

Written Testimony of  
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before the Senate Finance Committee on  
“Preserving Integrity, Preventing Overpayments, and Eliminating Fraud  
in the Unemployment Insurance System”

Chairman Baucus, Members of the Senate Finance Committee, and Ranking Committee Member Hatch:

I appreciate the opportunity to provide the Senate Finance Committee with a short overview of some of the strategies deployed in Utah to help ensure the integrity of the UI trust fund, corresponding challenges, and my observations on proposed legislative and regulatory changes. Ultimately, our goal is to help unemployed Utah citizens find employment. When properly aligned, program integrity efforts, re-employment initiatives, operational efficiencies, and trust fund management should ensure that limited resources are maximized and directed to those who are eligible for benefits and re-employment activities.

## INTRODUCTION

Program integrity is a priority for us and is reflected in the fact that for the third year running, the Department of Labor has recognized Utah as the top performer among medium-sized states for issuing timely payments while employing effective safeguards to stop improper payments and for issuing timely and quality appeal decisions. We estimate that for every \$1.00 invested in integrity efforts, we collect \$5.50 in benefit overpayments. Re-employment activities can also have a very positive impact on the UI trust fund—a one-week reduction in the average duration equates to a \$20 million dollar savings to the fund. Clearly, strategic and aggressive program integrity activities have a high return on investment.

Utah’s approach is founded on core values which include:

- We align UI fundamentals (such as trust fund management and program integrity) in a seamless system to support people going back to work.
- We direct maximum resources to the customers rather than to overhead and bureaucracy.
- We design policy in tandem with operations and a clear understanding of the costs and impact.
- We keep the system transparent and governed by limited and clear outcomes rather than a multitude of compliance activities.
- We keep public policy consistent across programs that include an interface with common customers.
- We strive for simplicity and common sense as our standard rather than complexity.
- We seek local solutions to local challenges.

## **Unemployment Compensation Program Integrity Act of 2011**

In general, Utah supports the proposed requirements contained in the UC Program Integrity Act of 2011 to reduce overpayments and improve collections. However, Section 3 requires states to assess a minimum 15 percent penalty to any fraud overpayment with all collections placed in a restricted account for integrity activities or the payment of benefits. If Congress is serious about deterring fraud, setting the amount at 15 percent is inadequate. In addition, requiring states to use collected funds on integrity activities or benefit payments would actually be more restrictive than our current process which allows states the flexibility to determine how UI penalty and interest funds are used, particularly in states that already have administrative grants adequate to fund integrity efforts. Utah currently uses a portion of these funds for other activities such as re-employment initiatives that may have an even greater long-term, positive impact on our UI trust fund.

### **UTAH'S INTEGRITY INITIATIVE AND BEST PRACTICES**

Utah, like other states, faces the challenges of ensuring timely UI payments to eligible individuals while employing effective safeguards to stop improper payments. The combination of customer education and aggressive strategies to combat fraud and overpayments is requisite to a robust program integrity approach. Utah is committed to transparency and on-going customer education in addressing these strategies.

#### **Fraud and Overpayments**

- Utah takes a very hard line when it comes to unemployment fraud. The fraud penalty is equal to 100 percent of the benefit amount paid as a result of fraud. Fraud overpayments can result in denial of future benefits for up to 49 weeks (13 weeks for the first week of fraud and 6 weeks for each additional week of fraud) and may also include criminal prosecution and publication of the convictions in the press and on our web site. We do not write off fraud overpayments and we do not allow debtors to draw future benefits until the debt is repaid. Utah's fraud overpayment rate is .88 percent of total benefits paid or about 55 percent less than the U.S. average.
- Most fraudulent overpayments are the result of claimants working while receiving UI benefits. Utah currently has 12 data cross-match programs that identify potential overpayments and, by next year, the number will increase to 18. These programs currently include:
  - UI wage data
  - Utah's New Hire Registry
  - Interstate Cross-match
  - National Directory New Hires
  - Jail and Corrections
  - National Guard and Reserves
  - Social Security

- State Employees
  - Address (multiple claims from same address)
  - Phone (multiple claims from same phone #)
  - IRS (data sharing with Treasury Inspector General Office)
  - Foreign Internet IP Address
- Utah was recently awarded a DOL grant for \$153,000 to further automate the process for identifying overpayments by automatically faxing, e-mailing, or mailing requests for information to employers to confirm work and earnings information based on leads from the New Hire Registry and wage data cross-match programs. This system will allow employers to respond electronically by interfacing with a web site, enabling the system to process the comparison, identify potential overpayments, and generate notices to claimants. The system will be fully implemented by July 1, 2012.
  - Utah was one of the original four pilot states to implement the National Directory of New Hires (NDNH) cross-match program that is now used by most states. The new hire cross-match system is the second largest tool for detecting UI benefit overpayments in Utah and is instrumental in the earlier detection of UI overpayments.
  - In 2005, Utah was one of five states to form a consortium (aka the State Information Data Exchange or SIDES) to develop a standardized format for exchanging separation data electronically (SIDES). SIDES provides a mechanism for states, large employers, and third party administrators to improve timeliness, accuracy, and reduce costs associated with separation decisions that account for 20 percent of all UI overpayments. Utah was the first state to implement SIDES in February 2010. The additional four states are now operational and another 18 states are now in the developmental stages. Initial results indicate that Utah has 50 percent less follow-up calls, with almost 100 percent accuracy and timeliness on all SIDES transactions. Future enhancements and additional modules are underway.
  - Utah, along with Texas, Maryland, and the Department of Labor are reviewing the value of matching ACH transactions against UI claimants' direct deposits and debit card transactions. The process would provide another opportunity for early detection of fraud and potential overpayments. The project is in a proof of concept phase but does appear promising.
  - Utah's innovative worker profiling and reemployment services function was recently updated and integrated into our on-line eligibility review program. This process requires a mandatory online UI eligibility review, orientation, and self-assessment for those UI claimants that are most likely to exhaust their UI benefits. This on-line system allowed Utah to obtain a five-fold increase in eligibility reviews that now reach 500-750 claimants weekly or almost one-third of our current weekly initial claims. The program allows Utah to ensure claimants are completing their weekly work search requirements and provides on-line information about other services, including job search workshops, training, supportive services, on-line job openings,

and labor market information and is very cost effective. Early engagement of UI claimants in re-employment activities has proven to be an effective tool for reducing the duration of claimants receiving benefits and ensuring program compliance.

- Effective collections of overpayments and contributions are also integral to the integrity of the trust fund. Utah's ratio of accounts receivable to tax due is one percent which is the 6<sup>th</sup> lowest in the nation according to the Department of Labor. Utah's automated collections case management system allows the electronic filing of liens with the court via the eFLEX system and reduces processing time and the associated costs. The system also provides collectors with real-time case management tools that reduces monitoring time, skips tracing time, and includes electronic work flows to help ensure collections are maximized to the fullest extent possible.
- In addition to penalties, Utah employers who are not compliant or current in filing UI taxes may face penalties from other state agencies. Agreements with partnering state government agencies may include revoking liquor and contractor licenses if the employer's UI account is not in good standing. In other cases, state vendor payments and state tax returns may be intercepted based on an outstanding UI tax debt.

### **Misclassification of Workers**

Fifteen percent of collection activities are a result of misclassified workers. Utah has implemented an innovative approach to try to address this issue and we are beginning to see some positive results. However, a state's ability to fully address the complexity around this topic is limited by the IRS definitions that drive the policy.

- Utah was one of the first states to use IRS Form-1099 data to target employers for audit for potentially misclassifying workers. Since 2005, the Utah 1099 audit program has been continually expanding. The Department of Labor recently established new performance standards for states which place more emphasis on focusing compliance resources on more cost effective audits. In 2009, Utah had the highest effective audit score per Department of Labor performance reports. Utah uncovered over \$100 million in unreported wages during the last three years as a result of this program. Effective compliance is instrumental for providing a "level playing field" as well as helping to ensure the health of the UI trust fund.

## **CURRENT CHALLENGES**

Federal legislation was recently passed that allows states to begin intercepting federal income tax refunds from individuals with UI benefit overpayment debts through the Treasury Offset Program (TOP). While we applaud the legislation, we have found that excessive Treasury regulations make it difficult and time consuming to implement. Utah, like many states, employs IT contractors to develop and maintain our IT systems. Current regulations and guidance do not permit the sharing of federal tax information with contractors even though no such restriction

applies to the Food Stamp TOP program which we have also been running successfully for many years. IT contractors are held to the same confidentiality requirements and background checks as our employees. We estimate an additional 600 hours of programming to accommodate this requirement.

A current Department of Labor core performance measurement for determining the effectiveness of a state's UI program integrity efforts is the "Overpayment Detection Rate." This rate is the ratio of established overpayments as compared to the overpayment amounts estimated by the Benefits Accuracy Measurement (BAM) program. One of the primary deficiencies of this measure is that the longer it takes for a state to discover and establish the overpayment, the larger the overpayment. Even though it is obviously better to discover overpayments earlier rather than later, this practice tends to improve performance outcomes. We understand future performance measurements are currently being discussed and we do have concerns about the draft language and look forward to the opportunity to provide further input. However, we support the concept of measuring the early detection of fraud overpayments in terms of reducing overpayments of five weeks or more. A focus on the actual collection of these overpayments is equally important to UI trust fund integrity.

With the enactment of the Improper Payments Elimination and Recovery Act (IPERA) of 2010 (P.L. 111-204), the Department of Labor has required state workforce agencies to report planned activities to prevent, detect, reduce, and recover improper UI payments as part of their future State Quality Service Plan (SQSP) submission. Utah supports giving states the flexibility to develop strategies and associated actions to reduce root causes, including the recovery of improper payments. Holding a state accountable, while providing maximum flexibility is reasonable and responsible.

## **CONCLUSION**

I appreciate the opportunity to address the Senate Finance Committee. Program integrity, like re-employment strategies, is integral to the long-term health and viability of the unemployment program and I look forward to additional opportunities to work with this committee and the Department of Labor in finding real solutions for improving UI integrity.