with that agency during the preceding month. The Wyoming department of transportation and the department of administration and information shall report to the department the names and addresses of business entities awarded a contract by that agency during the preceding month. Any employing unit failing to comply with this subsection or W.S. 27-3-510(c) or (d) or delinquent for filing reports or paying contributions required under this act may be enjoined by the department from engaging or continuing in business subject to this act until required reports are filed or payments are made and the unit otherwise complies with this act. All costs of the action including a reasonable attorney fee shall be paid by the employing unit against which the injunction is sought. In addition to the penalties and remedies provided by W.S. 27-3-510 through 27-3-512 and 27-3-704, the department may assess and collect an additional fee of up to three (3) times the amount of delinquent contributions payable under this act for any employing unit failing to comply with this subsection. This additional fee is part of the payment due for all purposes if an action is instituted under this subsection. If the employing unit is a subcontractor, the general contractor or the project owner may be held liable for payment of the contributions and any additional assessment due.

(g) Notwithstanding any other provisions of this act:

(i) A service supplier is the employing unit of the worker provided to the client and shall be liable to pay the contributions on wages paid by it to the worker performing services for the client;

(ii) If an entity is not a service supplier as defined by W.S. 27-3-501(a)(viii) or if the client pays wages to the worker directly, then the client is the employing unit of the worker and shall be liable to pay the contributions on wages paid by it to the worker performing services for the client;

(iii) Notwithstanding the foregoing, if an entity pays the worker and that entity is not the employing unit of the worker as determined herein, that entity is deemed the agent of the employing unit so determined;

(iv) If the service supplier fails to pay all contributions or submit required reports which are due, then the client shall be jointly and severally liable for those which are attributable to wages for services performed for the client by the worker provided by the service supplier;

(v) The service supplier shall keep separate records, submit a list of all clients to the department on a quarterly basis and submit separate quarterly reports for each client;

(vi) Repealed By Laws 2007, Ch. 177, § 2.

(vii) A temporary service contractor is the employing unit of the temporary worker provided to an employer and shall be liable to pay the contributions on wages paid by the temporary service contractor to the temporary worker performing services for the employer.

(h) If an employing unit fails to comply with an injunction order issued under subsection (f) of this section, the department may file with the district court of the county in which the employing unit resides, conducts business or may be found, a verified application showing that the employing unit received notice of an injunction order and has failed to comply with its terms. Upon receipt of the department's application, the court shall provide the employing unit with an opportunity for a hearing within twenty (20) days. Upon finding that the employing unit has violated the department's injunction, the court may issue an order directing the employing unit, including any partners or corporate officers, to comply with the injunction order and may assess a fine of up to one thousand dollars (\$1,000.00) per day for each day of violation. Any officer or director having at least twenty percent (20%) ownership interest of a corporate employing unit, who controls or supervises filing contribution reports or making payment contributions under this act and who willfully fails to file the reports or make required payments, may be held jointly and severally liable for the contributions and interest due from the employing unit. In any court proceeding for the enforcement of an injunction order, the department shall not be required to show that it lacks adequate legal remedy or is suffering irreparable harm due to the violation of the injunction order. Any employing unit failing to comply with an order of the court issued under this subsection may be cited for contempt.

**27-3-503. Payment; base rate; failure to pay; rate variations; benefit ratio; new employer rate; special reserve rate.**

(a) Employment wage contributions imposed under this section are payable by employers subject to this act. Contributions shall be paid to the department for the fund in accordance with regulations of the commission and shall not be deducted from employee wages.

(b) Except as otherwise provided by law, the base rate of contributions assigned to any employer is eight and one-half percent (8.5%) for 1988 and each calendar year thereafter subject to rate variations under subsections (d) and (f) of this section in addition to the adjustment factors computed under W.S. 27-3-505. Except as hereafter provided, a contributing employer failing to pay all contributions, interest and penalties or to submit all quarterly contribution reports due on his account or any account assumed under W.S. 27-3-507 on or before September 30 preceding the effective date of his assigned rate shall be assigned a delinquent rate which shall include a two percent (2%) tax rate increase in his base rate and shall also include in addition thereto the adjustment factors for the next calendar year beginning January 1. The delinquent rate shall not exceed the maximum assignable rate. The delinquent rate shall continue to be assigned through and including the calendar quarter in which the delinquent employer satisfies his delinquent account by paying all contributions, interest and penalties due and submitting all contribution reports due. Upon satisfaction of the delinquent account, the contributing employer shall be assigned the contribution rate otherwise applicable under this article beginning the next full calendar quarter. Provided however, that a delinquent employer shall pay an assigned delinquent rate for at least the first quarter even if the account is satisfied before January 1 of the new calendar year.

(c) Upon reviewing the account of a delinquent employer, the department may collect up to double the tax due plus interest in lieu of the delinquency rate if it finds that:

- (i) The delinquency and interest is less than two hundred dollars (\$200.00);
- (ii) After notice of the changed rate, the employer protested his delinquency tax rate in writing to the department pursuant to W.S. 27-3-506(b); and
- (iii) The delinquent contributions and interest are paid by December 31 preceding the calendar year for which the delinquent rate has been assigned.

(d) Rate variations from the base rate of contributions based upon the employer's benefit ratio shall be assigned to eligible employers each calendar year.

(e) Benefit ratios shall be computed for those employers whose accounts have been chargeable for benefits throughout the employer's experience period. An employer's benefit ratio shall be the contribution rate provided his rate is not more than eight and one-half percent (8.5%) in addition to the adjustment factors computed under W.S. 27-3-505. Benefit ratios shall be computed to the fourth decimal on the basis of the experience period preceding the calculation date of the rate.

(f) Any new employer not previously subject to this act or having no established experience period shall pay contributions at a rate equal to the average rate of contributions paid by his major industrial classification for the calendar year preceding the year in which he first employed workers in this state in addition to the adjustment factors computed under W.S. 27-3-505. In no case, however, will any new employer be assigned a rate of less than one percent (1%), plus the adjustment factors computed under W.S. 27-3-505. This rate shall be adjusted annually and the rate shall remain in effect until the employer has established an experience period in accordance with this article. The commission shall by rule and regulation develop the major industrial classifications for the state and the department shall annually determine the contribution rate for each classification based upon contributions paid during the preceding calendar year.

(g) Repealed by Laws 2003, Ch. 123, § 3.

(h) Any employer subject to this act solely due to having met the liability requirements under W.S. 27-3-105(a)(ii), 27-3-107(c) or (g) for the first time during the preceding calendar year shall be exempt from the delinquent rate provisions in subsection (b) of this section for the subsequent year, provided the employer has submitted all reports and contributions by April 30 of the subsequent year.

(j) Notwithstanding subsection (b) of this section, upon full satisfaction of an employer's delinquent account and at the written request of the employer, the department may, for good cause shown, reduce or eliminate the additional amounts payable as a result of the two percent (2%) delinquency rate.

**27-3-505. Adjustment for noncharged and ineffectively charged benefits; adjustment for positive and negative fund balance; computations; exception; maximum rate.**

(a) An adjustment factor for noncharged and ineffectively charged benefits shall be computed to the fourth decimal by dividing the total noncharged and ineffectively charged benefits to all employers' experience rating accounts during the experience rating period ending June 30 by the total taxable wages payable during the experience period and added to the rate

provided by W.S. 27-3-503. The total taxable wages payable under this subsection shall not include wages payable by employers electing payments instead of contributions under W.S. 27-3-509. Sixty percent (60%) of this adjustment factor shall be allocated to the unemployment compensation fund. Forty percent (40%) of this adjustment factor shall be allocated to the employment support fund created by W.S. 27-3-211.

(b) If the fund balance on October 31 of the year immediately preceding the calendar year for which the contribution rate is being computed is less than three and one-half percent (3½%) of the total payrolls reported to the department by September 30 for that year ending June 30, a positive fund balance adjustment factor shall be computed. The adjustment factor shall be computed annually to the fourth decimal by dividing the total reported taxable payrolls for the year ending June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed, into a sum equal to twenty-five percent (25%) of the difference between the amount in the fund on October 31 of the same year and five percent (5%) of the total payrolls for that year ending June 30. The adjustment factor shall be effective until the fund balance on October 31 of the year immediately preceding the effective date of the contribution rate equals three and one-half percent (3½%) or more of the total payrolls for that year ending June 30. The department shall by rule and regulation establish an additional formula to apportion the positive fund balance adjustment factor between those employers whose accounts have incurred a benefit ratio, pursuant to W.S. 27-3-503(e), of zero (0) and those employers whose accounts have incurred a benefit ratio that is greater than zero (0). For purposes of the apportionment, those employers having no established experience period pursuant to W.S. 27-3-503(f) shall be treated the same as those employers whose accounts have incurred a benefit ratio that is greater than zero (0). The apportionment formula shall reflect:

(i) The proportion of contribution revenue received from each of the two (2) groups of employers during the previous calendar year;

(ii) An additional surcharge for employers whose accounts have incurred a benefit ratio that is greater than zero (0).

(c) If the fund balance on October 31 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds four percent (4%) of the total payrolls reported to the department by September 30 for that year ending June 30, a negative fund balance adjustment factor shall be computed. The negative adjustment factor shall be computed annually to the fourth decimal by dividing the total reported taxable payrolls for the year ending June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed, into a sum equal to twenty-five percent (25%) of the difference between the amount in the fund as of October 31 of the same year and four percent (4%) of the total payrolls for that year ending June 30. The adjustment factor shall be effective until the fund balance on October 31 of the year immediately preceding the effective date of the contribution rate is equal to or less than four percent (4%) of the total payrolls for that year ending June 30.

(d) The adjustment factors computed pursuant to this section are separate from an employer's experience rating, shall be algebraically added to the employer's contribution rate and payable by each employer subject to this article. The adjustment factor computed under subsection (c) of this section shall be algebraically added only to the contribution rate of those employers eligible for an experience rating. The adjustment factors applied to an employer's contribution rate shall not be less than zero (0).

(e) Repealed by Laws 1983, Sp. Sess., ch. 2, § 3.

(f) For purposes of this section, the fund balance includes any amount credited to the state unemployment insurance trust fund pursuant to W.S. 27-3-202(b) but does not include any amount credited to Wyoming's account in the unemployment trust fund pursuant to 42 U.S.C. § 1103 and appropriated for administrative expenses.

(g) Repealed by Laws 1984, ch. 50, § 3.

(h) Effective for the period beginning January 1, 1991, the adjustment factors computed under subsections (a) and (b) of this section shall not exceed one and five-tenths percent (1.5%) to be chargeable against employers.

#### **27-3-506. Notice of rates and charges; relief, review or redetermination.**

(a) The department shall notify an employer of his contribution rate determined pursuant to this article and of total benefit charges to his account within a reasonable time after the close of each experience period. A base period employer shall be notified of the filing of all initial claims which may be charged to his account. Except as otherwise provided by the legislature and on or before January 1 of each year, the department shall notify each employer of his projected contributions payable

under W.S. 27-3-503 and 27-3-505 for the ensuing calendar year. Notice under this section shall be by mail to the last known address of record.

(b) A determination of contribution rates by the department for any calendar year is binding upon the employer unless within thirty (30) days after notice is mailed, he files an application for review and redetermination in accordance with this section.

(c) An employer may apply in writing to the department within fifteen (15) days after the mailing or delivery of notice of benefits charged to his account for relief of benefit charges under W.S. 27-3-504(e)(i), (ii), (iv) or (viii). The application shall state the reasons for relief. Determinations of benefits not charged to an employer's account and which are paid from the trust fund shall be recorded and shall specify the reasons therefor. The records are open to inspection by an employer or his legal representative.

(d) An employer may apply to the department for review of a decision or determination involving contribution liability, contribution rates or the charging of benefit payments under W.S. 27-3-509. The application shall be in writing and shall state the reasons for review. The department, on behalf of the commission, shall notify the employer of its acceptance or denial of the application for review or of a redetermination by the commission. If the commission grants review, the employer shall be given opportunity for hearing in accordance with W.S. 27-3-401 through 27-3-409. An employer in any proceeding involving contribution rates or liability may not contest benefits paid and charged to his account in accordance with a determination, redetermination or decision pursuant to W.S. 27-3-401 through 27-3-409 unless he was not a party to the proceeding. A denial or redetermination is final unless within thirty (30) days after notice is mailed a petition for judicial review is filed in accordance with W.S. 27-3-407.

**27-3-509. Election of substitute payments by certain organizations authorized; filing and liability period; billing; posting of security; exceptions.**

(a) An organization or nonprofit organization defined by W.S. 27-3-501(a)(v) and (vi) and subject to this act may instead of paying contributions otherwise required by this article, elect to pay an amount determined pursuant to subsection (c) of this section. If an organization or nonprofit organization elects payment liability at the time it is determined an employer subject to this act, it shall file written notice of its election with the department not later than thirty (30) days following the date of determination. Liability for payments shall be at least one (1) year from the date of determination and shall continue until written notice is filed with the department terminating its election. Notice shall be filed not later than thirty (30) days before the beginning of the taxable year for which the termination is effective. An organization or nonprofit organization previously paying contributions under this act may file written notice of election for payment liability with the department not later than thirty (30) days prior to the beginning of any taxable year. The election shall not be changed for at least two (2) years from the effective date.

(b) The department may for good cause extend the required filing period for notice of election or termination and may permit an election to be retroactive to January 1 of the year in which the election is made. It shall notify an organization of its determination of employer status, the effective date of an election and a termination of election. Determinations are subject to reconsideration, appeal and review in accordance with W.S. 27-3-506.

(c) At the end of each calendar quarter or other period determined by the department, the department shall bill each nonprofit organization electing payment liability under this section for an amount equal to the total amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during the quarter or other prescribed period attributable to employment in the nonprofit organization. An organization electing payment liability under this section shall be billed in a similar manner for an amount equal to the total amount of extended benefits attributable to employment by the organization during the billing period. Payment shall be made not later than thirty (30) days after the bill is mailed or delivered unless an application for review and redetermination is filed. Payments shall not be deducted from employee wages and if not paid when due, the employer is subject to interest under this article. The department shall notify each employer of transactions affecting its account and its right to review pursuant to W.S. 27-3-506.

(d) The commission may by regulation require an employer electing payments under this section to post surety bonds or other securities.

(e) Noncharging provisions under W.S. 27-3-409(a) and 27-3-504(e) and the right to protest benefit charges under W.S. 27-3-506(c) do not apply to employers electing payments under this section.

(f) Any employer failing to make required payments under this section, including assessments of interest and penalties, within ninety (90) days after receipt of a bill, shall not be eligible for making payments under this section for the following tax year unless full payment is received by the department before the contribution rates for the next tax year are computed under this act, subject to the following:

(i) Any employer losing the option to make payments under this section because of late payments or nonpayment under this subsection shall have the option reinstated if after one (1) year, all contributions have been paid on a timely basis and no contributions, payments instead of contributions for paid benefits, penalties or interest remain outstanding;

(ii) Failure of the tribe or any tribal unit to make payments required under this section including assessment of interest and penalties, after exhaustion of all collection efforts determined necessary by the department, shall exclude services performed for the tribe from employment for purposes of W.S. 27-3-105(a)(iii);

(iii) Upon termination or reinstatement of any tribe or tribal unit under this section, the department shall notify the United States internal revenue service and the United States department of labor;

(iv) Notice of payment and reporting delinquency to any Indian tribe or tribal unit under this subsection shall include information that failure to make full payment within the prescribed time:

(A) Imposes a tax liability upon the tribe under the federal Unemployment Tax Act;

(B) Eliminates eligibility of the tribe for election of payments under this section;

(C) May result in exclusion of the tribe as an employer under this act as defined by W.S. 27-3-103(a)(x) and the exclusion of services performed for the tribe from employment covered under this act pursuant to paragraph (ii) of this subsection.

**27-3-510. Delinquencies; interest to be charged; deposit; collection by civil action; jeopardy assessments; posting of bond; liability of corporate officers and directors.**

(a) Contributions not paid on the date due shall bear interest of two percent (2%) per month or any fractional portion thereof from the due date until payment plus accrued interest is received by the department. Interest collected pursuant to this subsection shall be paid into the employment security revenue account.

(b) If after notice an employer defaults in any contribution or interest payment, the amount due shall be collected by civil action in the name of the department. An employer adjudged liable shall pay the costs of the action. Civil actions brought under this subsection shall be given preference over all other civil actions except petitions for judicial review under this act and cases under the Wyoming Worker's Compensation Act.

(c) If an employer or employing unit neglects or refuses to submit reports and pay contributions or interest required by this act, discontinues business at any of its places of business or leaves this state without submitting reports and paying contributions or interest and the neglect, refusal, discontinuance or removal jeopardizes the fund or any rights to benefits, the department may make a jeopardy assessment against the employer or employing unit. The department shall immediately notify the employer of the assessment in writing by mail. The assessment is final unless the employer files a written protest of the assessment with the department within fifteen (15) days after mailing. An employer filing a protest may request a hearing before the commission in writing. After the hearing the department shall notify the employer of findings of the commission. If an assessment is made, it is final upon issuance of notice and the department shall collect the assessment of any delinquent contributions or interest.

(d) The department may require any employing unit which has been habitually delinquent in making contributions, filing returns or qualifying as required by this act to file a bond or other security with the department which will insure the payment of future contributions required by this act.

(e) Any officer or director having at least twenty percent (20%) ownership interest of a corporate employing unit and any manager of a limited liability company having at least twenty percent (20%) ownership interest of a limited liability company employing unit, who controls or supervises filing contribution reports or making payment contributions under this act and who fails to file the reports or make required payments, and the employing unit fails to pay the amounts due the department, is liable for the contributions or reimbursement including interest, penalties and costs. Liability under this subsection shall:

- (i) Survive dissolution, reorganization, bankruptcy, receivership or assignment for the benefit of creditors of or by the corporate or limited liability company employing unit;
- (ii) Be initially determined by the department. The department's determination is final unless the officer or director determined to be liable files a written appeal within fifteen (15) days after the date notice of the determination is mailed to his address or the address of the corporate or limited liability company employing unit. The burden of proof rests with the department and the appeal shall be conducted in the manner provided under W.S. 27-3-506 for appeals from employer liability determinations.

**27-3-511. Delinquencies; lien; foreclosure; notice and hearing; satisfaction and release; remedies not exclusive.**

- (a) If contributions or interest under this act are not paid on the date due, the department may file a lien certificate verified under oath with the county clerk of the county in which the employer has his principal place of business and a copy with any other county. The certificate shall state the amount of the contributions and interest due, the name and last known address of the delinquent employer and that the department complied with computation and levy requirements for contributions and interest under this act. The county clerk shall number, file and index the certificate under employment security contributions' liens and under chattel mortgages.
- (b) The amount of contributions and interest due the department is a lien upon all real and personal property including motor vehicles owned or acquired by the employer. The lien is in effect from the time of filing the certificate and covers all property of the employer in any county in which filed. The department may initiate proceedings for foreclosure in district court within ten (10) years from the date of filing. After the date of filing, no person shall remove property subject to a lien under this section from the state.
- (c) Before filing the certificate, the delinquent employer shall be given opportunity for hearing before the commission or its duly authorized representative. Notice of the time and place of the hearing shall be mailed at least fifteen (15) days prior to the hearing. If the delinquent employer or his representative fails to appear at the hearing or fails to establish to the satisfaction of the commission that contributions and interest are erroneous, the department may file the certificate. The certificate may be filed without opportunity for hearing if a delinquent employer is leaving the state with intent to default.
- (d) If a lien is entered and the contributions are paid or found erroneous, the department shall file notice of satisfaction of the lien certificate with the county clerk of any county in which the lien is filed. The department may release any property from the lien or subordinate the lien if it determines contributions and interest are secured by a lien on other property or the collection of contributions and interest is not in jeopardy. The department shall certify release or subordination under this subsection.
- (e) The remedies provided by this section are not exclusive.
- (f) Notwithstanding any other provision of this section, the department may enter into installment payment agreements for delinquent tax and interest liabilities where repayment requirements are met and where payment in a lump sum would cause severe inconvenience to the taxpayer.
- (g) For purposes of this section, "employer" includes those individuals described in W.S. 27-3-510(e) under the conditions described in that section.

**27-3-512. Priority over other claims under receivership.**

If an employer's assets are distributed by court order under receivership, assignment, adjudicated insolvency or other proceeding, contributions under this act shall have priority over all claims except taxes and claims for wages of not more than two hundred fifty dollars (\$250.00) per claimant and earned within six (6) months before the proceeding. Priority of contributions in cases adjudicated under 11 U.S.C. § 101 et seq. shall be as provided by 11 U.S.C. § 507(a).

**27-3-513. Prevention of collection prohibited.**

A court shall not prevent the collection of any contributions under this act.

**27-3-514. Action for recovery of payments under protest; procedure.**

An employer paying contributions under protest may within six (6) months after payment initiate action for recovery against the department in a court of competent jurisdiction. The protest shall be verified and filed at the time payment is made and shall state the grounds for objection. Failure to initiate action within six (6) months is a waiver of recovery under this subsection. Review by the court is limited to the objections stated in the protest. If judgment is for the employer, the amount shall be credited to his account for contributions and interest due under this act. Any remaining balance shall be refunded to the employer from the clearing account.

**27-3-515. Adjustment or refund for erroneous collection; reduction of contributions and interest in certain cases; recovery by department.**

(a) An employer may apply to the commission or the commission may on its own motion provide for an adjustment of contributions or interest or for a refund if the adjustment cannot be made. This subsection applies only to payments made within three (3) years before the date of application or determination. Upon determination of an erroneous collection, the department shall grant an adjustment without interest for future contribution payments or if the adjustment cannot be made, refund the amount without interest from the fund.

(b) The department may upon its own motion or written application reduce or waive the amount of interest due under W.S. 27-3-510(a) if the collection of the full amount of interest is against equity and good conscience. If an employer is no longer subject to this act pursuant to W.S. 27-3-502, the department may reduce or cancel the amount of contributions or interest due upon a determination based on findings entered into the record that the employer is:

- (i) Adjudicated insolvent by a court of competent jurisdiction with no remaining assets;
- (ii) Deceased with no estate or the estate is closed and all assets are distributed;
- (iii) A dissolved corporation with no remaining assets;
- (iv) Not found within three (3) years after the date of termination of coverage under this act and has no property located in the state; or
- (v) Not capable of paying the total amount due within three (3) years after the date of termination of coverage under this act, has no property in the state and failure to accept a partial amount of the total as settlement may result in a substantial loss to the fund.

(c) Subsection (b) of this section does not prevent the department from collecting the balance of interest and contributions not paid if its action was based upon a misrepresentation or omission of facts or if amounts due under this act are collectible at a future date.

**ARTICLE 6 – ADMINISTRATION****27-3-601. Unemployment insurance commission created; composition; terms; vacancies; salary; chairman; quorum; removal; office; seal.**

(a) The unemployment insurance commission of Wyoming is created within the department of employment and shall consist of three (3) members serving a term of six (6) years each. Appointments, vacancies and expiration of terms shall be in accordance with W.S. 28-12-101 through 28-12-103. A member shall not hold any state office or serve as an officer or on a committee of any political organization during the term of membership. No more than two (2) members shall be of the same political party.

(b) Every two (2) years one (1) member shall be elected by the membership to serve as chairman. Two (2) members is a quorum. A vacancy does not prevent the remaining members from exercising powers of the commission. One (1) member shall not exercise powers if two (2) vacancies occur at the same time.



- (c) Commission members shall receive a salary equal to the per diem paid to members of the Wyoming legislature under W.S. 28-5-101 for each day of actual service and when engaged in necessary travel plus necessary expenses.
- (d) The governor may remove a commissioner as provided in W.S. 9-1-202.
- (e) The office of the commission shall be located in Casper, Wyoming and the commission shall have an official seal which shall be judicially noticed.

**27-3-602. Powers and duties of unemployment insurance commission; personnel.**

- (a) The commission shall:
  - (i) Adopt rules necessary for the administration of this act by the department of employment and the department, in accordance with law, may make expenditures, require reports, make investigations and take other action it considers necessary;
  - (ii) Determine its methods of procedure in accordance with this act;
  - (iii) Repealed by Laws 1990, ch. 63, § 3.
  - (iv) Through the department, and if possible, provide a reserve against fund liability for future benefit payments in excess of contributions in accordance with accepted actuarial principles based on employment, business activity and other relevant factors;
  - (v) Through the department, recommend to the governor and the legislature a change in contribution or benefit rates when necessary to protect fund solvency;
  - (vi) Define and prescribe by regulation necessary procedures for total unemployment and part total unemployment;
  - (vii) Through the department, publish provisions of this act, rules and regulations, reports and other relevant material and furnish copies in accordance with W.S. 16-4-204 to any person upon application.
- (b) The commission may adopt, amend or rescind rules and regulations after notice and public hearing in accordance with the Wyoming Administrative Procedure Act.
- (c) In administering this act, the commission or any authorized representative of the department may administer oaths and affirmations, take depositions, certify official acts, subpoena witnesses and require the production of books, papers or other records material to the administration of this act.
- (d) If a subpoena issued to any person pursuant to subsection (c) of this section is disobeyed, the district court of the district in which the inquiry is conducted or the person is found, resides or conducts business shall, upon application by the commission or department, issue to the person refusing to obey the subpoena an order requiring the person to appear before the commission or department to produce evidence if ordered or to give evidence touching the matter in question. Any person failing to obey the court order may be punished by the court for contempt and upon conviction, shall be fined not less than two hundred dollars (\$200.00), imprisoned not more than sixty (60) days, or both. Each day of violation is a separate offense.
- (e) The privilege of self-incrimination is not a defense for violating subsection (c) of this section nor shall a person be incriminated for providing testimony or evidence under subsection (c) of this section except for perjury committed during testimony.
- (f) The department of employment shall provide personnel necessary to administer this act in accordance with rules of the commission and determinations of the commission authorized by law. The commission shall not exercise supervisory authority over those personnel.

**27-3-603. Confidentiality of information.**

Except as otherwise provided, information maintained pursuant to this act shall not be disclosed in a manner which reveals the identity of the employing unit or individual. The confidentiality limitations of this section do not apply to transfers of information between the divisions of the department of employment so long as the transfer of information is not restricted by

federal law, rule or contract. Any employee who discloses information outside of the department in violation of federal or state law may be terminated without progressive discipline.

**27-3-607. Cooperation by department with federal and state agencies; disclosure and submission of specified information; limitations.**

(c) The department may, on a reimbursable basis unless otherwise provided:

(i) Repealed By Laws 2005, ch. 186, § 3.

(ii) Notwithstanding W.S. 27-3-603 and subject to regulations of the commission and pursuant to contract, disclose necessary information obtained from any employing unit or individual under this act and any determination of benefit rights to any state or federal agency administering Wagner-Peyser Act or Workforce Investment Act training services;

(iii) Repealed By Laws 2005, ch. 186, § 3.

(iv) Cooperate with any federal agency administering any unemployment compensation law;

(v) Allow access to information obtained pursuant to the administration of this act to the division of criminal investigation of the attorney general's office, upon a written request by the director which demonstrates there is a reasonable basis to believe the health or safety of a person is in danger and the information may lead to the elimination of that danger;

(vi) Allow the state auditor's office and the division of worker's compensation access to certain information obtained under this act limited to the name, address, social security identification number and other general information pertaining to benefit entitlement and employers. Disclosure of information under this paragraph is for purposes of comparing information of the department with that of a requesting state agency for the detection of improper or fraudulent claims or the determination of potential tax liability, for employer compliance with notification, registration, certification or qualification requirements or for the collection of amounts owed the department;

(vii) Upon request, disclose information not otherwise restricted by law or contract to the bureau of labor statistics;

(viii) Upon written request, disclose any information obtained under this act to director or agency head, or his designee or agent, in the executive branch of federal or state government to be used by the public official only for official business in connection with the administration of a law or in the enforcement of a law by that public official. The requesting agency shall reimburse the department for the cost of furnishing this information unless the cost is insignificant;

(ix) Inform a project owner or contractor if his prime contractor or any subcontractor has notified the department and whether or not the prime contractor or any subcontractor is in compliance with this act;

(x) Pursuant to contract, disclose wage information on a nonreimbursable basis to the social security administration utilizing the unemployment insurance interstate inquiry system;

(xi) Require any recipient of information disclosed under this subsection to comply with any safeguards necessary as specified in federal regulation to ensure that the information furnished shall be used only for the purposes authorized;

(xii) Notwithstanding W.S. 27-3-603 and subject to regulations of the commission, disclose necessary information obtained from any employing unit or individual under this act and any determination of benefit rights to any state or federal agency administering unemployment compensation laws or federal tax laws and to the office of the United States bankruptcy trustee.

(d) The department may conduct and publish statistical analysis of payroll and employment of state agencies in the executive branch which may reveal the identity of state agency employing units.

**27-3-610. Establishment of fee schedule and payment for certain services.**

The department may charge a fee and require payment to recover the cost of services for photocopying, preparation of forms or other material in responding to inquiries to provide information not confidential by law, furnishing publications prepared by the department and any other services rendered by the department which are not directly related to the administration of this act. Such fees shall be deposited into the employment security administration account.

**27-3-611. Maintenance of records by department; procedures.**

The department may maintain any or all of its records on a computer imaging system that maintains true and accurate copies or images of original documents. The department may destroy original documents after putting the documents in the computer imaging system. True and accurate copies generated by the computer imaging system shall be admissible in court or administrative hearings under the same conditions as the original document would be admissible.

**ARTICLE 7 – PENALTIES****27-3-701. Financing of contributions or waiver of rights by employees.**

No employer shall directly or indirectly make, require or accept any deduction from wages or payments by employees to finance contributions required by this act or require or accept any waiver of an employee's right under this act. Any employer or his officer or agent violating this section shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), imprisoned for not more than six (6) months, or both. Each violation is a separate offense.

**27-3-702. Obtaining benefits by fraud; disqualification of benefits; penalties.**

(a) No person shall, for himself or any other person, knowingly make a false statement or misrepresentation or knowingly fail to disclose a material fact to obtain or increase benefits or other payments under this act or other state or federal law. Any person violating this section is guilty of:

(i) A misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than ninety (90) days, or both, if the amount of benefits obtained in violation of this section is less than one thousand dollars (\$1,000.00); or

(ii) A felony punishable by imprisonment for not more than five (5) years, a fine of not more than five thousand dollars (\$5,000.00), or both, if the amount of benefits obtained under fraud is one thousand dollars (\$1,000.00) or greater.

(b) Upon conviction the court shall require the defendant to make restitution to the department in the amount of benefits or other payments improperly paid due to the defendant's fraud. Each false statement, misrepresentation or failure to disclose a material fact is a separate offense. This section shall not preclude prosecution under any other applicable law.

(c) In addition to the penalties provided by this section, a person convicted under this section or any other applicable law shall be disqualified from receiving benefits in any week beginning within a two (2) year period immediately following conviction.

**27-3-705. Improper filing of claims; penalties.**

An individual who knowingly and with the intent to defraud allows or authorizes another person to sign the individual's name or use his personal identification number to make or file a claim for benefits on the individual's behalf is subject to the penalties prescribed in W.S. 27-3-311(e) and 27-3-702(a).

**27-3-706. Experience rating manipulation; penalties.**

(a) A person who knowingly, or with deliberate ignorance or reckless disregard of the true facts or the requirements of this act, violates or attempts to violate W.S. 27-3-507 or any other provision of this act related to determining the assignment of a contribution rate, or who knowingly advises another to violate the requirements of W.S. 27-3-507 or any other provision of this act related to determining the assignment of a contribution rate, shall be subject to the following penalties:

(i) A person who is an employer shall be assigned, for the rate year during which the noncompliance or misrepresentation occurred and for the following three (3) rate years, the highest rate assignable under W.S. 27-3-503. If the person's business is already at the highest rate for any year, or if the amount of increase in the person's rate would be less than two percent (2%) for that year, then a penalty rate of two percent (2%) of taxable wages shall be imposed for that year. This penalty may exceed the maximum assignable rate;

(ii) A person who is not an employer shall be subject to a civil penalty of not more than fifty thousand dollars (\$50,000.00). Funds received by the division under this paragraph shall be paid over to the state treasurer to be credited to the public school fund of the county in which the violation for which the penalty imposed occurred;

(iii) In addition to the penalty imposed pursuant to paragraphs (i) and (ii) of this subsection, any violation or attempted violation of W.S. 27-3-507 or any other provision of this act related to determining the assignment of a contribution rate may be prosecuted as a felony punishable by a fine of not more than fifty thousand dollars (\$50,000.00), imprisonment for not more than five (5) years, or both. The fine under this paragraph shall be paid over to the state treasurer to be credited to the public school fund of the county in which the violation for which the penalty imposed occurred.

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# APPENDIX C

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## Data results of LSO claims staff survey/questionnaire

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**Note:** We redacted some responses (\*) due to identifiable information that would breach our confidentiality requirements and assurances. We also redacted responses that generalized, such as “see below,” in reference to other comments or questions; we did not include these non-specific responses. We have maintained responses as close to their original format as possible under these circumstances. Percentage totals for some tables do not add up to 100.00% due to rounding.

**Table C.1**  
**Responses to Survey Question 1:**

As a claims specialist, is taking unemployment insurance claims the primary responsibility of your current position?

Response Categories	Responses and Response Rate
Yes	10
No	18
No Answer	4
% Yes	31.25%
% No	56.25%
% No Answer	12.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Table C.2**  
**Responses to Survey Question 1a:**

How often do you take unemployment insurance claims?

Response Categories	Responses and Response Rate
Less than one (1) per week	4
One (1) to five (5) claims per week	2
Six (6) to ten (10) claims per week	0.5
Ten (10) to twenty-five (25) claims per week	3.5
Greater than twenty-five (25) claims per week	11
Not Applicable	11
% Less than one (1) per week	12.50%
% One (1) to five (5) claims per week	6.25%
% Six (6) to ten (10) claims per week	1.56%

Response Categories	Responses and Response Rate
% Ten (10) to twenty-five (25) claims per week	10.94%
% Greater than twenty-five (25) claims per week	34.38%
% Not Applicable	34.38%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q1 and Q1(a)):

- I am an adjudicator \*. Only take claims when asked.
- N/A...do not take claims.
- I take claims over the phone and internet. Recently, my main duties have been training and reviewing claims taken by our temporary staff and newer permanent claims takers. I also spend a good chunk of my week working on federal profiling program and EUC reports.
- Greater than 25 claims per day—some days more than 50. the call volume has been unread for two full years!!
- Much more than 25 claims per week.
- I \* verify\* whether or not the claimants collecting the federal Emergency Unemployment Compensation are eligible for state UI benefits instead. I \* can speak Spanish, so I have spent time in the past year revamping/translating/testing, etc. the new IVR telephone system. I have also spent a little time on testing our new TIC website for filing UI online.
- Depends on my current assignments.
- My primary job duty is processing employer chargeability protests. This survey does not appear to apply to my position as I do not take claims or process them. If more information is needed from me, please contact me.
- Worked as a claim specialist the previous 8 years.
- I only took claims for one hour a day for a couple of months.
- I am primarily responsible for monitoring Potential Payment Errors and Work Search Verifications for the Eligibility Review Program. When my work is finished with those then I focus my time on taking claims.
- 5 days per week 8-5.

**Table C.3**  
**Responses to Survey Question 2:**

Which type of unemployment insurance claims do you most often take?

Response Categories	Responses and Response Rate
Internet Claim Application	2
Telephone Claim Application	18
Paper Claim Application - mail in	0
Paper Claim Application - fax	0
Not Applicable	12
% Internet Claim Application	6.25%
% Telephone Claim Application	56.25%
% Paper Claim Application - mail in	0.00%
% Paper Claim Application - fax	0.00%

Response Categories	Responses and Response Rate
% Not Applicable	37.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q2):

- I also process Internet claims but the majority are by telephone.
- Most of our claims are taken over the phone, but we do process Internet claims also. While we were overly busy these last couple of years, we did not process Internet claims in the Claim Center. We had some of our staff in our other departments take over this duty. Now that we have Internet claims to process again in the Claim Center (we got them back in April 2010), they still make up less than 25% of the claims I process. We don't take applications by mail or fax.
- Only a select few of the claims takers are authorized to process internet claims. I'm not sure if our office even takes applications through fax or mail.

**Table C.4**  
**Responses to Survey Question 3:**

How often do you encounter problems with claimants' in ability to speak English (when taking telephone claims)?

Response Categories	Responses and Response Rate
Often	2
Not Often	17
Never	0
Not Applicable	13
% Often	6.25%
% Not Often	53.13%
% Never	0.00%
% Not Applicable	40.63%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q3):

- Don't do telephone claims.
- No problem – can use language line.
- I usually have to call the language line about 1-2 times a day.
- This is not a problem for claimstakers—we all have access to the Language Line service so we can help everyone at any time.
- .0001% —claimants can usually speak English well enough, they have a family member assist them or we have a service for translation.
- This is just based on what I have encountered so far. I'm sure I will have more to come.

**Table C.5**  
**Responses to Survey Question 4:**

Is there a standard procedure in which you are trained for obtaining assistance or services for claimants with limited English Proficiency?

Response Categories	Responses and Response Rate
Yes	19
No	0
Not Applicable	13
% Yes	59.38%
% No	0.00%
% Not Applicable	40.63%

Source: Legislative Service Office analysis of UID claims staff survey results.

#### Comments (Q4):

- We use language line services.
- Use language line.
- Language line.
- See above [don't do telephone claims].
- We contact language line.
- Use the Language Line.
- Contact language line. This service works very well.
- I wasn't really trained, I was given a paper with then language line # on it and the account number and was told that if I needed an interpreter to call them. The paper has the steps on there explaining what to do. I didn't know that I needed to note on the claims that it was a language line call until I had been taking calls for a couple of months.
- We have a Language Line Service that we use for Spanish Interpretation.
- 1-800-874-9426 = Language Line—we conference staff through this “service”—they translate the three-way call to claimant/translator/us. These calls take from 20 minutes to one hour because of the language barrier.
- Use language line services and conference in interpreter.
- We call language line services for all translator calls.
- If I cannot translate myself, we have an account with the Language Line to call and request an interpreter. Once the claimant asks for someone that speaks Spanish, we tell them we can get an interpreter, verify they want/need one, put them on hold while we get the translator, give the translator an introduction to the situation, and connect the claimant to a three-way call to continue. We get the interpreter's name and employee ID number and write it on the claim form, if we are taking a claim (if the claimant just has a question, we don't document it). If the claimant has a family member or friend that can translate, we get permission from the claimant to talk to said person and go that route instead (it is easier and cheaper).
- We have language line.
- Language line, help from claimant's family friends.
- There is a service we can use called the Language Line. We simply dial a 1-800 number, enter a client code number, enter the phone number of the phone we are using and then instruct the claimant that we have an interpreter to assist with call. When it's over we tell the interpreter that the call is finished and then hang up.



- I was given a Quick Reference Guide to follow when I need to get a Translator on the line with the claimant. It is very easy to follow as the first time I needed to use I just followed the steps.
- Call language line.
- I was trained to utilize “Language Line Services.”

**Table C.6**  
**Responses to Survey Question 5a:**

Even with assistance and services (i.e. - use of language line), how often do you continue to have trouble completing applications for claimants?

Response Categories	Responses and Response Rate
Often	1
Not Often	9
Never	9
Not Applicable	13
% Often	3.13%
% Not Often	28.13%
% Never	28.13%
% Not Applicable	40.63%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q5(a)):**

- See above [don't do telephone claims].
- I would say about half the time I have either a really bad interpreter or a really distracted claimant. Some of the Language line people you can tell are not explaining things correctly or not explaining things well. I try to keep my responses and questions brief and simple, and still I have a hard time. If you get a good Language line agent though, the process works pretty smooth.
- Only problem is when claimant does not have complete information available for completing application.
- Most of the time we can gather all of the information we need and we can gather the correct information. However, we cannot read minds. If the claimant doesn't know, neither will we. We can only process a claim with the information they tell us. Those of us who have been here for a while have ways to (gently) pry it out of the claimants because we know more of what they are thinking and how to make them understand our line of questioning to get a more accurate response.
- Never had problem that could not be worked out.
- We have one claims taker who can speak fluent Spanish. We rarely encounter a claimant who speaks any other language other than English or Spanish. With the help of Language Line I have no difficulty in completing applicants for claimants with this issue.

**Table C.7**  
**Responses to Survey Question 5b:**

**What is the nature or reasons for these instances?**

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q5(b)):**

- I don't take claims very often so I haven't had a problem as an adjudicator.
- Communication.
- I'm not sure why it is so hard. I think a lot of it may be because some of the more "legal" sounding terms don't translate well or because the interpreter doesn't know the Spanish term for it and tries to make something up. Also, it is hard to relay all of the information on the paperwork we send out to them through a third party. With English speaking people, they can read the blue book; some of our Spanish claimants don't have that luxury, so we have to try to get them to understand it over the phone.
- \* Claimants do not understand our rules or the reasons for some of our questions. Therefore, they don't always answer appropriately. They are using their own logic instead of the logic of our rules and regulations
- When Claimants do not have employer address and we do not have them in our system. Also, there are a lot of little particulars to learn once information is gathered and sometimes I need to ask a permanent claims taker how to handle a particular claim so that it is entered right so it may not get entered right away. The other instances are when another state tells a Claimant to call us and file a claim when they are in overpayment with that state but they do not put anything out on the IBWIC screen.
- Simply not understanding the rules of unemployment.

**Table C.8**  
**Responses to Survey Question 6:**

**What are the biggest challenges to performing the claims taking job well (other than claims volume)?**

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q6):**

- Not a claims taker I don't know.
- That it adds extra stress because I must also do adjudication and do this as a second duty.
- N/A.
- Mainframe system going down.
- Trying to keep current on all the extension [federal emergency unemployment compensation] changes.
- Responding to all claimants and employers in an equitable way, while attempting to give intense and immediate attention, ahead of others, to those who lodge complaints with legislators, the governor, or another agency.
- The biggest challenge was the lack of support from the upper administration of the state. Our managers had to beg for months to get any sort of help for the claims takers here at the center. When we finally got help in the form of several temps, it took them several more weeks for them to find out if they could take claims.

Now that we have the volume under control and the staff trained, I think it is the lack of constructive and meaningful feedback on behalf of the managers. I know for me, my direct supervisor will let me know if I have made a mistake on a claim or if I have a question on a claim, I can ask him. For the temps, for several weeks claims were not getting reviewed and were just getting processed, so they never knew if they were doing things wrong. Now, we are still trying to get on top of it because of the lack of time to review the claims and properly train the temps.

I truly do like and respect my managers and supervisors here, but I think they have too many things on their plates right now and no way to get out of it. Some of us are picking up duties where we can, but our managers cannot be in 2 places at once. [My supervisor] has to do the AWIN project and he was told [me] that he would be replaced at the claims center as the claims taker supervisor a few months ago and that never happened. He is expected to do the job of 2 people and is getting stretched thin. [Other supervisor/manager] is the same way; he was the \* supervisor and \* manager and still expected to go to several meetings in the main building. Those poor guys need more help so they can effectively lead us. I am not sure how much of that is hearsay, but I can see how all of this stress is affecting them and it is not fair. I know [the supervisor/manager] is getting pressure from the state to fix things and there is not a way to do so without support.

- EUC is another huge issue. Just as we finally get a hold on the program, the rules are changed and we have to back-track and redo much of the work that we just spent several weeks completing.
- I think the biggest challenge for me is the new and changing rules. I think the EUC rules are the hardest. You get trained a certain way for them and then they change all the rules and you have to learn all over again. Learning the other states and their requirements is a challenge too.
- Changes in federal guidelines that don't seem to be well thought out... we have in house training and excellent sources to refer to when we have new and/or unusual circumstances.
- Stress level as every person calling wants something done for them right away.
- When an extension comes into play, the rules change. Rather than going by the traditional state unemployment rules, we have to start looking at all of these different scenarios. And it seems like each claim has it's own twist. We have to learn the different rules and base periods for other states to calculate if the claimant should be on another state's UI instead of our EUC, etc. There is so much knowledge needed and it can be hard to readily find the rules for other states to make an accurate judgment. Some of the state rules on "HAND" have not been updated for years and don't include all of the little nuances that state may have. We need to learn to slow down, look at the bigger picture, review all of the data thoroughly, then tell the claimant what is going on. EUC makes our computer programming much more complex and, we then, as claims takers, must know more about the IT side of things to give an accurate response to the claimant and to fix any potential problems. People who do not understand the computer's nuances won't be able to help the claimant. Also, because of the EUC program and our lack of help for at least the first year of it, our staff is overwhelmed, stressed out, our morale has dropped significantly, and our supervisors (and staff) are doing the jobs of multiple people. We have gone above and beyond the call of the job, even working on weekends, to get the job done and get people paid as timely as possible with the staff we have.
- High volume is the only issue.
- None.
- Getting help from \* manager. \* knowledge base is weak.
- I have a few difficulties with the new EUC rules and sometimes CWC. But they are usually pretty easy to solve. My biggest issue is trying to understand what other state's rules and eligibility requirements are.
- Learning all the particulars and calculations so that I can do the job without any hesitation.
- Having time to check claims after entering them in a timely manner.

**Table C.9**  
**Responses to Survey Question 7a:**

Do you feel you have reasonable opportunities to provide feedback to Division leadership (supervisors, managers, and administrator) on ways to improve claims taking?

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Yes	17
No	2
Not Applicable	13
% Yes	53.13%
% No	6.25%
% Not Applicable	40.63%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q7(a)):**

- N/A
- I feel like I can give feedback to my supervisor and center manager. As a newer state employee, I would not want to overstep my bounds by talking to anyone higher up than the center manager.
- I feel that I have reasonable opportunities to provide feedback to the supervisors. Our supervisors have an open door policy and are very welcome to each and everyone of our comments or concerns.
- My supervisors are wonderful and they have been going above and beyond as well, even putting in overtime, probably unpaid. My direct supervisor has been on an AWIN (federal) committee and is only here half of the time, but he is essential to the running of this call center. He has been doing two jobs, basically. Yes, if we have suggestions for the supervisors, they hear us out and have even implemented some of these suggestions. They are very positive and try to encourage us and give us thanks for our hard work. They can only do so much, though, with the hiring freeze we have had and the lack of people compared to call volume. The stress of this job is hurting us all and we do get overwhelmed. Some days we don't even have time to see one another because we are so busy on the phones, etc. Our temporary staff have been such a blessing. It is time consuming to train them and to answer their questions, but the positives outweigh the negatives.
- Just do the job, manager is not open for suggestions.

**Table C.10**  
**Responses to Survey Question 7a:**

If yes, do you feel your suggestions and comments are taken seriously when you offer them?

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Yes	17
No	2
Not Applicable	13
% Yes	53.13%
% No	6.25%
% Not Applicable	40.63%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q7(b)):**

- N/A
  - I think that the leadership here do take my suggestions seriously. They have actually enacted a few ideas I presented them to help with the claims process and also ideas to help their job go easier. I really appreciate that they are so receptive to my feedback and ideas.
  - Yes I believe that the supervisors do and try to take them all into consideration to make things go easy and convenient.
  - \* Yes, they value my opinion and take my suggestions seriously. I assume it is the same for all of us. For instance, in May/June/July we were taking and holding EUC claims while waiting on Congress to decide what they were doing. My co-worker and I had an idea that before we entered the EUC claims pending the passage of the law, we needed to re-review all of them due to the passage of time and the quarter change; categorize them by effective dates; update all address, phone, tax options immediately; and get packets put together to get the claimants caught up ASAP.
- We presented the idea to our supervisors and they liked it, let us work with it, and it enabled us to enter roughly 3,000 claims and get paperwork out to those claimants within a few days. It was awesome. And we greatly reduced our errors by doing this. The supervisors have an open door policy. They are like our counselors sometimes. They hear our frustrations, give us suggestions, and they encourage us. The only thing that irks me is that when they tell the staff to only take so many breaks, to be here on time, or to be logged in to the phones, etc. some of the staff seem to shrug it off and get away with it. The supervisors don't always see it because they are so overwhelmed with the many other jobs they have inherited. That hurts morale. Yes, we are tired and burned out, but we need to do our jobs and work as a team, helping each other.

**Table C.11**  
**Responses to Survey Question 8:**

As a claims specialist, is processing unemployment insurance claims the primary responsibility of your position?

Response Categories	Responses and Response Rate
Yes	7
No	22
No Answer	3
% Yes	21.88%
% No	68.75%
% No Answer	9.38%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Table C.12**  
**Responses to Survey Question 8a:**

How often do you process unemployment insurance claims?

Response Categories	Responses and Response Rate
Less than one (1) per week	5
One (1) to five (5) claims per week	4
Six (6) to ten (10) claims per week	0
Ten (10) to twenty-five (25) claims per	2

Response Categories	Responses and Response Rate
week	
Greater than twenty-five (25) claims per week	9
Not Applicable	12
% Less than one (1) per week	15.63%
% One (1) to five (5) claims per week	12.50%
% Six (6) to ten (10) claims per week	0%
% Ten (10) to twenty-five (25) claims per week	6.25%
% Greater than twenty-five (25) claims per week	28.13%
% Not Applicable	37.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q8 and Q8(a)):

- I set cross match issues that includes adding wages and 1-year disqualifications for fraud. We do set other issues but they go to the adjudicators to resolve.
- I only take care of non-countable issues like 65's, 28's and I also help another claims taker with 74's and 77's. I do clear and deny about 10 issues a week though.
- 50+ some days. Our system is very streamlined and efficient.
- More than 25 claims per week.
- Since I am the one in charge of 74 issues – verifying if a claimant should be on UI or EUC, I deal with resolving these issues daily. I adjudicate at least 100 of these each week. I take care of the ones that co-workers run across, as well as the ones that I get from a computer print out every time we run batch (meaning, when we update the computer data). Just like other claims takers, I also take care of issues regarding requalifications – if a claimant has earned enough between the start of their old claim and their current claim (65 issue) or if they have earned enough since a prior disqualification on a separation (28 issue). We even take care of the occasional issue on them answering incorrectly on their pay orders. No, this is not the purpose of my job or my main job duty, but it takes up nearly half of my time. I like being in charge of this (my 74 issues), however, and do not want someone else to do it.
- My primary job duty is processing employer chargeability protests. This survey does not appear to apply to my position as I do not take claims or process them. If more information is needed from me, please contact me.
- Only when needed.
- I handle any wage protests or wage credit freezes that come in. Investigate any missing wages on a claim or establish an alternate base period if the claimant has been on Wyo Workers Comp.
- I am in the BAM unit and only have to “process” claims when issues are found.
- Only take claims when needed.
- I do not process unemployment claims.
- I process memos for claims, but do not set issues or enter claims.
- I adjudicate issues, 60 or more per week!!!

**Table C.13**  
**Responses to Survey Question 9:**

Which type of unemployment insurance claims do you most often process?

<b>Response Categories</b>	<b>Responses and Response Rate *</b>
Internet Claim Application	8
Telephone Claim Application	19
Paper Claim Application - mail in	2
Paper Claim Application - fax	1
Not Applicable	12

Source: Legislative Service Office analysis of UID claims staff survey results.

\* Count of staff that identified different claims processed; some staff handle more than one type of claim.

**Comments (Q9):**

- I deal with all of them [claims types] since I'm a adjudicator.
- As an adjudicate[or] \* we deal with all claims.
- I answer the helpline a lot and there are a lot of internet questions dealing with online filing and bi-weekly claims.
- I also process internet claims as well but the volume is much less.
- Since most of our claims are taken over the phone, I would assume most of the issues come from our telephone claimants, but I am not a supervisor, therefore, I cannot tell you percentages. I doubt that one type of claimant has more issues than another – phone versus Internet. By the time I look at an issue, it is usually on a claim previously set up and I don't pay attention to how it was set up, because it is not relevant to the issue at hand.
- I only take telephone claims when the call volumes get too high and a Supervisor asks for me to long in and help.

**Table C.14**  
**Responses to Survey Question 10:**

What are the biggest challenges to performing the claims processing job well (other than claims volume)?

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q10):**

- Getting the proper information from both the claimant and employer. Plus the volume of phone calls.
- My regular job is not claims taking.
- N/A.
- Mainframe going down.
- Irate claimants when payments are delayed due to high volume – not enough trained staff so a lot of errors at claims taking level that cause additional work for adjudicators.
- Responding to all claimants and employers in an equitable way, while attempting to give intense and immediate attention to those, ahead of others, who lodge complaints with legislators, the governor, or another agency.

- Claimants not being able to read or write so they do not understand being able to protest or appeal.
- It is often difficult to get the “whole story” out of claimants.
- I have so few I take care of I really don’t have too much of a challenge.
- We try to be perfectionists so no mistakes are made. Then we don’t waste anyone’s time with corrections. We try our best to “do it right the first time”!
- Stress, as the job is demanding.
- Same as my comments before on the biggest challenges with claims taking. Mostly, it is being uninterrupted by other questions, job duties, etc. to be able to focus on one task and gather all the possible data for the scenario in question to look at the big picture and make no errors.
- None.
- Not enough staff because of hiring freeze even though we are federally funded not state funded.
- Since I only take them on an “as needed basis” and being located in a different building I am not as informed as much as the other claim takers on the current procedures or what changes have been made. For example, with all the changes that kept happening with EUC starting and stopping I didn’t always know what to inform the claimant when taking a claim or how they were working them in times when the extension was exhausted.
- Being informed of any recent commission decisions that could change how I resolve a certain issue.
- If I didn’t know the answer to a question from the claimant I was always able to go ask someone who did know.
- Getting information from both parties.
- Doing my job when I have to do the job of another person (claimstaking). In my position getting information from both claimant and employer takes a lot of time.

**Table C.15**  
**Responses to Survey Question 11a:**

**Do you feel you have reasonable opportunities to provide feedback to Division leadership (supervisors, managers, administrator) on ways to improve claims processing?**

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Yes	22.5
No	0.5
Not Applicable	9
% Yes	70.31%
% No	1.56%
% Not Applicable	28.13%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q11(a)):**

- Sometimes they will listen and sometimes it is after someone else complains that they will understand your reasoning.
- Yes. And a number of times the suggestions have been implemented. It makes me want to work harder when I see that my skills and ideas are valued and can make a difference.
- I feel that I can provide feed back and discuss my main job of wages protests with my supervisor and suggest ways of improvement. I don’t feel that I have any control or availability to comment on the claims taking process, but it’s not my main duty so I really wouldn’t have much to comment on since I really don’t know the whole process as well as I should to try and suggest any changes.



**Table C.16**  
**Responses to Survey Question 11b:**

If yes, do you feel your suggestions and comments are taken seriously when you offer them?

Response Categories	Responses and Response Rate
Yes	21.5
No	0.5
Not Applicable	10
% Yes	67.19%
% No	1.56%
% Not Applicable	31.25%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q11(b)):**

- Not much to do but keep training new staff which takes time away from duties which causes work to backup. Having to take claims and pulled from our primary job caused a back log of issues. Not anyone can adjudicate issues – at least not temps.
- The supervisors here actually used an idea that another claims taker and I came up with for issues revolving the new EUC rules.
- Definitely. For instance, my co-worker and I suggested using a 77 issue to deal with the claims that fall under the new EUC rules. It has been implemented and works great. They always take our suggestions and advice to heart.
- On my main job I do feel my feed back and suggestions are taken seriously and usually are able to be done. I am the only person besides my back-up who does wage protests so it's easy to change.
- Only sometimes.

**Table C.17**  
**Responses to Survey Question 12:**

Please estimate the percent of your work week spent on the following tasks. More specifically, please **circle the tasks most applicable** to your daily duties and provide **an estimate of the time spent on each duty** throughout a given work week.

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q12):**

- Adjudication is my job.
- My main job is adjudication. I only take and process claims when needed.
- All of the above happen all day everyday – hard to know what % of time.
- Other: Working with claimants and employers on issues, laws, procedures.
- We take the calls from help line and try to answer the questions or get them to their adjudicator. 1 ½ hours daily or more some days.

- Other: Establish & collection of overpayments.
- Lately I have spent a bulk of my time training, but that will hopefully end soon. Usually though, I am primarily on the phones.
- My main job is claimstaging! Other people did the Internet until the new TIC system became live in April 2010. It's got many good features and makes entry much faster for the Internet process.
- Other than doing the little mundane tasks that I don't really count, I really do spend half of my time on adjudicating 74 and 77 issues, and the other half taking claims. My hours listed add up to 40, but my percentages only add up to 97.75%. Go figure, the other 2.25% are lost out there somewhere... I did not include a percentage for the Spanish IVR testing that I was a part of because it was earlier this year and it was a temporary assignment.
- 50% on other—special projects (AWIN, IB committee). As the interstate program coordinator, I spend a great deal of time (30%) working with other states.
- Other—IVR, AWIN, mainframe, WYO-122, others. Taking claims over the telephone and processing the claim is done at the same time. I can process Internet claims as supervisor I feel my time is better spent answering the telephone. All supervisors are working supervisors in this division. I take claims, adjudicate issues, do protest reviews, answer questions for staff and claimants, monitor staff, and work on several projects and run the claims center on top of that. So when the call volume requires me to be on the phone all day that is what I do.
- Not my primary job so can't comment on how much time per week.
- I spend about 45 % of my work week answering questions on the Benefit Help Line from claimants on their Unemployment claims that have already been filed and helping them with any problems they have. I spend the other 55% of my time working on wages to try and make a claimant monetarily eligible or to try and help increase their benefits. When I have to take claims it usually comes out of the time I spend answering the Benefit Help Line.
- I spend about 45% of my work week answering questions on the Benefit Help Line from claimants on their Unemployment claims that have already been filed and helping them with any problems they have. I spend the other 55% of my time working on wages to try and make a claimant monetarily eligible or to try and help increase their benefits. When I have to take claims it usually comes out of the time I spend answering the Benefit Help Line.
- BAM functions include reviewing how others in the Agency processed claims. I only took claims for one hour a day for a couple of months.
- Only take claims if needed.
- Other: Doing PPE's and ERP Work Search Verifications
- I do what needs to be done to do the best job possible.
- Other: Returned mail.
- Other—typing memos for claim issues. (95%)
- Other—adjudicating issues/returning calls, etc.

**Table C.18**  
**Responses to Survey Question 13:**

How would you rate the overall level (i.e. - time spent, types of topics covered, job shadowing, etc.) of training you received in order to independently perform the unemployment claims taking/processing job well?

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Excellent	8
Good	14
Fair	6

Response Categories	Responses and Response Rate
Poor	1
No Answer	3
% Excellent	25%
% Good	43.75%
% Fair	18.75%
% Poor	3.13%
% No Answer	9.38%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Table C.19**  
**Responses to Survey Question 13a:**

What areas of your training were the **most helpful**?

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q13 and Q13(a)):**

- Making and understanding what goes in each folder we make.
- How to enter claims in system. How to determine last employer.
- In person training.
- I am more of the trainer or a supervisor, but when I was trained it was helpful to understand the whole process.
- The sequence of training: Reading manuals; attending training session; -on hands experience with review by experienced personnel
- We get explanations as questions arise. The adjudication we had last year and about talking to angry claimants and employers. We get e-mail updates but talking to someone in that department helps a lot.
- Listening to calls, seeing input screens, learning how to determine if it is a new claim, an extension, etc.
- Watching everyone do their job and then performing the tasks myself. I learn best by doing after I have been shown what is going on.
- There is so much data/basics that need to be “memorized” before a person feels secure/knowledgeable and then they ease into independence! I was trained ten years ago...it was helpful to code/enter Internets first and then interact over the phone with claimants... “comfort level” before you talk to people and enter everything with them on the phone.
- I’ve been doing this or related work for the last \*, including auditing the program.
- Asking other claims takers questions.
- My training was 8 years ago... my boss is very thorough and knowledgeable and did a wonderful job. There is, of course, ongoing training all the time. I have charts, notes, etc. everywhere in my cubicle for clarification of things. My boss is readily available if any question arises and I can be assured the answer he gives me is accurate. I don’t recall what was the most helpful – all of it was important and necessary.
- Listening to others—watching what they do.
- Claimstaking and adjudication. In most cases I gave the training.

- Hands on with veteran claims takers.
  - I have not had any training on taking claims except for the first few sessions over 2 years ago. The process has changed some since I was trained, but when I take claims so rarely it is tough to stop doing my daily duties to go get additional training on something that I might do for 10 hours a month (during the busy season).
  - I don't remember.
  - I started by learning internet claims first that helped learn the process, that was the most helpful.
  - I really appreciated being able to shadow the merit staff. I got the chance to sit with almost everyone and see how each one handles taking claims differently. They all let me ask questions and they did their best to answer them. Some of them showed me some short cuts to navigate the screens easier too. Being able to take some calls myself while they listened to me also helped because they could help guide me through any difficulties I had.
- Being given cheat sheets with screen names and what they are used for and the many other informational cheat sheets. Also being trained by someone who did not get frustrated with me as I was trying to learn all the details of taking claims over the phone. She also knew when it was time for me to stop shadowing and have her shadow me and then when it was time for me to go on my own knowing she was always available for questions.
- 301 Manual Policy Precedent fact finder
  - Watch and then "do" with supervision.
  - Listening in on claims and talking to others about claims policies.

**Table C.20**  
**Responses to Survey Question 13b:**

**What areas of your training were the least helpful?**

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q13(b)):**

- Not really being shown how to do the work of a adjudicator and not being informed the correct way to do things when you ask co-workers.
- All were helpful.
- Job shadowing.
- Studying very unique claim types which are seldom encountered except by full-time claims takers.
- Some of the people here are not natural trainers and it was really hard to sit with them, especially when they would basically ignore my presence when they were supposed to be training me. I also had to take over a program and got very little training and a file 2 inches high. I have literally had to create the process from what I think it should be and I have no idea if what I am doing is right because it is a federal program and no one to ask about it.
- We need to know everything possible about my jobs/areas in order to answer phone questions correctly honest and efficiently so folks don't get the run around.
- None. It was all relevant/pertinent to do the job to the best of our ability and it was presented it a wonderful way that made it easy to understand. I wish my supervisor(s) never had to retire!
- Manuals.
- None.
- No training has been received to comment on.
- I don't remember.
- All the actual training we did receive was so rushed so it was hard to take everything in, it took trial and error, numerous questions.
- As far as the claims taking process I believe my training has been sufficient. However with my training for PPE's and Eligibility Review I feel the training could have been more thorough. Since I began this job in my current position, things have changed quite a bit. Every week it seems the rules keep changing when it comes to verifying work searches and PPE's. I do whatever is necessary anyway but it makes me wonder what the computer is checking when it selects claimants for ERP and PPE's. I have a lot that I end up shredding just because they never should have been selected to begin with.
- None that I can think of at this time.
- Lack of available "experts" to double check first few memos for accuracy.

**Table C.21**  
**Responses to Survey Question 14:**

How would you rate the overall level (i.e. – time spent, types of topics covered, job shadowing, etc.) of supervisory feedback you received in order to improve your unemployment claims taking/processing performance?

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Excellent	5.5
Good	13
Fair	7
Poor	2.5
No Answer	4
% Excellent	17.19%
% Good	40.63%
% Fair	21.88%
% Poor	7.81%

Response Categories	Responses and Response Rate
% No Answer	12.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Table C.22**  
**Responses to Survey Question 14a:**

**What areas of supervisory feedback have been the *most helpful*?**

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q14(a)):**

- If there is time they will explain what you did wrong or right.
- Reviews.
- Always trying to streamline process to make jobs faster.
- Explanation of what my action results in.
- About recent staff meetings or DOL [U.S. Department of Labor] decisions.
- Supervisor listens and encourages new ideas.
- It was helpful to contact sup[ervisor] with specific questions when inputting claims. They would tell me how to handle that specific question and I could make the correct entry.
- I need to know if I make mistakes. If I don't know that I am making mistakes, I cannot fix it. I get very little feedback and that could be because I am just that good (which I doubt) but most likely it is because the supervisors here are way too busy dealing with things outside of the center to be able to spend time training or giving feedback.
- Excellent to Poor—the entire spectrum...depends on situations. Boss is not 100% knowledgeable and shares info at all times.
- I like to know immediately if/when I make a mistake and what it should have been and why so I don't repeat and make more work for others to correct.
- Updates on claimstaking process.
- The yearly assessments we get.
- Them bringing my mistakes to me so that I can be aware of the problems and not make them in future is the biggest help. I learn by trial and error sometimes. If I don't know I made a mistake, how can I fix it? So, I greatly appreciate when they bring my errors to me. And they do it in a very educational and non-condescending way, so it is easy to understand and not get defensive. There are others that are condescending and blaming, so I notice and appreciate the difference.
- Claimstaking procedures.
- Appraisals, staff meetings, open door policy.
- Explanations.
- Haven't had any.
- I don't remember.
- When I was taking just internet claims all the claims I processed were reviewed and any mistakes that was made I was walked through the proper way to complete them.
- Everytime something changes with the rules or policies our supervisor has a meeting with us immediately to keep us informed. He thoroughly explains any new steps for the process or any reason why steps have been removed. He is very helpful and answers any questions I have with patience and respect.
- Allowing me to fix my own mistakes so that I learn from them.

- Positive
- Haven't received any.
- There is not enough time due to workload is high and not enough staff. We help take claims but no one helps do our work.

**Table C.23**  
**Responses to Survey Question 14b:**

**What areas of supervisory feedback have been the *least helpful*?**

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q14(b)):**

- See above [If there is time they will explain what you did wrong or right].
- Most are helpful.
- Working supervisor does not have unlimited time to teach.
- Inability to have an effect on personnel being taken to be used elsewhere.
- I despise the general emails that they send. If someone is forgetting a form or setting the wrong issue or whatever, tell the person. Don't send an "everybody keep an eye out for this" email. I hate those and they are not helpful in the least. No one knows if they are the ones that caused it or not. I also do not like when a specific example is sent out and it is clear who made the mistake. It is embarrassing to the person who messed up and degrading at the same time.
- If they forget to tell me or gloss over something.
- I think all feedback is necessary and good, but I do like the one-on-one feedback as opposed to the feedback to the whole group in a meeting. The supervisors do not ever point fingers in the meeting (which is good), but when they give feedback in a meeting without directly telling the individual who is the problem, it doesn't seem to fix the problem. We all can sit there and say, "I don't do that". So, it is good to hear it both ways, but the one-on-one is much more effective, I think.
- None.
- Haven't had any.
- I don't remember.
- When I went to taking phone claims and internet claims at first I was told I didn't need to have my forms reviewed. Then about a couple weeks later I was told I needed to start having my telephone claim forms reviewed because there was too many mistakes. I asked what kind of mistakes and I was told there were all different kinds.
- I have not really seen any areas yet when supervisory feedback could be improved. Doesn't mean it won't happen though.

**Table C.24**  
**Responses to Survey Question 15:**

**Are you offered continuing education or training opportunities each year to enhance your ability to perform you job?**

Response Categories	Responses and Response Rate
Yes	12
No	15

Response Categories	Responses and Response Rate
No Answer	5
% Yes	37.50%
% No	46.88%
% No Answer	15.63%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q15):

- Who has time for outside training? We do our own and budgets don't allow for training outside the office.
- I feel that the claims center personnel has been very helpful to me whenever I have questions regarding taking claims when I start again (this fall [2010] if needed). I trust they will retrain me!
- That is another thing that bugs me. If something changes, only some people that happen to be in the right office at the right time are told some things. Or if anything changes on a national level, we only get the UIPL's if we beg for them and remind the people that have the letters several times to get them. I also would like to have some additional training on the profiling I do. I have no idea if I am doing it right or not, but there is literally no one in this state that can help me. I have tried to find contacts in other states and I have not been successful yet there either.
- I just started my full-time position as of \*.
- Not really—we've had one online course and it was somewhat informative.
- Right now we can't afford the time away from the office.
- With what time and whose money? No, but I would love to be cross-trained in other departments because the more you know about how it all fits together, the better you can do your own job and be a team player. We did get a training a few years back from the National Judicial College for adjudication. It was very informative. I already have a bachelor's degree, but the supervisor of the Claim Center (my boss's boss) has told me in the past to go for my masters.
- As stated earlier, I haven't had any training on the claim taking process since I was originally trained, which was before EUC or the high call volumes started. I was originally trained to take claims to cover phones when the Call Center had quarterly staff meetings.
- Claims taking is not my primary job.
- As far as I know, nothing like that is offered for the temporary employees.

**Table C.25**  
**Responses to Survey Question 16a:**

Does the Policy and Precedent Manual: Clearly explain the required procedural steps for taking and processing each application?

Response Categories	Responses and Response Rate
Yes	14
No	7
No Answer	11
% Yes	43.75%
% No	21.88%
% No Answer	34.38%

Source: Legislative Service Office analysis of UID claims staff survey results.



**Comments (Q16(a)):**

- Maybe not taking claims but this is the manual with appeals and commission decisions so helpful to adjudication.
- This is the function of the Claims Manual.
- Does not apply.
- I have not seen a manual. I believe the claims takers have them but I was not issued one.
- It is an adjudication manual that I never touch.
- This manual is not really relevant to claims taking...it's for adjudication and appeals.
- This is an adjudication tool primarily.
- You may want to cross my answer off of the poll. I am not sure about this manual. It is gigantic and I am not an adjudicator, so I have not dealt much with it, if ever.
- The policy and precedent manual (P&P) has nothing to do with taking a claim or process an unemployment claim. The P&P manual is a collection of Supreme Court cases, Wyoming UI Commission decisions, Appeal Hearing and AG opinions concerning UI law and rules. It is used to help and guide to adjudicators resolve issues and make decisions based on high authority decisions.
- I have no idea. I have never looking in the Manual for that type of information. Actually, I have not used the Policy and Precedent Manual in several years.
- I don't believe I have seen one of these.
- Not a claimstaking manual
- Hard to find info in Policy and Precedent. The organization is difficult to find things.

**Table C.26  
Responses to Survey Question 16b:**

**Does the Policy and Precedent Manual: Clearly explain required decisions to be made regarding the circumstances for each claims application?**

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Yes	15
No	3
No Answer	14
% Yes	46.88%
% No	9.38%
% No Answer	43.75%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q16(b)):**

- Some are conflicting—older case vs. newer case
- It is intended to assist persons who do decision making, fact finding and adjudications.
- Don't know, haven't used.
- Again, you may not want to take my answer. I am assuming the people who put this together had the knowlegde needed and were thorough, but I have no idea.
- This is an adjudication tool primarily.

- Everyone has access to these manuals and just like anything, some decisions make more sense than others. Interpretation is always a key for consistency.
- Each of our procedures are in a manual but there are changes made without our knowledge.
- Locating decisions is sometimes difficult.
- Some are outdated but generally gives a starting point or direction to go.
- Facts within each issue differ and can not be resolved with one canned resolution.

**Table C.27**  
**Responses to Survey Question 16c:**

Does the Policy and Precedent Manual: Clearly provide a useful and quick reference guide to inform your decisions?

Response Categories	Responses and Response Rate
Yes	19
No	3
No Answer	10
% Yes	59.38%
% No	9.38%
% No Answer	31.25%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q16I):**

- Don't use.
- It is a guide
- Again, I don't provide 100% specifics on whether a "quit/termination" will be allowed or denied—adjudication and appeals make those determinations. I just take accurate data.
- I don't know, but assume yes. I have learned what I know from word of mouth and reading the UI Rules and Regulations, not from the enormous binder we have for Policy and Precedent. I am not an adjudicator.
- Claims manual, rules and statutes, flow chart
- Don't use.
- I do not have one and my manual is the most recent one available.

**Table C.28**  
**Responses to Survey Question 16d:**

Does the Policy and Precedent Manual: Provide a statutory and regulatory framework to inform your decisions?

Response Categories	Responses and Response Rate
Yes	19
No	2

Response Categories	Responses and Response Rate
No Answer	11
% Yes	59.38%
% No	6.25%
% No Answer	34.38%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q16(d)):**

- This is used daily.
- Don't know. I don't have a copy of it.
- 27-3-101 – 27-3-70b; rules 27-3-101, chapter 1-33
- I don't know.
- These are provided and we have access to the guides however we are the first-line, entry and data taking information the first time around.
- When needed, provides a good resource.

**Table C.29**

**Responses to Survey Question 16e:**

Does the Policy and Precedent Manual: Provide for other assistance?

Response Categories	Responses and Response Rate
Yes	0
No	0
% Yes	0
% No	0

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q16(e)):**

- Most of our procedural guidelines are hands-on but these manuals and co-workers are excellent resources.
- Fed 301 Manual, Fed interstate agreement, Fed UIPL's several hundred
- [experienced taker] has been a great help. Especially with mainframe and procedures.

**Table C.30**

**Responses to Survey Question 17a:**

Does the Claims Center Handbook: Clearly explain the required procedural steps for taking and processing each (claim) application?

Response Categories	Responses and Response Rate
Yes	20

Response Categories	Responses and Response Rate
No	2
No Answer	10
% Yes	62.50%
% No	6.25%
No Answer	31.25%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q17(a)):

- These are two completely different manuals.
- I have not seen a handbook. I believe the claims takers have one.
- Things have changed enough that it is out of date.
- As we train new folks right now the handbook is available for reference but the “black and white” basics come from the claimstakers through consistency and working through the forms and the computer screens. I think people would be lost if they had to go back to step-by-step in the manual... I used it ten years ago but our best training is hands on.
- As much as a manual can...I learn much better by hands-on and auditory training. I have cheatsheets, if you will, all over my cubicle that have helped me to learn and retain the knowledge needed for the job. I am sure these all began as a part of the Claim Center Handbook, but over the years I have taken mine apart and individualized and updated it, making it more useful.
- Don't know, never used it.
- I don't know.
- Laws and statutes? If that is the claims handbook then yes. I am not sure what that is.

**Table C.31**  
**Responses to Survey Question 17b:**

Does the Claims Center Handbook: Clearly explain required decisions to be made regarding the circumstances for each claims application?

Response Categories	Responses and Response Rate
Yes	16
No	5
No Answer	11
% Yes	50%
% No	15.63%
No Answer	34.38%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q17(b)):**

- Yes only if you are talking about statutes.
- Don't know, never used it.
- Each claim has a different scenario, but the guidelines provided definitely help to make the correct decisions regarding each claim. Again, it has been a long time so I don't know where all of my knowledge originated, but it either came from the written manual or my boss's instruction.
- Not the claims center handbook.
- This type guidance is covered in the 301 HB.
- I wasn't actually given a manual. I found one at my desk that I have looked through but it is not up to date. This actually would have been one thing that would have been more helpful in my training.

**Table C.32****Responses to Survey Question 17c:**

Does the Claims Center Handbook: Clearly provide a useful and quick reference guide to inform your decisions?

Response Categories	Responses and Response Rate
Yes	18
No	5
No Answer	9
% Yes	56.25%
% No	15.63%
% No Answer	28.13%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q17(c)):**

- Again, yes, I have mine torn apart and posted on my walls. I have sticky notes everywhere that I take down once I know the information by heart. My own references and the ones provided by the State are of great use.
- Don't know, never used it.
- I've not actually used it because by the time I looked through it I had developed my own system and had copies of documents to use as a reference. I also was able to ask permanent claims takers or one of the supervisors if I was not sure on a claim.
- I have read this including the revised version, 9/10 [September 2010].
- No quick reference guide.

**Table C.33****Responses to Survey Question 17d:**

Does the Claims Center Handbook: Provide for other (assistance)?

Response Categories	Responses and Response Rate
Yes	0
No	0

Response Categories	Responses and Response Rate
% Yes	0
% No	0

Source: Legislative Service Office analysis of UID claims staff survey results.

No comments.

**Table C.34**  
**Responses to Survey Question 18:**

Do you feel the Policy and Precedent Manual could be better formatted, organized, structured to make the contents more useful and/or understandable? Please explain.

Response Categories	Responses and Response Rate
Yes	7
No	13
No Answer	12
% Yes	21.88%
% No	40.63%
% No Answer	37.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q18):**

- Locating decisions is sometimes difficult. Should be made available in soft copy [electronic] to search.
- It is in a usable format by types of decisions issued. Decisions are often paraphrased to make them as readable as possible.
- If you saw the one I just looked at in our reference bookshelf, you may be surprised by it. I am sure the information in it is all applicable and valid, but, man, is it old and perhaps could use some organizing. I think that our adjudicators each have their own copy and I bet their copies look better. Right now no one around here has time to update the one that sits on a shelf and is never used.
- I looked at the book and it looks huge and scary.
- There is always room for improvement.
- Don't use much.
- Don't know, never used it.
- It is very thorough I tried to read through it a couple times.
- I would have to know what this manual is to be able to answer.
- I think that if it is written in a simple format everyone would understand it better.
- More organization within the manual.

**Table C.35**  
**Responses to Survey Question 19:**

Do you feel the Claims Center Handbook could be better formatted, organized, structured to make the contents more useful and/or understandable? Please explain.

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Yes	9
No	11
No Answer	12
% Yes	28.13%
% No	34.38%
% No Answer	37.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q19):**

- It is formatted to contain the relevant claims taking information which would be needed to complete each type of claim.
- See above comment [Things have changed enough that it is out of date].
- I have volunteered in the past (in not-so-busy times) to put some manuals together for the newer claims takers so that they are easier to utilize and are up to date. Our manuals are from when the Claim Center opened in May 2002 and things have changed since then, such as the rules for Combined Wage Claims, the states that now take their own Interstate claims, the contact information for other states, and our Internet website, etc.
- See # 18 [There is always room for improvement].
- Keep updated.
- Could be updated annually.
- Never seen or used the Claim Center Handbook.
- I found it to be very useful.
- I feel it would be a good idea to start each claims taker out with the handbook and to go over it with the trainer before any other training starts.
- More again - simple - language.
- It is fine.

**Table C.36**  
**Responses to Survey Question 20a:**

Do you feel the Policy and Precedent Manual and Claims Center Handbook should be simplified? Please explain.

<b>Response Categories</b>	<b>Responses and Response Rate</b>
Yes	9
No	11
No Answer	12
Yes	28.13%

Response Categories	Responses and Response Rate
% No	34.38%
% No Answer	37.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

### Comments (Q20(a)):

- These are two different manuals that deal with two different positions.
- Due to the complexity of the UI program, both must address each type of process or issue that might take place.
- It boils down to K.I.S.S. That is the rule of every writer and that includes authors of manuals. If you want people to actually understand what is in there you have to Keep It Simple Stupid, otherwise you will lose your audience by the second paragraph. That is the problem with a lot of the things with the state paperwork. All of the handbooks and manuals are about 2/3's too big.
- Everything could be simplified if the time was taken to do so.
- If anything, it should be more detailed.
- Maybe not simplified because obviously we need the information, but updated and categorized in a more useful way.
- Two different reasons manuals are used.
- Everything could always be simplified.
- No comment since I don't use the first and have never seen the 2<sup>nd</sup>.
- When learning a job I believe too much information is better.
- First you should just explain the basic steps to taking and processing each type of claim. Then at the end give instruction on how to handle any special circumstances. I get confused when I'm looking for one basic answer and I'm getting multiple choice answers. Lol.
- Unable to answer.
- Not the same process.
- Not use so many legal words, just make it simple for a lay person to read.
- They are fine.

**Table C.37**  
**Responses to Survey Question 20b:**

If yes, do you feel the Policy and Precedent Manual and Claims Center Handbook should be combined?  
Please explain.

Response Categories	Responses and Response Rate
Yes	17
No	0
No Answer	15
% Yes	53.13%
% No	0.00%
% No Answer	46.88%

Source: Legislative Service Office analysis of UID claims staff survey results.



**Comments (Q20(b)):**

- There are different major user groups with differing degrees of need for each manual.
- They are 2 very different functions. The handbook needs to be about the mechanics of what you do. The policy manual needs to be independent because it is used for decision making and combining the 2 would be a HUGE mistake.
- If they were it would probably be confusing to some people.
- I think they are two different topics and best kept separate for the jobs at hand. It becomes more confusing when you try to lump things together that don't go together. You do not need the Policy and Precedent Manual to take a claim. You do not need the Claim Center Handbook to determine an issue. Yes, they are great reference guides and need to be readily accessible, but I think they should be kept separate, especially to someone who is first learning the job. Now that I have been here for a while, I would like to have both handbooks. However, asking a supervisor and getting the one-on-one training is much better for someone who is new. Reading a book is too overwhelming – the information overload makes us second-guess our gut feelings.
- Two different things.
- No comment since I don't use the first and have never seen the 2<sup>nd</sup>.
- I prefer to keep information on different topics separate. It would just confuse me more if they were combined.
- Unable to answer.
- Not the same process.
- That would be confusing and hard to update when new precedents are made.

**Table C.38****Responses to Survey Question 21:**

Do you have a role in processing claims appeals (to include meetings, passing documents, etc. to the appeals section)?

Response Categories	Responses and Response Rate
Yes	5
No	24
Not Applicable	3
% Yes	15.63%
% No	75.00%
% Not Applicable	9.38%

Source: Legislative Service Office analysis of UID claims staff survey results.

**Table C.39****Responses to Survey Question 21a:**

If yes, what role do you have in processing claimants' appeals of unfavorable eligibility or benefit decisions?

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q21 and Q21(a)):**

- I don't process appeals documents.
- Sending doc[ument]s for evidence.
- Review protests or appeals for accuracy and possible redetermination based on new information. If not possible, assign to Appeals queue.
- I only explain the basics by answering phone questions. They call and ask what to do or it's explained upfront when their claim is taken.
- Advise them of their right to file an appeal.
- I do not normally participate in appeals, but have in the past when it pertained to my 74 issues. In these appeals, I simply represented the State of WY via a three-way phone conference call. I was asked to state the findings of the State of WY and what references I used, such as UIPL's from the Federal government, etc. Then, the appeals officer made the final decision.
- Reviewing protest.
- Adjudication and employer chargeability.

**Table C.40  
Responses to Survey Question 22:**

**What are the biggest challenges to processing appeals in a timely fashion (other than claims/appeals volume)?**

No tabular responses. See free response comments below.
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Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q22):**

- Just being able to dedicate time to get them done daily.
- N/A. Not part of our job.
- Numbers.
- Having staff to process hearings!
- Getting a timely hearing and notice more than 7 days prior to hearing to get documents gathered and sent for evidence.

**Table C.41  
Responses to Survey Question 23a:**

**Do you feel you have reasonable opportunities to provide feedback to Division leadership (supervisors, managers, administrator) on ways to improve the appeals process (on the role and activities for which you are a part)?**

Response Categories	Responses and Response Rate
Yes	5
No	7

Response Categories	Responses and Response Rate
Not Applicable	20
% Yes	15.63%
% No	21.88%
% Not Applicable	62.50%

Source: Legislative Service Office analysis of UID claims staff survey results.

#### Comments (Q23(a)):

- Suggestions are not considered.
- Cannot provide input on a process of which I have limited knowledge or responsibility.
- Appeals is an entirely different department and I am not in any ways an expert, so no, I don't think they would value my feedback. They have their own rules to follow and I am not aware of all of them. There is a learning curve. The appeals that I have been a part of all worked well, but it is very formal and they act as if they don't work with us daily, which is weird. I had to call ahead of time to give them my telephone number when it is in our phone directory!!! I only forgot to tell them one time, however, because I caught on...trial and error, I guess. So someone might get paid in error because of a formality/missed step? Not cool.
- Their processes are set and not going to change.

**Table C.42**  
**Responses to Survey Question 23b:**

If yes, do you feel your suggestions and comments are taken seriously when you offer them?

Response Categories	Responses and Response Rate
Yes	5
No	3
Not Applicable	24
% Yes	15.63%
% No	9.38%
Not Applicable	75%

Source: Legislative Service Office analysis of UID claims staff survey results.

#### Comments (Q23(b)):

- Same [Suggestions are not considered].
- We should be better informed about decisions of examiners that changes how we have always interpreted the laws.

**Table C.43**  
**Responses to Survey Question 24:**

In what areas do you find the unemployment insurance program to be the most helpful to claimants?  
Please explain.

<b>Response Categories</b>	<b>Responses and Response Rate *</b>
Internet Claims Process	17
Telephone Claims Process	17
Claims Appeals Process	6
Claimant Handbook	14
Unemployment Insurance program website	14
Debit Card Payment (ReliaCard)	10
IT/Data Systems	2
Other	1
Not Applicable	5

Source: Legislative Service Office analysis of UID claims staff survey results.

\* Count of staff that identified different items; some staff chose more than one item.

#### **Comments (Q24):**

- Makes access easy [Internet claims process]. People actually help claimant [telephone claims process].
- Other: Person.
- Internet site is easy to follow for claimants only not for us. Debit cards get them money faster. Telephone claims can be explained better since talking to a person. Handbook has most info. if they read it.
- Claimant can log on when they want and take as long as they want to file a claim.
- The internet process is easy for the claimant and they don't have to wait. The claimant handbook is very easy to read and answers most every question. The debit card is a convenient payment method which is easy to use.
- I believe the information on all these topics is readily available either in the handbook or on the internet. People just need to read their documents. Once they have read, we are helpful if they still have questions.
- I think since the internet has been changes to the TIC program that it is finally helpful to the claimants. I also think that the claimants really appreciate the Reliacard; I have head a lot of positive feedback on that program.
- Many people in WY like internet claims, but many still prefer real people. Telephone is helpful, but some don't listen and don't follow instructions. Many don't read the claimant's handbook. ReliaCard is optional—about 50/50.
- They get the information upfront when filing by phone and have the opportunity to ask questions.
- Most claimants' first impression of our division is made when they call us. Yes, the handbook is important, as it lists our rules and regulations, etc. but a person is essential to accurately answer the random questions that come about. The claims takers are very thorough and take each claimant step-by-step through the process. We explain everything from start to finish and, if they are willing to listen and learn, they will come away with a much better understanding of the whole program and they will feel confident in our knowledge and willingness to be of service. They cannot get to any of the other above-listed things until they have established a claim. If they don't grasp the information at the start, there will be negative repercussions and they will have a difficult time understanding all that follows.
- Website could be improved.
- All the above avenues are available to claimants they just don't or won't utilize them.

- With this being the information age people like to be able to get their answers from the internet and do their applications online. Most claimants who know how to use a computer would rather get information that way. The only draw back is that there is not information for the claimant to get on their individual claims information from the internet. They have to call if they have specific questions on their claim.
- [Claimant handbook] just needs to be simpler.
- Don't know enough to comment on these areas.

**Table C.44**  
**Responses to Survey Question 25:**

In what areas do you find the unemployment insurance program to be the least helpful to claimants?  
Please explain.

<b>Response Categories</b>	<b>Responses and Response Rate *</b>
Internet Claims Process	3
Telephone Claims Process	2
Claims Appeals Process	3
Claimant Handbook	2
Unemployment Insurance program website	3
Debit Card Payment (ReliaCard)	2
IT/Data Systems	10
Other	4
Not Applicable	11

Source: Legislative Service Office analysis of UID claims staff survey results.

\* Count of staff that identified different items; some staff chose more than one item.

**Comments (Q25):**

- They are all helpful.
- They care less about IT – just want their money.
- Claimants must re-enter data in some applications and there is no automatic registration.
- Getting a password to file claims has been really difficult going through Cheyenne. It [Internet claims process] needs to have a better way to file out-of-state claims. Have had to refer to claim center a lot.
- Our mainframe system is old and does not work well with so many tiers of extensions. It is extremely hard to program and fix problems. This causes problems with individual claims which have to be individually handled by users and IT staff. Work arounds take up precious time for staff needed elsewhere.
- I believe information is available on all topics.
- To get logged into the website for the bi-weekly claims can be a pain. Since we have no way of offering any support on that site it is frustrating. I would like to have a bit of training on that aspect of it so I am not constantly referring them to the egov number. Also, I think we should have a Spanish handbook and forms for our Spanish speaking claimants. We are starting to get more and more and eventually I think we are going to be required to have them. I think we should just do it now so it is done right instead of rushing to do it and having the whole thing get botched.
- Claims appeals process takes too long.

- They don't have direct contact with this area so it really doesn't apply.
- I guess I don't understand the question. I can play devil's advocate here. We need all of these different departments to process unemployment claims. They all serve a different purpose, but are necessary. Even the IT/Data Systems functionality is fundamental to us doing our job as claims takers. The claimant may not realize the importance, but it is there. If they want accurate account information, we need IT to be on the ball. Not all claimants may need to appeal a decision, but for those who do and the decision is overturned in their favor, to them, that is the most important step in the process. They are all beneficial to the claimant in one way or another.
- Other—Department employment website.
- We can provide all the information to the claimant's that we can on their unemployment claim and what they need to do, but if they don't read it or look at what we send them or do what is required of them to meet eligibility there is nothing we can do. Like the old saying goes "you can lead a horse to water, but you can't make them drink." If the claimant's won't take or accept responsibility of their claim there is nothing we can do to make their claim better.
- I think all of information for each process is very informative.
- It seems like the areas that claimants have the most problem with would be reduced if the claimants were reading the handbook and referring to the handbook for questions.
- I think the approved training issue often leaves the claimant thinking they will receive benefits the whole time they have been approved for training; there should be something in writing stating that is not the case.
- [Telephone claims process] the voice system is very touchy, any sounds other than the claimant's voice and it sometimes gets wrong answers.

**Table C.45**  
**Responses to Survey Question 26:**

**What would you most like to see changed or modified regarding the unemployment insurance claims application process as it related to your duties and responsibilities? Please explain.**

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q26):**

- That the claims takers are all trained the same way in how to take claims and what questions to ask for certain responses the claimant makes. Proper training would be good.
- I would rather not take claims as an adjudicator.
- More claims takers.
- Have time to train staff instead of making them learn by on the job training. We try to make quality decisions but is hard when not being able to only do our duties. Training and planning ahead – everyone knew this was coming and was not proactive to make sure people were on board and trained.
- 1) Support from the governor to allow adequate staffing, as provided by DOL funding, which would enable Doe to provide accurate and timely service in all claims and adjudication processes.; 2) Support from legislators to exercise constraint in presuming the most vocal critics are accurate in charging ineptitude and disinterest on the part of DOE staff.
- The year disqualification issue (86) is one of the last issues that appeals set up. We have had several that are months after the claimant sent in the 125.

- No suggestions.
- We have some scripting that is suggested, but is cumbersome and confusing. I would like to see some scripting that makes more sense for us to use so what we are telling the claimants and others that call the same things. I think part of what upset claimants is that they are getting a different answer for every question they call in with. Granted, I know agents may use different phrasing, but as long as the message stays the same I think it would help the claimants. I think though, that claims takers need to come up with the scripting with management approval. I have found in my experience, that you want the ones using the script to have a hand in writing it; otherwise it will get ignored if the agents are not comfortable saying it.
- I don't think there is much that I would like to see change at this time, other than the constant change in the rules and regulations are constantly being changed consistently.
- I am very comfortable with the process. However, the extent of knowledge of new trainees makes things difficult as sometimes information provided to claimants is not quite correct and is frustrating to both the claimants and long time employees. I don't know what could be done as it is a learning process.
- I think we have an upper handle on things. We often get positive feedback from claimants that have dealt with other states. When they compare our service to the other states, they want to deal with Wyoming, as they feel we are nicer, more thorough, and easier to get a hold of. Our error rate is smaller than that of other states. We just upgraded our IVR (phone) system and our Internet site. They are wonderful. I think we have a great staff here and we have done the best we could have under the circumstances. I do think we need to get with the times and find a way to get claimants' data on the Internet, so they can review their files on their own (just like a bank website), but so far we don't have clearance to put sensitive data online... These days with fraud, we are hesitant to move forward because there is the risk of compromising information.
- Modernization—we are always striving to modernize.
- 1) direct deposit for payment; 2) more internet access for claimants; 3) see status of claim, change of address
- More staff.
- I feel that the claim application process does what it needs to do and there is not anything we can do to try and make it better in times of high claim volume like what has been seen across the US in the last 2 years. There is nothing that can be done to improve the process but for claimant's and employer to have some patience. All states faces the same issues that Wyoming has had to deal with in the last year, but luckily we were able to handle the higher volume of claims better than most states.
- I wish we had more manpower to make sure that the claimant's are meeting the requirement to receive unemployment, especially the work searches. Some claimant's look at unemployment as welfare and feel they are entitled to it even if they don't meet the requirements.
- Nothing.
- Most temporary claims takers do not take the claims the same as many of us have been trained differently and by different people. Questions and explanations are worded differently and sometimes not enough information is given out or too much is. Some claimants get frustrated with getting different stories each time they call.

**Table C.46**  
**Responses to Survey Question 27:**

What would you most like to see changed or modified regarding the unemployment insurance appeals process as it related to your duties and responsibilities? Please explain.

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q27):**

- None that I know of.
- More examiners.
- Even before 2009 it took (on occasion) several months to reach a decision resulting in a very large overpayment.
- The appeals system is old and cumbersome. A new system which interacts easily with the benefits system is a must.
- It would be nice if it didn't take so long and if they would send out notices to the claimants sooner that their appeal is being processed.
- They need to process appeals within two weeks, not.
- The appeals staff are very intelligent. That being said, I wish the appeals staff would study the policies and precedents prior to the hearings and take that into consideration during the hearing, instead of making us point out the obvious. They need an idea of what we do in our jobs to better do their job. They expect the person representing our department to give them all of the data, instead of looking any of it up from our mainframe. For those of us who are rarely involved in a hearing, we may not be aware of all we have to present to make our case. I have wrongly assumed that since they are a part of our division, they have the same knowledge base as myself and access to all of the same information. Since appeals is not our main forte, we may lose a case from not presenting as thoroughly as they expect us to. They don't have to use the determinations we made in our section, as that would give them a bias, but they could look at the facts of the claim ahead of time. Again, I have only been in a few hearings, but it blows me away that they don't use the data readily available. For example, they could use the claimant's listed phone number to call for an appeal (they have done appeals decisions as no-calls/no-shows when the claimants didn't write in to the appeals office with their telephone numbers, but it is on the mainframe already). They will not use the numbers listed in the directory for our staff – we have to call in ahead of time to give them our phone number to be reached at for a hearing. Come on. But, I am sure they have their own set of rules and they are trying to stand apart from our section to be free of bias. Or at least that is my assumption for their justification of what they do.
- No opinion.
- Don't know.
- More staff.
- N/A. It does not relate to my job.
- Nothing I can think of at this time.
- Getting appeals done more timely.

**Table C.47**  
**Responses to Survey Question 28:**

**General comments.**

No tabular responses. See free response comments below.
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Source: Legislative Service Office analysis of UID claims staff survey results.

**Comments (Q28):**

- When claims go up as significantly as they did no one should be expected to do the job as fast with no additional staff. These past two years have been crazy and I commend those who made it through. I only hope upper management plans a little better next time.



- The timeliness in decisions and in getting appeal dates cause a lot of problems for us and claimant. The extensions have caused some very large overpayments which in many cases could have been avoided. We need UI people in local offices.
- I have not been trained or utilized in the claims taking process. My primary job is to detect, investigate and recover (via court etc...) Unemployment Benefits overpayments. Many of us, myself included, have set aside our normal job duties to assist with the influx of phone calls to answer claimant questions and assist the claims center in other ways necessary over the past year.

Initially when the new BPC Unit came to be 12/2006, we had no formal training or previous experience with claims. The actual hands on part of my job has been the best training. In preparation for court (2007) after being in BPC for only a few months (coming from the Employer Tax Section), it was necessary for me to back track and follow the claims from beginning to end in order to explain to a judge (unfamiliar with our processes) why the claimant owes the department back monies. It was this research and reading the statues and the blue book provided to claimants which provided me with an understanding of time frames and procedure. A good rapport with coworkers is essential because we are all willing to take a few minutes to help one another understand procedures and how each of our duties affects the other person's duties.

I still do not take initial claims information or enter it into the system. The extent of MY personal assistance is answering the phone calls (on a general help line) that would normally be routed to the claims center in less stressful times such as "where is my payment?", " I left a message for my adjudicator and they haven't called me back yet." other situations involve requests for proof of benefits, overpayment inquiries, questions regarding HYPOTHETICAL SITUATIONS and possible eligibility questions as to whether they should file or not, how to change PINs or addresses. Both employers and claimants often phone with questions regarding forms they received and how to respond or how to request an appeals hearing. Just general customer service. We all try to answer the help line as quickly and as courteously as possible while attending to our own duties and our own phone calls. We have had MANY incidents where claimants do not get the response they are hoping for so they continue phoning the help line in hopes that they will get a different answer to their question. It keeps us all on our toes.

- I believe most DOE employees work very hard to help the public. We try to empathize, be understanding, and make the correct determinations. We don't intend to make mistakes or make a difficult time more difficult to claimants.

I try to treat all persons with respect and be helpful. It is a shame that the claimants (some not all) feel that they can be rude, demanding, and bossy when we are trying to help them.

Often times they contradict themselves in the same statement and then get frustrated when I try to get them to clarify.

Please remember that we do the best we can and some days go home in tears. It is a stressful time for the claimants as well as staff.

- I honestly think that during the time that we were so busy we did what we could with the resources we had. I understand that the state did not lift the hiring freeze because if you do 1 division over another it can cause problems, but there needs to be a way that help can come a lot sooner in times of crisis like we experienced. As long as I have worked here, it has always been busy; I have never seen the slow times that everyone talks about. As rules continue to change and our volume continues to flux, we do keep on top of what is going on and now that we have that experience of great volume; I think in the future we will be able to handle things better. But a lot of the complaints that were rendered against our division was because of hold times to file a claim. There is nothing we could have done at that time to change anything. We had 9 claims takers and 5 or 6 others jumping in queue to help out. All told, there were 15 people answering the phones and we had over 80 in queue for a long time. That is a lot of calls for 15 people. Now we have 17 trained and on the phone all the time and another 10-15 that can jump in if needed.

I also think that any continued problems may stem from the fact that our management team are incredibly busy, or because they have created an environment that they are our friends and not necessarily our bosses. I witness so much inconsistency that it frustrates and demoralizes myself and others in this office. I see some people come in late all the time and never get reprimanded, talking or texting on their cell phones instead of answering calls, people taking 4 and 5 breaks a day and others just leaving early. Some of these people are temps, but a lot of them are permanent employees. I know if they were employed in the private sector that they would have been fired a long time ago if they pulled the same stunts. I have heard that once an employee has passed their year probationary period that it is nearly impossible to fire them. I would think that since this is a public organization that it would not be so hard to do since we are basically here to serve the public. I also find it frustrating that there are some people in positions that should not be there and once again, if this was a business, they would be asked to step down or at least offered retraining to try to get them the skills they would need to do their jobs.

- Over the past 2+ years our workload/volume of calls and Internets has more than doubled but the help was too little and

too late. We're past the main wave now and when we asked for "outside" help when people were waiting ½ hour and longer, we were told there was hiring freezes and no funding available so all of us did the best we could to take/process claims as quickly as possible. We have an excellent team but two years of excessive overload was unreal—We do a great job and we're very efficient. Internal concerns relate to personalities not workloads.

- I enjoyed the opportunity to voice my opinion. I am normally reserved. I sit at my desk and work, usually only getting up to talk to others if it pertains to work. You can ask my supervisors, I don't complain. They know there really is a problem if I complain about something! ☺ So, thank you again for the chance to tell you what we do. I am proud of us all. We were thrown one heck of a curve ball and we have worked well with it.
- The performance of the staff over the last year and six months has been outstanding. The workload that has been done is amazing—other states can not believe the amount of work we complete with the number of staff we have.
- Over the last two and a half years I have spent several hundred hours of overtime, and have put my heart and soul into this job and I know all of the staff of the claims center have done the same. My motto for the claims center has always been treat claimants the way you would want to be treated. The problems the division has encountered over the last two years has been the result of high unemployment in the US and Wyoming. Other issues are: lack of money, lack of support from other divisions, and representatives being out of touch with the needs of this division. The division has made many mistakes. Because of those mistakes the division was not ready for the volume that started in September of 08. some of the mistakes were: using outdated mainframe system, settings on the telephone system, not working closely with our federal partner to try and get help, watching the national trends of high unemployment but not preparing for it to hit Wyoming, slow in gearing up staff for the high volume, and not communicating with other divisions that this high volume was coming. However there is no need for this audit to stop with the UI division, only because several of our problems could have been overcome with more support from other offices and divisions. If people think placing UI staff in local DWS office would solve the customer service problems they are truly mistaken. I worked in the local office in the 80s and 90s. in the 80s when unemployment rate was 19% and people line up around the Evanston Job Service building two and three deep each day about 500-600 people per day waiting at the front door. People sleeping on the sidewalks the night before to try and get place at the front of the line. It was the best thing for the claimants and the division when the division went to claims center for several reasons. Low cost, higher quality, higher quantity, more control of the program, ten times better customer services. Over the last several years Wyoming has always been one of the best states in the national running of UI programs. I think forty states have gone to claims centers for the same reason and the feds have funded states to do so, because UI claimants can be better served using the internet and telephone then having them travel into offices.
- It's kind of hard to do a good job when you don't have the resources (staff) to be able to handle the volume. We really needed more support from the Legislature side of things!
- Unemployment is not welfare. There are requirement that must be meet in order to qualify and maintain a claim. We need to keep that in mind when it comes to rushing to just pay people. We need to make sure we are paying them correctly and that they are meeting the requirement to receive unemployment. Sometimes I think we need to step back and make sure that the claim is process correctly before we rush to get them paid.
- From what I have heard of claimants a good amount of frustration wouldn't be there if the claimants were reading the handbooks. The extensions seem to cause frustration, although not sure how that could be fixed. Going back and forth between current and prior claims would be really frustrating.
- Due to the high volume of calls/claims I was hired to help type up memos on issues. From what I have heard, everyone who took claims typed up their own memos rather than one or two people doing that task. I do not set or clear issues, o cannot comment on that process. Also, I do not take claims or process them. My job tasks are fairly specialized so are not covered in this survey. I like what I do, but realize it is a temporary position and probably will be discontinued at some point.
- Get the complaints immediately to the claims center not months and months later. Workload is tripled with no additional staff. We are only able to do some much work in one day. We were not able to get claims adjudicated in the time allowed. Due to the complaints on wait times, adjudicators were required to log in and take claims. Then we were not able to do our work and it then took even longer to get people paid which caused more delays if they appealed their decision.

Really need to be proactive and not reactive.

Please have someone in the legislature or even the governor actually sit through the whole process or come to the call center

and see the process so you can see why things are taking so long, not just think it is being done wrong months later.

- Let people know when you get positive feedback. We get a lot of negative not a lot of positive. We get no incentive but our pay check. Other incentives would be nice!!!



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# APPENDIX D

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## Survey results of LSO survey/questionnaire to UI claimants

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Note: LSO sent out 100 surveys to randomly sampled UI claimants, which had filed claims during FY 2010. We sent out 50 surveys to claimants that received benefits and 50 surveys to claimants that were denied benefits. In all, we received 15 total responses (10 from paid claimants and 5 from denied claimants). In addition, we had 12 surveys returned to LSO as they were undeliverable at the UID-supplied addresses for the sampled claimants. Due to the low response rate, responses and comments from both paid and denied claimants have been combined in the tables below. Percentage totals for some tables do not add up to 100.00% due to rounding.

**Table D.1**

**Responses to Survey Question A:**

Are you currently receiving unemployment benefits through the Wyoming UI Program?

Response Category	Responses and Response Rates
Yes	2
No	13
% Yes	13.3%
% No	86.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.2**

**Responses to Survey Question A1:**

If no, have you exhausted your benefits?

Response Category	Responses and Response Rates
Yes	4
No	6
Not Applicable	5
% Yes	26.7%
% No	40.0%
% Not Applicable	33.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.3**  
**Responses to Survey Question A2:**

If no, was your claim denied?

<b>Response Category</b>	<b>Responses and Response Rates</b>
Yes	5
No	10
% Yes	33.3%
% No	67.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.4**  
**Responses to Survey Question B:**

How did you apply for benefits?

<b>Response Category</b>	<b>Responses and Response Rates</b>
Internet claim application	8
Telephone claim application	6
Paper claim application - mail in	0
Paper claim application - fax	1
% Internet claim application	53.3%
% Telephone claim application	40.0%
% Paper claim application - mail in	0.0%
% Paper claim application - fax	6.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.5**  
**Responses to Survey Question C1:**

Did you seek assistance from the Department of Workforce Services' local office to submit your unemployment insurance claim application?

<b>Response Category</b>	<b>Responses and Response Rates</b>
Yes	9
No	6
% Yes	60.0%
% No	40.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.6**  
**Responses to Survey Question C2:**

Did you seek assistance from the Workers' Compensation local office to submit your unemployment insurance claim application?

Response Category	Responses and Response Rates
Yes	3
No	12
% Yes	20.0%
% No	80.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.7**  
**Responses to Survey Question 1:**

Please rate the timeliness by which your initial unemployment insurance claim application was processed.

Response Category	Responses and Response Rates
Timely	9
Somewhat Timely	6
Not Timely	0
% Timely	60.0%
% Somewhat Timely	40.0%
% Untimely	0.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q1):**

- (paid) Occasional problems with multi-employers and whether job attached.

**Table D.8**  
**Responses to Survey Question 2:**

Was the claimant handbook helpful in answering your questions about the unemployment insurance claims application process?

Response Category	Responses and Response Rates
Yes	11
No	4
% Yes	73.3%
% No	26.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q2):**

- (denied) Never returned calls on time.
- (paid) Some items not clear on process.
- (paid) Written by legal bureaucrats. Hard for layperson to understand.

**Table D.9**  
**Responses to Survey Question 3:**

Was the unemployment insurance program website helpful in answering your questions about the unemployment insurance claims application process?

Response Category	Responses and Response Rates
Yes	10
No	5
% Yes	66.7%
% No	33.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q3):**

- (denied) Because I don't have a computer.
- (paid) I don't have the internet.

**Table D.10**  
**Responses to Survey Question 4a:**

If you are a non-native English speaker, did you encounter difficulties using or understanding the claimant handbook on how to apply for unemployment insurance benefits?

Response Category	Responses and Response Rates
Yes	1



Response Category	Responses and Response Rates
No	3
Not Applicable	11
% Yes	6.7%
% No	20.0%
% Not Applicable	73.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q4(a)):**

- (denied) Speak English.
- (denied) The unemployment was difficult with lots of new things in it.

**Table D.11**  
**Responses to Survey Question 4b:**

If yes, did you seek assistance from an unemployment insurance staff member?

Response Category	Responses and Response Rates
Yes	1
No	3
Not Applicable	11
% Yes	6.7%
% No	20.0%
% Not Applicable	73.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q4(b)):**

- (denied) Because I did it by phone.

**Table D.12**  
**Responses to Survey Question 4c:**

If you sought assistance, was satisfactory assistance provided?

Response Category	Responses and Response Rates
Yes	4
No	2
Not Applicable	9
% Yes	26.7%
% No	13.3%
% Not Applicable	60.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.13**  
**Responses to Survey Question 5a:**

If you are a non-native English speaker, did you encounter difficulties using or understanding the unemployment insurance website on how to apply for unemployment insurance benefits?

Response Category	Responses and Response Rates
Yes	1
No	2
Not Applicable	12
% Yes	6.7%
% No	13.3%
% Not Applicable	80.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.14**  
**Responses to Survey Question 5b:**

If yes, did you seek assistance from an unemployment insurance staff member?

Response Category	Responses and Response Rates
Yes	0
No	3
Not Applicable	12
% Yes	0%
% No	20.0%
% Not Applicable	80.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.15**  
**Responses to Survey Question 5c:**

If you sought assistance, was satisfactory assistance provided?

Response Category	Responses and Response Rates
Yes	4
No	1
Not Applicable	10
% Yes	26.7%
% No	6.7%
% Not Applicable	66.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.16**  
**Responses to Survey Question 6:**

Did the final decision on your claim result from an appeal?

Response Category	Responses and Response Rates
Yes	2
No	12
Not Applicable	1
% Yes	13.3%
% No	80.0%
% Not Applicable	6.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q6):**

- (denied) I am just now beginning an appeal.

**Table D.17**  
**Responses to Survey Question 7:**

If your case did go to an appeals hearing, please rate the timeliness by which the appeal was processed.

Response Category	Responses and Response Rates
Timely	1
Somewhat Timely	1

Response Category	Responses and Response Rates
Not Timely	1
Not Applicable	12
% Timely	6.7%
% Somewhat Timely	6.7%
% Not Timely	6.7%
% Not Applicable	80.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.18**  
**Responses to Survey Question 8:**

Was the claimant handbook helpful in answering your questions about your role and responsibilities during the appeals process?

Response Category	Responses and Response Rates
Yes	4
No	0
Not Applicable	11
% Yes	26.7%
% No	0.0%
% Not Applicable	73.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.19**  
**Responses to Survey Question 9:**

Was the unemployment insurance program website helpful in answering your questions about your role and responsibilities during the appeals process?

Response Category	Responses and Response Rates
Yes	2
No	2
Not Applicable	11
% Yes	13.3%
% No	13.3%
% Not Applicable	73.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q9):**

- (denied) Because website didn't help me out after unemployment.
- (paid) I don't have internet.

**Table D.20****Responses to Survey Question 10a:**

If you are a non-native English speaker, did you encounter difficulties using or understanding the claimant handbook for your role and responsibilities during the appeal?

Response Category	Responses and Response Rates
Yes	0
No	1
Not Applicable	14
% Yes	0.0%
% No	6.7%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.21****Responses to Survey Question 10b:**

If yes, did you seek assistance from and unemployment insurance staff member?

Response Category	Responses and Response Rates
Yes	0
No	1
Not Applicable	14
% Yes	0.0%
% No	6.7%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.22**  
**Responses to Survey Question 10c:**

If you sought assistance, was satisfactory assistance provided?

Response Category	Responses and Response Rates
Yes	0
No	1
Not Applicable	14
% Yes	0.0%
% No	6.7%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.23**  
**Responses to Survey Question 11a:**

If you are a non-native English speaker, did you encounter difficulties using or understanding the unemployment insurance website for your roles and responsibilities during the appeal?

Response Category	Responses and Response Rates
Yes	0
No	1
Not Applicable	14
% Yes	0.0%
% No	6.7%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.24**  
**Responses to Survey Question 11b:**

If yes, did you seek assistance from an unemployment insurance staff member?

Response Category	Responses and Response Rates
Yes	0
No	2
Not Applicable	13
% Yes	0.0%

Response Category	Responses and Response Rates
% No	13.3%
% Not Applicable	86.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.25**  
**Responses to Survey Question 11c:**

If you sought assistance, was satisfactory assistance provided?

Response Category	Responses and Response Rates
Yes	0
No	1
Not Applicable	14
% Yes	0.0%
% No	6.7%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.26**  
**Responses to Survey Question 12a:**

Did the unemployment insurance program staff explain to you options for providing feedback on your experience with the claims application or appeals process?

Response Category	Responses and Response Rates
Yes	5
No	8
No Applicable or Not Answered	2
% Yes	33.3%
% No	53.3%
% Not Applicable or Not Answered	13.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q12(a)):**

- (denied) I did it by telephone.
- (paid) I had no idea that such an option was available to me, until I received this.

**Table D.27**  
**Responses to Survey Question 12b:**

If yes, were you offered a chance to provide feedback after each contact with the program staff?

Response Category	Responses and Response Rates
Yes	5
No	7
Not Applicable or Not Answered	3
% Yes	33.3%
% No	46.7%
% Not Applicable or Not Answered	20.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q12(b)):**

- (denied) Never was there an opportunity to provide feedback with program staff. Some were polite, some were "doing me a favor" by talking to me.

**Table D.28**  
**Responses to Survey Question 13a:**

Have you ever been requested to complete a customer service survey for the Wyoming unemployment insurance program?

Response Category	Responses and Response Rates
Yes	1
No	14
% Yes	6.7%
% No	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q13(a)):**

- (denied) No, never since I applied for unemployment in early 2009.



**Table D.29**  
**Responses to Survey Question 13b:**

If yes, what type of survey was offered to you?

<b>Response Category</b>	<b>Responses and Response Rates</b>
Internet Application Survey	0
Phone Application Survey	1
Appeals Survey	0
Other Survey	0
Not Applicable	14
% Internet Application Survey	0.0%
% Phone Application Survey	6.7%
% Appeals Survey	0.0%
% Other Survey	0.0%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.30**  
**Responses to Survey Question 14a:**

Have you ever completed a customer service survey for the Wyoming unemployment insurance program?

<b>Response Category</b>	<b>Responses and Response Rates</b>
Yes	1
No	14
% Yes	6.7%
% No	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.31**  
**Responses to Survey Question 14b:**

If yes, what type of survey did you complete?

<b>Response Category</b>	<b>Responses and Response Rates</b>
Internet Application Survey	0
Phone Application Survey	1

Response Category	Responses and Response Rates
Appeals Survey	0
Other Survey	0
Not Applicable	14
% Internet Application Survey	0.0%
% Phone Application Survey	6.7%
% Appeals Survey	0.0%
% Other Survey	0.0%
% Not Applicable	93.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

No comments.

**Table D.32**  
**Responses to Survey Question 14c:**

If yes, did the survey provide sufficient opportunity for you to provide all the feedback you desired to give?

Response Category	Responses and Response Rates
Yes	1
No	1
Not Applicable	13
% Yes	6.7%
% No	6.7%
% Not Applicable	86.7%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q14(c)):**

- (denied) Because they then turned me down for unemployment in Wyoming (?)

**Table D.33**  
**Responses to Survey Question 15:**

Has the unemployment insurance program staff provided assurances or explanations regarding the impact your comments may or may not have on claims processing?

Response Category	Responses and Response Rates
Yes	5
No	8
Not Applicable or Not Answered	2
% Yes	33.3%

Response Category	Responses and Response Rates
% No	53.3%
% Not Applicable or Not Answered	13.3%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q15):**

- (denied) Because the unemployment program doesn't help me out in Wyoming.

**Table D.34**

**Responses to Survey Question 16:**

Are you comfortable that giving feedback to the unemployment insurance program did not affect the outcome of your claim?

Response Category	Responses and Response Rates
Yes	11
No	1
Not Applicable or Not Answered	3
% Yes	73.3%
% No	6.7%
% Not Applicable or Not Answered	20.0%

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q16):**

- (denied) Not all program staff were especially "helpful." Some acted as if they were doing me a favor by talking to me.
- (denied) Yes, I am uncomfortable giving feedback for unemployment.
- (paid) I didn't get to give feedback until now.

**Table D.35**

**Responses to Survey Question 17:**

What part of the unemployment insurance claims application process (and appeals process, if applicable to your case) was the most helpful?

Response Category	Responses and Response Rates *
Telephone Claims Application Process	7
Internet Claims Application Process	7
Claims Appeals Process	0
Claims Processing Staff	2
Claimant Handbook	3
Unemployment Insurance program	0

Response Category	Responses and Response Rates *
website	
Debit Card Payment (ReliaCard)	1
Other	1

Source: Legislative Service Office analysis of UI paid claimants' survey results.

\* Count of claimants that identified different items; some claimants chose more than one item.

#### Comments (Q17):

- (paid) I think the two were equal.
- (denied) Ability to email. When I ran into problems with internet site, I did have the ability to email. Email responses were usually the next work day, with a request for me to telephone to Casper.
- (denied) Because I did [?] by telephone, that helped me out a lot.

**Table D.36**  
**Responses to Survey Question 18:**

What part of the unemployment insurance claims application process (and appeals process, if applicable to your case) was the least helpful?

Response Category	Responses and Response Rates *
Telephone Claims Application Process	1
Internet Claims Application Process	1
Claims Appeals Process	2
Claims Processing Staff	2
Claimant Handbook	0
Unemployment Insurance program website	2
Debit Card Payment (ReliaCard)	5
Other	0
Not Answered	4

Source: Legislative Service Office analysis of UI paid claimants' survey results.

\* Count of claimants that identified different items; some claimants chose more than one item.

**Comments (Q18):**

- (paid) Everyone that receives unemployment should get a debit card. I was not issued one.
- (paid) When I was able to get a live person, it was very helpful. 9 out of ten times, I sat on hold and finally hung up after 30 min.
- (denied) Did not like how my representative did the process.
- (denied) I am just starting an appeal. It took a couple of trips to local U.S. Bank to be able to get my “back” monies, after Congress finally approved additional funds following their Labor Day break.
- (paid) When I was able to receive unemployment benefits, the card was a very nice option. In my most recent claim, however, I was sent a card even though I was not going to be receiving benefits. That would seem like a huge waste of state resources.

- (paid) The debit card is a pain in the \*. All my bills are set up through direct pay on my bank account. So every 2 weeks, I have to make a 72 mile round trip to put my money in my account. Why can't [UID] just put it in my account and let the people that don't have accounts get the card.

**Table D.37**  
**Responses to Survey Question 19:**

What would you most like to see changed regarding the unemployment insurance claim application and appeals processes? Please explain.

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q19):**

- (paid) More lines. More live people. I believe most people don't have time to hold all day.
- (paid) Not to be on unemployment.
- (denied) More investigation. More going with the proof than what the employer “says.”
- (paid) I was a little confused when I re-applied (opened my unemployment claim back up).
- (denied) I have been employed in Wyoming from 1986 to 2009 (23 years) at the same employer. I feel like I am begging for money that I am apparently “entitled” to. I obviously am not lazy. I wish I was employed, but no matter how many jobs I apply for, I am still unemployed. I need the little bit of money that unemployment provides to keep a roof over my head and pay bills. I have to re-apply for unemployment benefits every few months. I don't understand why I have to re-apply so often? Some of these issues should be addressed in the Handbook.
- (denied) To help out the people more on unemployment insurance. Then let you do it all by yourself. The people of employment don't think about the people that have learning disability like me.
- (paid) Improved appeals process and communication with claimants.
- (paid) Make direct deposit and option.

**Table D.38**  
**Responses to Survey Question 20:**

[General comments.](#)

No tabular responses. See free response comments below.

Source: Legislative Service Office analysis of UI paid claimants' survey results.

**Comments (Q20):**

- (paid) After working at one job full-time for 6 years and another part-time for 12 years, I only qualified for around \$2,900.00 total. How? I am still only working for 9 hours a week. And I still don't qualify for more benefits. Now I know why we have so many people losing their homes. This was the first time in my whole life, and I am 52, that I ever applied for unemployment. I can't see that it is worth the humiliation and degradation. I really felt like a street beggar.
- (denied) Since I originally lived in Michigan and have since returned, here we still get unemployment regardless only penalized for some reasons for termination or loss of job. Need to take that into consideration.

- (denied) I want change for unemployment to help out the disability people that need help on their unemployment for job.
- (paid) Please improve the appeals process. I had been receiving benefits and I accepted a job before my base benefit period had expired. Unfortunately, the job ended up being a 5 month temporary position. When I reapplied for benefits, I was told that I no longer qualified. I was not given an opportunity to appeal. In this case, would I not have been better to turn down a job and remain on my initial benefit with the associated extensions. Because now, I have no benefit, no job and no way to cover my bills.
- (paid) I am very grateful to be receiving unemployment insurance. This is how I am supporting my family. I am also thankful for the appeals process. I felt the hearing was fair and I was glad that I was able to make my statement.

# APPENDIX E

## U.S. Department of Labor, Employment and Training Administration Core Measures and Acceptable Levels of Performance for UI programs

UI PERFORMS Core Measures	Acceptable Levels of Performance
<b>Benefits Measures</b>	
<i>First Payment Promptness</i> : % of all 1 <sup>st</sup> payments made within 14/21 days after the week ending date of the first compensable week in the benefit year (excludes Workshare, episodic claims such as DUA, and retroactive payments for a compensable waiting period).	≥87%
<i>Nonmonetary Determination Time Lapse</i> : % of Nonmonetary Determinations (Separations and Nonseparations) made within 21 days of the date of detection of any nonmonetary issue that had the potential to affect the claimant's benefit rights.	≥80%
<i>Nonmonetary Determination Quality- Nonseparations</i> : % of Nonseparation Determinations with Quality Scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from the universe of nonseparation determinations.	≥75%
<i>Nonmonetary Determination Quality- Separations</i> : % of Separation Determinations with Quality Scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from the universe of separation determinations.	≥75%
<b>Overpayment Measure</b>	
<i>Detection of Overpayments</i> : % of detectable, recoverable overpayments estimated by the Benefit Accuracy Measurement survey that were established for recovery.	≥50% and ≤95% of detectable/recoverable overpayments are established for recovery
<b>Appeals Measures</b>	
<i>Average Age of Pending Lower Authority Appeals</i> : The sum of the ages, in days from filing, of all pending Lower Authority Appeals divided by the number of Lower Authority Appeals.	≤30 Days
<i>Average Age of Pending Higher Authority Appeals</i> : The sum of the ages, in days from filing, of all pending Higher Authority Appeals	≤40 Days

divided by the number of Higher Authority Appeals.	
<b>Lower Authority Appeals Quality:</b> % of Lower Authority Appeals with Quality Scores equal to or greater than 85% of potential points, based on the evaluation results of quarterly samples selected from the universe of lower authority benefit appeal hearings.	≥80%
<b>Tax Measures</b>	
<b>New Employer Status Determinations Time Lapse:</b> % of New Employer Status Determinations made within 90 days of the last day in the quarter in which the business became liable.	≥70%
<b>Tax Quality:</b> Tax Performance System (TPS) assessment of the accuracy and completeness of the tax program determined by scoring, on a pass/fail basis, samples of the 13 tax functions.	No more than 3 tax functions failing TPS in any year
	No single tax function failing for 3 consecutive years
<b>Reemployment Measure</b>	
<b>Facilitate Reemployment:</b> % of UI claimants who are reemployed within the quarter following the quarter in which they received their first UI payment.	<u>State ALP Table</u>

<b>Secretary Standards in Regulation</b>	<b>Performance Criteria</b>
<b>First Payment Promptness:</b> % of Intrastate UI 1 <sup>st</sup> Payments (full weeks only) made within 14/21 days after the week ending date of the first compensable week in the benefit year.	≥87%
<b>First Payment Promptness:</b> % of Intrastate UI 1 <sup>st</sup> Payments (full weeks only) made within 35 days after the week ending date of the first compensable week in the benefit year.	≥93%
<b>First Payment Promptness:</b> % of Interstate UI 1 <sup>st</sup> Payments (full weeks only) made within 14/21 days after the week ending date of the first compensable week in the benefit year.	≥70%
<b>First Payment Promptness:</b> % of Interstate UI 1 <sup>st</sup> Payments (full weeks only) made within 35 days after the week ending date of the first compensable week in the benefit year.	≥78%
<b>Lower Authority Appeals:</b> % of Lower Authority Appeals decided within 30 days of filing.	≥60%
<b>Lower Authority Appeals:</b> % of Lower Authority Appeals decided within 45 days of filing.	≥80%

Source: U.S. Department of Labor, Employment and Training Administration website:  
[http://ows.doleta.gov/unemploy/pdf/Core\\_Measures.pdf](http://ows.doleta.gov/unemploy/pdf/Core_Measures.pdf)



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# **APPENDIX F**

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**Committee on Health, Education, Labor, and Pensions**

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**WYOMING LEGISLATIVE SERVICE OFFICE**  
**DAN J. PAULI, Director**

December 23, 2010

David Miller, Chairman  
John Hines, Vice Chairman  
Management Audit Committee  
213 State Capitol  
Cheyenne, WY 82002

Tom Harkin, Chairman  
Mike Enzi, Ranking Member  
Committee on Health, Education, Labor and Pensions  
428 Senate Dirksen Office Building  
Washington, DC 20510

Messrs. Harkin and Enzi,

**RE:** Request for Government Accountability Office (GAO) review of Title 20, Chapter VIII, Title 603 Code of Federal Regulations (CFR), Subpart B, Section 603.5 (ii) promulgated by the United States Department of Labor, Employment and Training Administration (ETA).

Messrs. Harkin and Enzi,

At its 12/15/10 meeting, the Management Audit Committee voted to release an audit of the Wyoming Unemployment Insurance Program (UIP). The Management Audit Committee conducts audits pursuant to W.S. 28-8-107 (b) (i).

During the UIP audit, our auditors encountered resistance when requesting access to confidential unemployment information. The Wyoming Department of Employment requested that the Legislative Service Office (LSO) sign an MOU with stringent provisions that LSO interpreted as going beyond what is required in Part 603 of the CFR, which addresses confidential access to unemployment benefit and tax information. Unfortunately, the CFR does not include an exception for state audit functions, as it does for federal audits (Subpart B, Section 603.5 (i)).

Although LSO proposed two alternatives, data as originally requested, was not provided to LSO for audit purposes. LSO's two alternatives included a modified agreement, as well as its interpretation of Subpart B, Section 603.5 (h), which appears to grant disclosure to an official with subpoena authority without an agreement. The Management Audit Committee, through the Chair and the Vice Chair have subpoena authority. Both proposals were rejected by the

Wyoming Department of Employment, on advice from the United States Department of Labor. As a result, LSO encountered a significant scope limitation to its audit, which caused the auditors to review only limited data provided by the Wyoming Department of Employment.

On behalf of the Management Audit Committee, we would like to formally request that the Committee on Health, Education, Labor, and Pensions request that the Government Accountability Office (GAO) review the confidentiality provisions of the above CFR to determine if a State audit exemption is needed to ensure appropriate and independent State oversight of Unemployment Insurance programs across the nation.

We have attached relevant sections of our audit scope and methodology, as well as correspondence between our legal counsel, Wyoming Department of Employment, and the United State Department of Labor. Should you require additional information, please contact Gerald W. Hoppmann, Program Evaluation Manager, at 307-777-7881.

Sincerely,



Gerald W. Hoppmann  
Program Evaluation Manager

P.p. David Miller, Chair

P.p. John Hines, Vice Chair

**Cc: Dan Pauli, Director, Legislative Service Office**

**Enclosure: 2**

# Recent Program Evaluations

Wyoming State Archives	May 2000
Turnover and Retention in Four Occupations	May 2000
Placement of Deferred Compensation	October 2000
Employees' Group Health Insurance	December 2000
State Park Fees	May 2001
Childcare Licensing	July 2001
Wyoming Public Television	January 2002
Wyoming Aeronautics Commission	May 2002
Attorney General's Office: Assignment of Attorneys and and Contracting for Legal Representation	November 2002
Game & Fish Department: Private Lands Public Wildlife Access Program	December 2002
Workers' Compensation Claims Processing	June 2003
Developmental Disabilities Division Adult Waiver Program	January 2004
Court-Ordered Placements at Residential Treatment Centers	November 2004
Wyoming Business Council	June 2005
Foster Care	September 2005
State-Level Education Governance	December 2005
HB 59: Substance Abuse Planning and Accountability	January 2006
Market Pay for State Employees	July 2006
Wyoming Drug Courts	July 2006
A&I HRD Role in State Hiring	December 2006
Kid Care CHIP: Wyoming's State Children's Health Insurance Program	June 2007
Wyoming Retirement System: Public Employee Plan	August 2007
WYDOT and General Fund Appropriations for Highways	May 2008
Wyoming Child Protective Services	September 2008
Department of Fire Prevention and Electrical Safety	December 2008

Office of Health Care Licensing and Surveys	July 2009
Victim Services Division: Phase I	August 2009
Victim Services Division: Phase II	February 2010
Reading Assessment and Intervention Program	February 2010
Office of State Lands & Investments: Management of State Trust Lands	June 2010

**Evaluation reports can be obtained from:**

*Wyoming Legislative Service Office*  
 213 State Capitol Building Cheyenne, Wyoming 82002  
 Telephone: 307-777-7881 Fax: 307-777-5466  
 Website: <http://legisweb.state.wy.us>

