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# Addressing Fraud, Waste and Abuse in the Unemployment Insurance System

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House Ways and Means Subcommittee on Human Resources

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**June 3, 2015**

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## **Introduction**

Chairman Boustany, Ranking Member Doggett and members of the committee, thank you for this opportunity to share with you the progress Louisiana has made in reducing fraud, waste and abuse in the unemployment insurance system and also to suggest an approach that could improve the performance of the system while lowering its costs across the country.

I am Curt Eysink, executive director of the Louisiana Workforce Commission and president-elect of the National Association of State Workforce Agencies. Improving the performance and costs of the unemployment insurance system is a focus of mine in both roles.

The first two targets for reducing fraud, waste and abuse in the unemployment insurance system are obvious. One deals with unemployment taxes, ensuring that all employees who should be covered are covered, and that taxes are computed correctly and collected. The second obvious target is to reduce improper payments, which are payments made as a result of fraud or errors, or even when benefits are awarded when all parties are operating in good faith, but which are overturned later on appeal. The federal target limit for all improper payments is 10 percent of UI benefit payments.

The third target is less obvious: The other 90 percent of benefit payments that are paid in the right amounts to claimants who are eligible. Most of the cost in the system derives from weekly payments made to these people. Are we doing the best job we can to drive their re-employment and shorten the duration of their benefits? Many employers have job openings they're struggling to fill, nearly all claimants need a job and the workforce and unemployment insurance systems need to marry the two quickly. That can happen at maximum efficiency only through the integration of unemployment insurance and workforce services.

I believe that a key to the unemployment insurance system reaching its full potential lies in integrating it much more tightly with the workforce development system than is the case today. The benefits of that integration will be far-reaching.

I will address all three targets in my remarks today.

### **1. Unemployment taxes**

Ensuring that all workers who should be covered as employees rather than misclassified as independent contractors is a major focus of the Louisiana Workforce Commission. We continue to be engaged in a significant education campaign aimed at employers to make sure they understand the law. We have an online tool, an independent contractor test, that allows employers to determine the proper classification of their workers. And our legislature has approved tougher penalties for flagrant violators.

Our targeted audit program has proven to be another critical step. We select audit leads based largely on the number of 1099s they issue. In 2014, our tax agents audited 1,132 of those businesses. Some had never even registered with us and were not paying any taxes. All told, our tax agents discovered and reclassified 12,779 workers from independent to employee

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status. This was a 329 percent increase over 2013 and a 4,000 percent increase over 2010, when we were still randomly selecting companies to audit. The 2014 audits discovered \$130 million in unreported wages, resulting in the assessment of \$2.1 million of UI taxes, of which 85 percent has already been collected.

Close collaboration with the Department of Labor's Wage and Hour Division resulted in the closure of five cases last year involving the discovery of 1,264 misclassified workers and nearly \$10.5 million in unreported wages. Our online UI tax fraud reporting tool produced 97 audit leads last year and resulted in the discovery of 78 misclassified workers and nearly \$500,000 in unreported wages.

It is important to note here that to the extent these activities required state legislation, we had the support of both organized labor and the state's business lobby. Not only do these efforts ensure that employees who should be covered in the unemployment insurance system actually are covered, but they ensure a level playing field for the huge majority of businesses that do play by the rules, do take care of their workforce and do pay the taxes they owe.

Another area in which Louisiana and many other states have been very successful is in detecting SUTA dumping, or employers' improper manipulation of their UI tax rates. SUTA dumping typically occurs when employers transfer their workers to another business unit with the same ownership but don't transfer the experience rating along with the people. That practice "dumps" the offending employer's tax liability onto the other employers in the system. North Carolina used a Department of Labor grant to develop SUTA dumping detection software that the DOL, in turn, makes available to all states. From 2010 to 2014, the LWC SUTA dumping team opened 57 cases, resulting in the discovery and collection of \$3 million in taxes. NASWA's IT Support Center charges \$3,500 a year for technical assistance and maintenance of that tool.

Finally, on the tax front, is the issue of eliminating errors and waste and preventing fraud. Louisiana took a long leap forward last year by requiring all employers to register and submit all wage reports and UI taxes online through our UI wage portal. Employers can enter their required data directly or upload files from their commercial bookkeeping or payroll systems. The portal calculates taxes owed rather than leaving that job to employers, eliminating a significant source of errors. Also gone are our key stroke errors that created so much extra work for us and so much frustration for employers for years. In addition, the data entry personnel we used to hire for six weeks every quarter are no longer needed.

These online transactions also are critical in preventing fraud. Once a company establishes an account, its individual staff members who post reports or pay taxes for them must then register for privileges to use the system. A stringent log-in process for the individual user allows us to validate identities. The system provides a complete audit trail and also captures the IP address of the filer.

All of these measures taken to ensure the efficiency and integrity of our tax operations and a level playing field for all legitimate employers have greatly contributed to the strength of Louisiana's unemployment insurance trust fund and our ability to maintain UI taxes that are the second lowest among the 50 states.

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## **2. Reducing improper payments**

It is essential that we keep in mind the underlying purpose of the unemployment insurance system. It is intended to provide temporary, partial wage replacement for employees who lose their jobs through no fault of their own. To qualify for benefits, claimants must have sufficient work history and be able to work, be available for work and actively search for work in each week of their claim.

The major sources of improper payments are:

1. Separation errors, or errors in determining whether a claimant was laid off, quit or was fired and whether that claimant was fired for misconduct sufficient to deny benefits. These errors are typically caused by employers' failure to respond to information requested by adjudicators or when adjudicators fail to engage in sufficient fact finding to render a proper determination. Education and training for employers and agency staff can help resolve both issues, along with other personnel actions against our staff whose performance does not improve.
2. Payments to individuals who defraud the system by continuing to claim benefits after they have gone back to work. These payments have been reduced across the country and by almost two-thirds in Louisiana by cross-matching benefit claims against wage records and State and National Directories of New Hires. However, these cross-checks work well only when employers meet their reporting requirements to UI agencies and to their state new hire directories.
3. Payments to individuals who file claims even when they are not "able and available" for work or when they are not fulfilling their responsibility to register for and search for work. These payments can be minimized by cross-checking claims against databases of recipients of workers' compensation or certain government benefits, jail and prison inmates, immigration status, and by properly tracking claimants' work registration and job search activities. With the right agreements and systems, these cross-checks all can be done electronically and quickly before claims are paid and they can be repeated throughout claimants' benefit periods.
  - An example of an innovative and highly effective cross-match is one proposed to Louisiana by Texas and developed jointly. Many claimants live in one state and work in the other. If they are laid off, they can file for benefits in the state where they worked, but most still have to register with the workforce agency in the state where they live. Under our arrangement with Texas, each state's workforce commission sends the other a list each week of claimants who live in the other state. We each match those lists against the people who are registered with our workforce systems. Those who don't meet their registration requirements are suspended from receiving benefits.  
Since its inception three years ago, the agreement has avoided an estimated \$36.7 million of improper payments in our two states. The total programming and implementation cost was about \$43,000.

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4. Today, we also have to be extremely vigilant against broader, more sophisticated fraud schemes. They typically involve the establishment of fictitious employer accounts and/or they file bogus claims using the stolen identities of real people or falsified federal documentation, such as Social Security numbers, military records or immigration documents. These attacks can be launched from other states or countries.

They can be stopped by validating the identities of all claimants and companies, tracking the IP addresses of claims and business registrations and flagging for investigation those that are out of state. We also need to monitor how soon claims are filed against employers once they register with the UI system. We even have to monitor for some things that are strikingly unsophisticated, such as multiple claims with the same addresses or sequential Social Security numbers.

States and the federal government all need to work together closely to identify these schemes and share information once they are discovered to cut them off immediately and identify the perpetrators. This collaboration has begun and I expect it will improve many times over once the national UI Integrity Center of Excellence is fully up and running.

This national integrity center is funded by the Department of Labor through New York and is being stood up by NASWA on behalf of all states. The goal of the center is to promote the development and implementation of innovative UI integrity strategies, including the prevention and detection of fraud. Among its strategies will be the exploration of new technologies and data sources and sophisticated data analytics and predictive modeling to improve prevention and detection of improper payments. Its work will continue to evolve over time as fraud schemes and other root causes of improper payments evolve.

In Louisiana, we are close to another evolutionary upgrade in our own efforts to reduce improper payments through better technology. This summer, we will launch the second in a three-phase modernization of our UI computer system. We are moving off a mainframe system launched in the 1970s and onto a web-based system that will greatly increase automation, reduce costs and improve integrity by, among other things, building in 40 different cross-matches with state, federal and private databases. For instance, the cross-matches will verify each claimant's identity in real time while he is filing his claim. The claimant will have to address discrepancies before he can complete his claim. Discrepancies could include, for example, a Social Security number that doesn't match the name or birth date submitted by the claimant, or a claimant identity that matches a prison inmate or someone receiving SSDI.

Many other states already have modernized their systems or they are somewhere along the way. However, Louisiana is a rarity in that we are building our new UI system onto our workforce system rather than replacing an old silo with a new one. Not only will the single system offer a quantum leap in customer service for employers and job seekers, but it also will fully implement our strategy for maximizing the performance and minimizing the cost of unemployment insurance by integrating it with workforce development and job placement.

### **Collection of overpayments**

We're also doing a better job than we've done before of collecting overpayments. One of our best tools for this is the Treasury Offset Program operated in partnership with the IRS. This

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program allows us and all states who meet stringent security requirements to seize federal tax refunds to satisfy overpayment debt. Since Louisiana began participating in March 2012, we have recovered \$26.85 million.

We and other states operate similar programs through our state revenue or tax departments. We've done so since 1986, and since 2012 we have recovered \$14.62 million from Louisiana tax refunds.

In addition to standard collection methods, such as placing liens on immovable property, mailing monthly delinquency statements, referring fraudulent claims to the DOL's Office of the Inspector General, we also participate with all other states in the Interstate Reciprocal Overpayment Recovery Arrangement (IRORA). It is an agreement among states to collect overpayments of unemployment benefits for each other.

### **3. Driving the re-employment of UI claimants**

Our goal at the Louisiana Workforce Commission is to help everyone get the best job available for them as fast as we can. That is particularly important for UI claimants, all of whom have had their income chopped and many of whom have had their confidence shaken. People who have worked for the same company for years typically have strong technical or workplace skills but little idea about how to find another good job. They struggle with resumes and often need coaching to interview well.

During the Great Recession, it became apparent that claimants who got help from the state and local staff at our Business & Career Solutions Centers got a good result faster than those who relied only on our self-service tools or looked for work entirely on their own.

During 2012, we began requiring claimants to appear at their local center within two weeks of receiving their first payment so that they could get the help that so many of them need. Now, they must appear almost every two weeks for coaching, labor market information, job search assistance, assessments or other services identified in their customized re-employment plans. Although we encourage them to use all means available to find their next job, we require claimants to conduct certain fundamental job search actions in our system so that we can validate their continued eligibility to receive benefit payments.

The initial goals were to reduce the duration of UI claims by returning claimants to work faster, and to emphasize the shared responsibility between the state and claimants: We will do all that we can to help you return to work and you must do the same or lose your benefits until you engage properly.

We piloted this concept in the Acadiana Region of Louisiana, where the Workforce Investment Boards were willing to take the implementation risk. What we found encouraged us and the other workforce boards to quickly scale the program statewide. We continue to see similar results today, three years later. They are:

1. Claimants accept the requirements immediately. I still have heard of only one complaint. A woman in Opelousas said that if she was going to have to meet all of our new requirements, she might as well get a job.

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2. In any rolling one-year period, about 75 percent of otherwise eligible claimants initially fail to meet the re-employment requirements and their benefits are suspended. Only about one-third of those with suspensions ever return and comply so that their benefits can resume.
3. Cross-checks against our wage records and the new hires databases show that only a small percentage of claimants who are knocked out initially, in the single digits, do not return to work.
4. Last year, an analysis of our trust fund by Louisiana State University economists, under contract to us, showed that our trust fund had grown in the 10s of millions of dollars more than they could account for as a result of our strengthening economy and other factors in their models. The only significant factor not in their models was our re-employment program.

We have drawn several conclusions from these results and from anecdotal information from our claimants:

1. Claimants expect to be held accountable for looking for another job.
2. Many claimants find their next job faster with in-person help and a little compliance pressure.
3. Claimants who are not serious about looking for work will disengage.
4. People who use others' identities to claim benefits cannot perpetrate their schemes if they have to show up in person and prove they are who they claimed they are. This is as true for identity theft rings as it is for an individual who "borrows" the identity of a friend or relative who is incarcerated.

Our system modernization project already creates a Wagner-Peyser work registration for claimants at the same time they file their initial UI claim, making them a job seeker, trackable in our system, before they ever receive a payment. The system also lets them check their claim status, search and apply for jobs, explore training opportunities, complete assessments and build their own re-employment plans. Based on the information they must submit with their claims, the system immediately recommends available jobs in their area that are similar to their most recent employment. Louisiana's unemployment rate is 1.2 percentage points higher than the national average but the average duration of our unemployment claims is more than a week less.

### **Overall UI system performance**

In 2008, before the Great Recession and before the twin hurricanes Gustav and Ike hit Louisiana, before the BP oil spill and before Hurricane Isaac, our UI system ranked as low as 52<sup>nd</sup> or 53<sup>rd</sup> against the other states, the District of Columbia, Puerto Rico and Guam on a number of federal performance indicators. Our customer service was poor and our improper payments were high. Today, our motto is "Everyone owns integrity," evident in posters throughout our UI offices. Our improper payment rate has been cut to about the OMB threshold and continues to improve. A customer service index we created to benchmark our

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claims accuracy and speed of payments against other states ranks us at ninth in the country. We have sharply reduced the duration of claims and we are a national leader at identifying misclassified workers. The cost burden of our UI system on employers is the second-lowest among the states, and we anticipate another leap forward in all of our performance measures once we launch the final two phases of our system modernization.

I note these performance trends to make the point that UI integrity can be addressed effectively in most economic conditions without sacrificing customer service or hiking taxes.

Although our trust fund lost about half of its value during the Great Recession, Louisiana clearly experienced less impact in that regard than many other states. That, along with a patient, helpful but persistent DOL regional office staff, a massive internal process improvement program and our engagement with many other states, both directly and through NASWA, have enabled Louisiana's UI program to make quantum leaps in performance while containing costs and improving service levels. We are happy to work with other states in hopes that our experiences may be as helpful for them as their experience and counsel have been for us.

I'm happy to answer any questions. Thank you for your time today.