

**PRELIMINARY
MINUTES**

**UNEMPLOYMENT COMPENSATION MODERNIZATION
AND IMPROVEMENT COUNCIL**

December 17, 2021
Room 112-N—Statehouse

Members Present

Representative Sean Tarwater, Chairperson
Senator Renee Erickson
Senator Jeff Pittman
Senator Caryn Tyson
Representative Stephanie Clayton
Representative Susan Estes
Katie Givens
Phil Hayes
Jeff Oswald
Amber Shultz, Secretary of Labor (Temporary replacement for Deputy Secretary of Labor
Peter Brady)
Shelbye Smith
Shawana Woods

Members Absent

Jake Miller

Staff Present

Edward Penner, Kansas Legislative Research Department (KLRD)
Dylan Dear, KLRD
Matthew Willis, KLRD
Elaina Rudder, KLRD
Victoria Potts, KLRD
Charles Reimer, Office of Revisor of Statutes
Kyle Hamilton, Office of Revisor of Statutes
Sky Westerlund, Committee Assistant

Conferees

Amber Shultz, Secretary of Labor

Others Attending

See [Attached List](#)

**FRIDAY, DECEMBER 17
ALL DAY SESSION**

Welcome

The Chairperson called the meeting to order at 10:06 a.m.

Approval of Minutes

Representative Estes moved, and was seconded by Senator Erickson, to approve the minutes from September 27, 2021, September 30, 2021, and October 25, 2021. Motion carried.

Review of Audit Agreement and Payment Agreement with Kansas Department of Labor

The Chairperson stated once the contract with the vendor is signed, the document will be a public document and posted on the Legislature's website.

Jason Long, Senior Assistant Revisor of Statutes, Office of Revisor of Statutes, presented a review of the contract and payment agreement. Mr. Long stated no drafts of the contract are distributed. The review is on the substance of the agreement, but not the agreement itself.

He explained the contract is structured as a triangle of agreements, meaning it is a series of two-party agreements.

The first agreement is between the Unemployment Compensation Modernization and Improvement Council and the Kansas Department of Labor (KDOL) regarding payment of contractor invoices. The Council shall receive the invoices, and the invoices will be submitted to KDOL with a certification, amount, and tax identification information. KDOL will pay the invoices. The technical language of the agreement is being finalized.

The second agreement is the audit agreement as outlined in the Request For Proposal (RFP) between the contractor and the Council. The auditing firm has precise and professional standards for audits and for consultation assessments. The description in the RFP fits the professional standards for consultation assessments rather than for an audit. For these reasons, the agreement is identified as a fraud investigation and consulting services.

In response to a question, Mr. Long stated the term "audit" is used as a broad term, not as an industry standard term, in state law. He stated there is no issue with fulfilling the statutory language and the language of the agreement.

The third agreement is between the vendor and KDOL regarding the expectations and responsibility of protecting the confidentiality of the data used in the investigation.

Other items in the agreements include the standard language of government contracts, having to do with withholding payment if a dispute arises or the vendor is not complying with the terms of the contract, and no assignment of services to outside staffing. Terms of confidentiality

are also included in the agreements. If any information is redacted in the final report, the Council would hold an executive session, closed to the public, to review the confidential information.

The compensation for the contract is \$250,000, including the presentation to the Council of the final report. Any requested services beyond this would incur additional expense. Project managers have been identified.

Mr. Long reviewed the scope of work. The description of the scope of work has been edited for technical standards, and explicit language has been included that requires the vendor to make a presentation of the final report to the Council and respond to questions. The remainder of the contract includes various attachments.

Mr. Long noted the final report will not be edited, and it will be posted on the Legislature's website for public view.

In response to questions, Mr. Long stated:

- KDOL is under legal obligation to protect confidentiality of data. The subject of data sharing and confidentiality is part of the agreement between the KDOL and the vendor;
- The preliminary report is due May 1, 2022. The final report is due September 1, 2022;
- The primary contact person for the contract is located in Chicago, Illinois;
- The Council would know the hourly rate for any additional work requested, and in that situation, an amendment would need to be added to the contract for any additional work to occur; and
- Either the vendor or KDOL would redact any information in the report(s).

Senator Tyson moved, and was seconded by Shawana Woods, to approve the substance of the two agreements, and when the contract has been finalized, to authorize the Chairperson of the Council to sign the contract. Motion carried.

Kansas Department of Labor Update

Amber Shultz, Secretary of Labor, provided updates on KDOL:

- Since March 2020, KDOL has paid out 5.1 million weekly claims totaling \$3.3 billion dollars from both the regular state unemployment program and the federal program;
- For the week beginning December 11, 2021, the Unemployment Insurance Trust Fund was at \$676.2 million dollars which is approximately a 60 percent increase from year to year balance of the fund;

- The agency is working to implement the recently passed 2021 Special Session HB 2001, concerning, in particular, complaints against employers for medical and religious exemptions of vaccination requirements. KDOL is developing a procedure to process the complaints;
- The November 2021 unemployment rate was 3.6 percent in the state, and at the federal level, the unemployment rate was 4.2 percent. In the last 12 months, the unemployment rate has dropped 1.1 percent. In November, the state added 2,700 non-farm jobs and 2,400 were in the private sector. Over the last 12 months, the private sector has added 33,000 jobs;
- The average of new weekly unemployment claims is 1,100. This is close to the numbers in 2019. The number of continued claims is approximately 6,000, which is also close to numbers in 2019. Approximately 8,500 individuals are receiving unemployment payments;
- By December 2021, 28,000 claimants have been referred to the Department of Commerce, My Re-employment Plan. Approximately 20,000 individuals are in compliance with the program and approximately 8,200 are not;
- Of the 512 claims for job refusals, 425 were denied and 87 were found to be for good cause; and
- Regarding the fraud backlog, most of the fraud was with wage fraud and employer verification and not identification verification. 2,400 cases were investigated with 1,600 closed. Another 215 were received. The Secretary noted the claims maintenance team has made significant progress in working through the cases. The work is complicated and tedious requiring re-programming of the mainframe information.

The Secretary responded to questions from Council members.

Labor Economy Overview

The Chairperson asked Representative Kyle Hoffman to provide a brief update on the contract for KDOL modernization.

Representative Hoffman stated a vendor has been chosen and paperwork has been signed to proceed with the contract agreement and negotiations. Funding information will not be available until after the contract is sealed.

Edward Penner, Senior Economist, Kansas Legislative Research Department, provided a review of the labor force and job openings. He stated the report is an economic indicator report using several data sources. The report is done on a quarterly basis, in March, June, September and December. ([Attachment 1](#))

The employment is measured using two surveys - one survey requests information from employers and the other requests information from households. The data comes from the U.S. Bureau of Labor Statistics.

The data from the establishment data indicates numbers are almost back to pre-pandemic numbers, and the data from households indicate they are at pre-pandemic levels. Mr. Penner stated the difference may be attributed to a higher demand for labor. Another reason may be persons who left the pool of employees, but did not leave labor by opening their own business. In 2021, 5.3 million businesses were formed, which contrasts with pre-pandemic levels in 2019 of 3.5 million business formations. More persons are holding only one job instead of multiple jobs.

Mr. Penner noted a correction on page 2 of the memorandum. In the chart for the seasonally adjusted employment for household data, the 1,509,740 should be 1,453,348.

Mr. Penner responded to questions from Council members.

Adjourn

The Chairperson stated the Council will meet once a month through the 2022 Legislative Session, and the dates will be determined at a later time.

The Council was adjourned at 12:10 p.m.

Prepared by Sky Westerlund

Edited by Matthew Willis

Approved by the Committee on:

(Date)