

MINUTES

UNEMPLOYMENT COMPENSATION MODERNIZATION AND IMPROVEMENT COUNCIL

July 22-23, 2021
Room 112-N—Statehouse

Members Present

Representative Sean Tarwater, Chairperson
Senator Robert Olson
Senator Caryn Tyson
Representative Stephanie Clayton
Peter Brady
Katie Givens
Phil Hayes
Jake Miller
Jeff Oswald
Shelbye Smith (July 23)
Shawana Woods
Senator Marci Francisco, appointed substitute member to the Committee
Representative Marty Long, appointed substitute member to the Committee

Members Absent

Senator Jeff Pittman
Representative Susan Estes
Shelbye Smith (July 22)

Staff Present

Edward Penner, Kansas Legislative Research Department (KLRD)
Dylan Dear, KLRD
Matthew Willis, KLRD
Elaina Rudder, KLRD (July 22)
Kyle Hamilton, Office of Revisor of Statutes
Charles Reimer, Office of Revisor of Statutes
Sky Westerlund, Committee Assistant

Conferees – July 22

Magnus Hines, Business Development Executive for Unemployment Insurance,
Geographic Solutions
Mike Beene, Director of Workforce Development, Kansas Department of Commerce
Tom Day, Director, Legislative Administrative Services

Conferees – July 23

Kelly Johnson, Chief Information Technology Officer, Kansas Department of Labor
Representative Kyle Hoffman
Tom Day, Director, Legislative Administrative Services

Others Attending

See attached lists for [July 22](#) and [July 23](#).

THURSDAY, JULY 22 ALL DAY SESSION

Call to Order and Welcome

The Chairperson opened the meeting at 9:35 a.m.

The Chairperson recognized the service of Representative Ron Howard, who died two days before. A moment of silence was observed.

Unemployment Compensation System Presentation

Magnus Hines, Business Development Executive for Unemployment Insurance, Geographic Solutions, joined the Council meeting via Webex.

He said Geographic Solutions was founded 30 years ago and works with employment, prison reintegration, workers' compensation, and unemployment insurance (UI). It is based in the Tampa Bay area and employs 400 staff.

The company utilizes measurable results and Mr. Hines listed the top ten:

- Functionality of the product—in order to do the job, the product is scalable, flexible, and customizable. It is a product, not a framework;
- Quality of product that protects the state's investment in the system;
- Track record—the pandemic caused the company to upgrade to handle the increase in UI claims, especially from the temporary federal Pandemic Unemployment Assistance program;
- Reducing fraud by requiring two-factor authentication, utilizing the CAPTCHA tool, and implementing a variety of other anti-fraud measures;
- Lower improper payments through integration with the workforce system. Claimants must sign up with state's workforce program;

- Improved payment and timeliness of payment;
- Elimination of paper as much as possible by utilizing integrated messaging, correspondence, digital signature, and touch screens;
- Improving the customer experience by making the UI claims system easy to use;
- Accommodating increased use of internet and smartphone access to file claims; and
- Utilizing smart devices and apps.

Mr. Hines said that in another state, the UI system was fully integrated in 2021, which means claimants, employers, and workforce assistance use one system.

Mr. Hines continued his presentation with a demonstration of filing a claim, screen by screen. Depending on the response of the claimant, the system is able to crosscheck for accuracy. He moved on to another presentation, showing what a staff person encounters using the system; the different ways the company uses knowledge-based identity authentication to avoid fraud; and the ability to read barcodes. The third demonstration showed what an employer sees when using the system. Employer tax information, such as IRS 940 forms and tax rate calculations are integrated in the system for the employer side.

The next part of the presentation was on fraud prevention. Most of the presentation was on fraud prevention tools, such as firewalls, knowledge-based questions, and verification of various documents.

Council members asked questions, and the conferee responded.

Break

The Council was recessed for a short break and reconvened at 12:15 p.m.

Update on My ReEmployment Plan

Mike Beene, Director of Workforce Development, Department of Commerce, presented an update of the department's My ReEmployment Plan program.

Mr. Beene said that in the prior report to the Council, 16,000 emails had been sent out to claimants, 1,700 claimants became new participants in the program, and about 7,000 were not in compliance with the new program. Approximately 1,200 claimants engaged with the program over the weekend to reestablish compliance. Mr. Beene stated that a common issue has been claimants having an "Active" resume due to claimants uploading a resume but failing to finish the entire process. He also noted that the current trend is similar to previous iterations of the program in which approximately 50.0 percent of claimants fail to engage with the My ReEmployment Plan program.

Council members asked questions, and the conferee responded.

Break

The Council recessed for the ceremonial bill signing of 2021 Senate Sub. for Sub. for HB 2196 and reconvened at 1:51 p.m.

Kansas Department of Labor Update

Peter Brady, Deputy Secretary, Kansas Department of Labor (KDOL), presented a report to the Council.

Mr. Brady began the report by discussing the internal controls related to contracted staff. He stated the criminal background check goes back ten years at the federal level and includes a five-year employment history. Social Security numbers and secondary education are verified. He stated if the staff person works with federal tax information or has job duties involving money, then the Kansas Bureau of Investigation does a fingerprint check. Other internal controls include employee tracking on all transactions. Mr. Brady said he anticipates the modernization project will include better and easier-to-use tools to detect and prevent fraud or potential fraud from within the department.

He said the State must meet federal requirements, as the UI administration is funded by the federal government, and other controls involve Social Security and the Internal Revenue Service. Quarterly audits are performed through the federal requirement utilizing the Benefit Accuracy Measurement, and compliance with all requirements are monitored by an internal compliance team.

Mr. Brady responded to a question about the content for the first report due to the Legislative Coordinating Council (LCC). He suggested the preliminary report should include identifying the core functions for a modernized system.

Mr. Brady noted the agency is decreasing agency staffing as the temporary federal unemployment programs are scheduled to end on September 4.

Discussion ensued.

Audit Request for Proposal Discussion

Tom Day, Director, Legislative Administrative Services, joined the Council meeting. He presented the revised Request for Proposal (RFP) for the independent audit of the UI system. The revisions were based on the discussions on July 12 ([Attachment 1](#)).

Mr. Day outlined each of the revisions. He noted the dates were not changed, as the Council would determine the final dates, which would then be added to the RFP.

Mr. Brady moved, and Jake Miller seconded, to require the KDOL legal team to provide a summary of the modernization project to Edward Penner of the Kansas Legislative Research

Department, include language for federal data set requirements, and ensure the specific detailed information is included in the final contract. The motion carried.

Senator Tyson moved, and Mr. Miller seconded, to include language specifying all work performed by Contractor pursuant to the terms and conditions of this RFP shall be performed in the United States and no part of such work shall be sourced to a location outside of the United States. The motion carried.

Jeff Oswald moved, and Senator Olson seconded, to include language that KDOL is responsible for paying the costs of the audit. The motion carried.

Mr. Miller moved, and Mr. Brady seconded, to revise the language to “the term ‘improper payment’ means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative or other legally applicable requirements and includes any payment to an ineligible recipient.” The motion carried.

Phillip Hayes moved, and Senator Olson seconded, to approve the language “Distinguish improper payment from fraudulent payments.” The motion carried.

Discussion ensued on sampling of claims and distinguishing between the state unemployment program and the temporary federal programs within the sampling.

Senator Olson moved, and Mr. Oswald seconded, to remove the language of “five percent” and include language requiring the assessment and evaluation of state-funded improper payments to be statistically significant and a random, projectable sampling on a timeline-controlled calendar quarterly basis, including which payments were triggered by federal program requirements. The motion carried.

Senator Olson moved, and Mr. Oswald seconded, to add language requiring regular password changes. The motion carried.

Senator Tyson moved, and Mr. Miller seconded, to add language requiring an assessment of the likelihood of a data breach within KDOL. The motion carried.

Mr. Brady moved, and Senator Tyson seconded, to add the language “for the auditor to examine any avenues in which fraudulent activity may have occurred to include but not be limited to.” The motion carried.

Senator Francisco moved, and Mr. Miller seconded, to accept the revised language “This evaluation should include a review of whether KDOL had controls to ensure staff were properly background checked and trained in IT security to ensure the security of sensitive unemployment insurance information and whether those controls were followed during the COVID-19 pandemic.” The motion carried.

Senator Olson moved, and Mr. Oswald seconded, to delete language of 3) on page 25 and ask the Kansas Legislative Research Department to compile information on the comparison of the number of per capita claims. The motion carried.

Senator Tyson moved, and Mr. Hayes seconded, to add the language “examine fictitious employer scheme fraud claims for the five years preceding 2020 and including 2020 and 2021.” The motion carried.

Senator Francisco moved, and Mr. Miller seconded, to approve the language “Make recommendations for future Unemployment Insurance Systems and Practices.” The motion carried.

Mr. Brady moved, and Shawana Woods seconded, to add the language “Examine and note timeframes from March 2020 to March 2021, of leadership and personnel changes at Kansas Department of Labor. Examine administrations changes, and whether policies, security protocols, and guidelines changed. Assess crucial milestones and impact they had on fraudulent and improper payment claims.” The motion carried.

Senator Tyson moved, and Mr. Hayes seconded, to add the language “Contractor to provide an affidavit that includes work status (citizenship or work permit), security level, criminal history, and employment background check of each individual who may be assigned to the project.” The motion carried.

Senator Francisco moved, and Senator Olson seconded, to permit the vendor to determine the cost preference (fixed cost or materials and time). The motion carried.

Senator Francisco moved, and Senator Olson seconded, on 2.e), page 23, to delete “but for waiving the unemployment compensation waiting week” and replace with “if the unemployment waiting week had not been waived.” The motion carried.

Adjourn

The Council adjourned at 4:44 p.m. The Council's next meeting is July 23 at 9:30 a.m.

FRIDAY, JULY 23 ALL DAY SESSION

Call to Order and Approval of Minutes

The Chairperson called the meeting to order at 9:37 a.m.

Senator Olson moved, seconded by Phillip Hayes, to approve the minutes of June 24-25, 2021, as presented. The motion carried.

KDOL Modernization RFP Update

Representative Kyle Hoffman and Kelly Johnson, Chief Information Technology Officer, KDOL, joined the Council meeting. Mr. Johnson provided an update on KDOL's modernization RFP and where the agency is in the procurement process ([Attachment 2](#)). He said the procurement committee has received narratives from all four bidders on each area. The areas include vendor, project delivery, regulatory/compliance, finance, technical, benefits, tax, appeals, and legal. A question-and-answer meeting was held on July 20. Each committee member was asked to identify highlights of the four bidders and to select their top two choices. Mr. Johnson said the overwhelming majority chose vendors A and B. Each vendor was then re-

scored, and the results were Vendor B with a score of 1.83, Vendor A with 1.9, Vendor D with 2.57, and Vendor C with 3.67. The lower the number, the better the score.

The next step in the analysis was to contact other states that have engaged with the vendors. Mr. Johnson stated the states were asked about their experience in terms of strengths and weaknesses of the vendor, as well as if the state would rehire the vendor. He discussed the feedback the committee received. Feedback from the states contacted indicated that two vendors would be rehired and two would not. The next step in the process is for the procurement committee to develop its list of pros and cons for each vendor and submit the information to the Department of Administration. After that, the Department of Administration would request the top two vendors to provide a demonstration of their product. Two demonstrations would be necessary: one for the procurement committee and one for the Council. Mr. Brady and Mr. Oswald both stressed that the Council make sure it has adequate time to get all questions answered during vendor demonstrations. Mr. Johnson and the Council agreed the demonstrations could be done via a virtual format such as Webex. It was noted the Council will need some sort of tool to evaluate the vendors.

Discussion ensued about maintaining as much confidentiality as possible for the vendors, such as not identifying which vendor was Vendor A or Vendor B. The Council noted some of the demonstration process may involve showing proprietary information, and that portion of the presentation would be in executive session.

Audit RFP Discussion and Finalization

Charles Reimer, Office of Revisor of Statutes, distributed a two-page document highlighting certain sections of 2021 Senate Sub. for Sub. for HB 2196 ([Attachment 3](#)).

Tom Day, Director, Legislative Administrative Services, presented the third revised Audit RFP ([Attachment 4](#)).

Each change was noted. Mr. Day asked the Council for latitude to allow legislative staff to make grammatical and technical edits to the document for clarity.

Senator Olson moved, and Representative Clayton seconded, to approve the noted changes and allow for staff to add any technical changes as needed. The motion carried.

Senator Francisco noted that the Department of Revenue liked her proposed changes to standard language regarding tax clearance certificates. She asks that the changes be included in the RFP if they are completed prior to letting the RFP. *The Council agreed to updating the tax clearance certificate language in RFP.*

The Council discussed dates that would be added to the Audit RFP in the appropriate places:

- The RFP will be posted on Monday, August 2.
- The pre-bid conference will be held Wednesday, September 8. This date will include a Council meeting.

- The final deadline to submit questions is Tuesday, September 14. The responses to the questions will be posted on the website within two or three days.
- The Council would meet to determine responses to any policy questions, and staff would respond to any technical questions.
- The closing date is set for Friday, September 24.
- The Council will meet to review the bids that are submitted.

Senator Olson moved, and Mr. Hayes seconded, to approve the dates for the Audit RFP. The motion carried.

Mr. Day noted that after a vendor is chosen, contractual language will be negotiated, and the negotiations generally can take ten days to two weeks before a final contract is ready to sign. In addition, there is some liberty to change the dates in the RFP if necessary. The proposed timeline would give the vendor seven months to complete the first range of analysis due by May 1, 2022.

The Chairperson noted the next Council meeting dates will be September 8, which will include the pre-bid conference, and October 4.

Break

The Council recessed for a short break and lunch at 12:06 p.m. and reconvened at 12:38 p.m.

Preparation of Modernization RFP Report to LCC

The Chairperson turned the discussion to writing the report for the LCC and noted the limited information available to draft a report.

The Chairperson noted that a list of components and technology were in the original draft of 2021 Senate Sub. for Sub. for HB 2196, but were removed due to rapidly changing technology concerns. The list was provided by Mr. Hayes ([Attachment 5](#)).

The chair also noted that the report should likely include a recommendation that the LCC look at the implementation date currently set at December 31, 2022.

Suggested content for the report included the following items:

- The primary goal is for KDOL to be off of mainframe technology for both the benefits and tax sides of the UI system.
- A system must be wholly integrated to decrease the need for ancillary supports. The system must be consolidated as much as possible.

- The system should be modernized for employers and reflect receipt of payments of quarterly payroll tax.
- The modernized system should have all components in one program and be as automated as possible. It should be able to be integrated with other programs and systems.
- The claimant adjudication process should be streamlined with real-time responses.
- The modernized system must open-sourced and flexible to be adapted for future survivability.
- It should reduce redundancy and be efficient for both claimants and employers.
- Information and status of claims or accounts should be easily accessed.
- The workforce system should be fully integrated with the UI system and reserve the ability for in-person interactions.
- The system must recognize that not all users will be familiar or proficient at using technology for services.
- The system must be accessible to all users, with recognition that some areas do not have broadband capacity while others will prefer to access services through various electronic devices.
- The system must be accessible for persons with disabilities, and specifically be in compliance with Americans with Disabilities Act requirements.
- Attention must be given to the language that is used in the UI system, as it is not necessarily the common-use meanings, such as what “able and available” means in the eligibility process.
- Employers must understand how to advise their employees who may be experiencing a temporary layoff.
- The modernized system should be integrated and usable with the language of unions and their job services.
- The modernized system must permit KDOL the ability to better communicate to claimants, employers, and all stakeholders.
- The chosen vendor must have achieved a level of success working with other states.

- The system must be dynamic and scalable and be able to function under varying user loads as needed to respond to changing circumstances and potential crises.
- All security standards must be met, and the system must have the ability to integrate and update fraud-fighting capacities.
- The system needs robust tools for internal auditing.
- The system must have meaningful ways to produce analytics of UI information and be able to monitor and track performance in the system.
- The system should have a notification system.
- Stakeholders should meet at least annually to determine future improvements for the system.

Other suggestions included:

- The data purging for eventual data migration and conversion should begin as soon as possible.
- The date of December 31, 2022, is likely adequate for setting up a new system, but may need to be extended to accommodate the data conversion.
- If a segmented approach (implementing the benefits side first, and then tax side), is utilized then a target date of late 2022 or early 2023 be the goal for deployment of the first segment. If a big bang approach (both systems at the same time) is utilized, then a target date would be more difficult to establish.
- A four- to five-year time frame may be more realistic to achieve a fully modernized system.
- Data migration should begin in less busy times of the year, which are generally in the summer.
- Even with well-defined plans, the rollout of the new system is likely to be difficult. Without a well-planned transition, it could become untenable.

It was noted the report to the LCC is an initial report, and additional information may be submitted as it becomes available.

Break

The Council was recessed for a short break and reconvened at 2:46 p.m.

Discussion

Discussion ensued regarding the continuing process of the procurement committee and the Council.

Some concern was expressed regarding the limited number of vendors who submitted a bid, and some interest was expressed to potentially hear from vendors who did not submit a bid.

Adjourn

The Council will meet via Webex on Monday, July 26 at 11:30 a.m. to review the draft report due to the LCC on July 27.

The Council adjourned at 3:35 p.m.

Prepared by Sky Westerlund

Edited by Matthew Willis

Approved by the Committee on:

September 8, 2021

(Date)