

MINUTES

UNEMPLOYMENT COMPENSATION MODERNIZATION AND IMPROVEMENT COUNCIL

July 12-13, 2021
Room 112-N—Statehouse

Members Present

Representative Sean Tarwater, Chairperson
Senator Robert Olson
Senator Jeff Pittman
Senator Caryn Tyson
Representative Stephanie Clayton
Representative Susan Estes
Peter Brady, Deputy Secretary of Labor
Katie Givens
Phil Hayes
Jake Miller
Jeff Oswald
Shawana Woods
Shelbye Smith

Staff Present

Edward Penner, Kansas Legislative Research Department (KLRD)
Dylan Dear, KLRD
Elaina Rudder, KLRD
Matthew Willis, KLRD
Kyle Hamilton, Office of Revisor of Statutes
Charles Reimer, Office of Revisor of Statutes (July 12)
Adam Siebers, Office of Revisor of Statutes (July 13)
Sky Westerlund, Committee Assistant

Conferees – July 12

Doug Holmes, President, UWC, Inc.
Peter Brady, Deputy Secretary, Kansas Department of Labor (KDOL)
Tom Day, Director, Legislative Administrative Services
John Albin, Commissioner, Nebraska Department of Labor
Angie Hansen-Kruse, State-Level Equal Opportunity Officer, Nebraska Department of Labor

Conferees – July 13

Tom Day, Director, Legislative Administrative Services
Mike Beene, Director of Workforce Development, Kansas Department of Commerce
Pete Eskew, General Manager, Public Sector, ID.me
Kelly Johnson, Chief Information Technology Officer, KDOL

Others Attending

See attached lists for [July 12](#) and [July 13](#).

MONDAY, JULY 12 ALL DAY SESSION

Call to Order and Welcome

Chairperson Tarwater opened the Council meeting at 9:35 a.m.

Presentation – Strategic Services on Unemployment and Workers’ Compensation

Doug Holmes, President, UWC, Inc., joined the Council meeting via Webex. He reviewed federal and state unemployment insurance (UI) system fundamentals. The system is employer-financed and state-administered under federal requirements. The Federal Unemployment Tax Act tax, paid by employers, pays for the administration of the program, and each state determines the employer contribution rates and benefit amounts. Appropriations for the state UI administration are determined at the federal level. The original UI, under the Social Security Act of 1935, included only private employers. Over the years, coverage was expanded to include employees of state and local governments, nonprofits, Indian tribes, and school districts.

He noted prior to 1972, an application for benefits could be delayed by an employer. Mr. Holmes noted this changed when the U.S. Supreme Court decided *California Department of Human Resources Development et al., v. Judith Java et al.* and concluded benefits must meet due process with minimal delay. Other issues that impact the UI system are the underfunding of the administrative costs and the lack of a dedicated source of regular funding for fixed costs of system development and upgrades. Mr. Holmes stated UI is not a means-tested public assistance program, but, rather, an insurance program.

Mr. Holmes said that to improve program integrity, programs must verify identity before determining eligibility by requiring two government-issued, photo identification documents. For persons who have a work permit, the claimants’ work status is verified through the Systematic Alien Verification for Entitlements system. Phone or in-person access is an alternative if online access is not available. Mr. Holmes discussed additional items to improve program integrity. He noted customers of the program include claimants and employers, but also payroll companies, all levels of governmental agencies, the Legislature, and the press. He outlined performance measures and noted the system must be aligned with the requirements from the U.S. Department of Labor (USDOL) ([Attachment 1](#)).

The conferee responded to questions and concerns.

Lunch

The Council was recessed for members and staff to pick up lunch. The meeting reconvened about 11:20 a.m.

Kansas Department of Labor Update

The Chairperson noted Secretary of Labor Amber Shultz asked Peter Brady, Deputy Secretary, Kansas Department of Labor (KDOL), to replace her on the Council.

Deputy Secretary Brady presented the labor report dated July 5, 2021. The number of claimants attempting authentication was 173,000, the number waiting for user action was 4,050, and the number who were proofed [*i.e.*, verified] and approved was 107,500. A total of 61,000 claimant authentications failed identification proofing, and 54 experienced an error. The regular UI program paid out \$4,830,442, and the federal programs paid out \$5,845,851 for the week ending on July 3. Initial claims for the regular UI benefits were 1,821, and there were 11,865 continued claims. The federal programs, Pandemic Emergency Unemployment Compensation and Pandemic Unemployment Assistance, had about 21,000 continued claims ([Attachment 2](#)).

Deputy Secretary Brady said the call center had an average total number of unique calls of 34,633 per day, which was an increase from the previous several weeks. The average length of a call during the height of the pandemic was 10-12 minutes. Currently, the average call length is 18-20 minutes. He noted a \$250 million transfer to the UI Trust Fund for fiscal year 2022 is expected to be complete by July 17. A list was provided showing the national landscape of other states in modernization efforts ([Attachment 3](#)).

Council members asked questions and the conferee responded.

Presentation and Discussion – Audit Request for Proposal

Tom Day, Director, Legislative Administrative Services, presented the draft audit request for proposal (RFP) to the Council. The draft is based on the RFP language from the Department of Administration. Legislative Administrative Services and Kansas Legislative Research Department staff developed the RFP. Mr. Day reviewed each section of the RFP. He stated 24 vendors have been identified as potential bidders, and he recommended a pre-bid conference be held. Any responses to vendor questions would be posted on the website. Mr. Day noted Section 4, pages 20-26, of the draft audit RFP included the specifications required from 2021 Senate Sub. for Sub. for HB 2196 (HB 2196), including the reporting deadlines expected of the contracted vendor. He said other deadlines or timeframes are to be determined by the Council. The submitted bids will be open to the public, but all confidential information will be redacted from the documents. Mr. Day stated KDOL would be a party to the contract for purposes of payment ([Attachment 4](#)).

Council members asked questions and the conferee responded.

The Chairperson asked Council members to review the draft audit RFP and be prepared with questions for the next day's Council meeting.

Break

The Chairperson recessed the Council for a short break. The meeting reconvened at 1:23 p.m.

Presentation – Unemployment Claims Process Demonstration

Senator Olson substituted as Chairperson until Chairperson Tarwater returned to the Council meeting.

Deputy Secretary Brady presented a report about the life cycle of claims. He described the separation from work as being classified as either voluntary or involuntary. A voluntary separation generally means UI benefits are denied unless the claimant can show good cause. An involuntary separation generally qualifies one for UI benefits unless the separation was due to misconduct connected to the job. The USDOL requires multiple ways to make a claim, such as online (www.getkansasbenefits.gov) or by phone. A claimant must be both able and available for work to qualify for UI benefits. KDOL uses several systems to determine eligibility, and benefits are determined by calculating earnings made during the base year of the claim. Claimants must have wages in two of the four quarters of the base period, and the base period is the first four of the five preceding quarters from when a claim is filed.

He explained the systems used within the UI mainframe computer system to confirm wage information. The BASI system is used to check for wages and employers, and the SIDI system checks for out-of-state wages. The HRDE system shows what the monetary entitlement will be, and the NONI system shows whether determinations are pending or have been made. The BARI system uses 230 additional codes to track claimant information; among the 5 mainframe systems, 73 transaction codes are used for various information. Claimants who have wages in two states, such as Kansas and Missouri, or have a federal or military job, must talk to a staff person. Claimants must file weekly claims to demonstrate that they continue to meet requirements. Claimants have a right to appeal decisions regarding eligibility.

The Deputy Secretary stated the modernization will result in far more fluidity among the multiple systems ([Attachment 5](#)).

Presentation – Nebraska Modernization History

John Albin, Commissioner, and Angie Hansen-Kruse, State-Level Equal Opportunity Officer, Nebraska Department of Labor, joined the Council meeting via Webex..

The Chairperson asked the Commissioner to speak to the Nebraska experience of modernizing its UI system.

Commissioner Albin began his presentation by noting the State of Nebraska had staffing shortages and had been exploring upgrading and modernizing for several years. Upgrades occurred in 2006 and another one started in 2017 was completed in 2019. The State of Nebraska chose a commercial “off-the-shelf” system in which the state pays yearly service fees to the company to service the system and host the data on its two main servers, which are located in Florida and California.

Commissioner Albin offered the following items to consider for a modernized UI system:

- Focus on figuring out what the modernized system needs to be able to do rather than what the system did in the past;

- Determine what data truly needs to be migrated to the new system and begin purging data;
- Begin working with staff early to assist with a better transition;
- Begin working with employers and determine what they will need to know to use the new system;
- New staff generally learn the new system quicker because they are not unlearning the former system;
- An advantage of having servers located in two different locations is any kind of necessary recovery is easier;
- The Nebraska system can read barcodes, which is helpful for verifying identification;
- Utilize two-factor identification methods;
- Obtain the ability to block specific bank routing numbers from use by claimants for receiving direct deposit payments;
- Build capacity for nearly all claims to be electronic and use barcoding on the electronic documents generated;
- Send a hard-copy letter a claimants who file electronically to help identify undeliverable addresses; and
- Avoid modernizing both benefits and tax sides of the UI system at the same time, because there are too many moving parts; upgrade the benefits system first, then the tax system.

Commissioner Albin responded it may not be possible to achieve modernization in Kansas by December 31, 2022. He stated the cost for Nebraska's system, including the data migration, was \$7.4 million, and the ongoing maintenance cost is about \$1.4 million per year. He concluded his presentation stating it is difficult to implement a new system and process.

Adjourn

Other documents provided to the Council, either distributed during the meeting or at a time outside of the Council meeting, include the following:

- Initial Report of the Unemployment Compensation Modernization and Improvement Council ([Attachment 6](#));
- My Reemployment Plan initial email sent to claimants ([Attachment 7](#)); and

- My Reemployment Plan form for the job search plan ([Attachment 8](#)).

With no further business, the Council was adjourned until 9:30 a.m. on July 13.

TUESDAY, JULY 13 ALL DAY SESSION

Welcome and Approval of June 14, 2021, Meeting Minutes

Chairperson Tarwater opened the meeting at 9:34 a.m.

Senator Olson moved, seconded by Phil Hayes, to approve the June 14 minutes, as presented. The motion carried.

Discussion – Audit RFP

The Chairperson asked for discussion regarding the draft RFP for the independent audit that was presented the previous day. Mr. Day was present to respond to questions.

Council members commented regarding:

- Bidders providing a summary of security measures they would use to safeguard sensitive information;
- Bidders providing security information regarding the human factor, specifically the depth of security background checks of anyone working on the audit;
- The audit containing recommendations regarding future fraud prevention;
- Concerns about expanding the scope of the independent audit and what audit topics should be investigated by the Legislative Division of Post Audit;
- Requesting specific methods of auditing;
- Determining whether there was a data breach within KDOL;
- Identifying patterns of fraud, such as across state agencies;
- The cost of the independent audit;
- Priority items and auxiliary items for the independent audit;
- Assuring that language in the RFP uses industry standards;

- Concerns about the auditing firm moving any aspect of the work or data storage outside of the United States and using persons with work permits;
- Assuring security protocols are followed rather than specifying the location of work being performed;
- Learning from other states; and
- Identifying fictitious employer schemes.

The Chairperson suspended the discussion to move to scheduled presenters.

Update on My Reemployment Plan

Mike Beene, Director of Workforce Development, Department of Commerce, presented an update on the My Reemployment Plan. The program is administered through the Kansas Department of Commerce (Commerce), which works in collaboration with KDOL.

Persons who have received three consecutive weeks of unemployment benefits must register with the KANSASWORKS program, upload or build a resume, complete an interest profile, and complete a Job Search Plan. Information must be emailed within seven days of receiving notice of the requirement. If the requirements are not met, the individual's unemployment benefits will be suspended until the requirements are met. Since July 1, Commerce has emailed 16,000 claimants informing them of the requirement. Commerce has posted three instructional videos on its website: setting up a KANSASWORKS account, building a resume, and searching for jobs. Mr. Beene said Commerce also launched a "reminder blitz" to help claimants meet compliance. He said about half of the claimants are in compliance. Claimants have the option to visit a workforce center for person-to-person service.

Mr. Beene noted there has been an increase of employers using the program to fill open job positions. He stated that approximately 15 percent of all Kansas employers now utilize KANSASWORKS to fill open positions, up from 12 percent previously. Funding for the program comes from USDOL.

Several Council members asked questions and the conferee responded.

Discussion – Audit RFP, Continued

Discussion resumed on the audit RFP.

Additional comments included requests for:

- Information on vendor demographics;
- An overlay timeline of activity onto any identified patterns of security issues; and

- A determination of whether the suspension of the one-week waiting period had an impact on fraud.

Discussion continued regarding Council responsibilities, including determining the final audit RFP and getting it posted, planning a pre-bid conference, and the content for the reports due May 1, 2022, and September 1, 2022. The Chairperson stated more discussion would take place at next week's meetings.

Lunch

The Council meeting was recessed until noon. The Chairperson reconvened the Council at noon.

Presentation – Identification Solutions

Pete Eskew, General Manager, Public Sector, ID.me, joined the Council meeting via Webex. Mr. Eskew described the company as a next-generation digital platform for identity verification working with government, financial, and health care organizations to prevent fraud. The company is partnered with 27 states to perform identity verification for the states' UI programs. The initiative began in June 2020 and, since then, the company has confirmed the correct identity for about 8 million persons and blocked about 2.2 million fraudulent identities involved in unemployment claims.

Mr. Eskew stated that in a typical year, the federal government experiences about a 10 percent rate of fraud on UI claims. But in the pandemic, that rate expanded to upwards of 40-50 percent. Most of the fraud was attributed to persons using information from an identity theft to commit fraud. He noted a number of data breaches over the past decade in which bad actors saved identity information until a vulnerability in a system is identified and exploited for purposes of fraud. He noted a growing vector of identity theft is in social media, where it is fairly sophisticated and hard to identify. He discussed the increasing use of 3D imaging creating nearly lifelike facial imaging, but the ID.me system can identify facial images that are used over and over, indicating a false identity. He said the fraud is coming out of organized crime, both domestic and foreign. He stated fraud has sent about \$400 billion from state UI program applications out of the country.

Mr. Eskew noted identity verification is moving from knowledge-based methods to possession and biometric-based methods. Knowledge-based methods utilize security questions to verify one's identity. However, the responses to the security questions are likely accessible on the "dark web" and so are not always secure. The possession and biometric-based methods include physical proof of a reliable, government-issued identification, such as a driver's license or passport, the use of live self-taken photographs, and verification of a device, such as sending a verification code to a personal device, usually a phone.

Mr. Eskew said the company monitors the "dark web" for conversations about fraud activity. Mr. Eskew shared a conversation that identified Kansas as a state that did not use the biometric-based methods for identity verification, exposing the State to potential fraud. Additional detailed information was included in the presentation materials ([Attachment 9](#)).

The conferee responded to concerns and questions.

Discussion – Modernization RFP

Representative Kyle Hoffman introduced Kelly Johnson, Chief Information Technology Officer, KDOL, to present information on the agency’s modernization RFP. The modernization RFP process began during the previous administration. The RFP was developed and released April 1, 2020. The procurement process is currently underway. Mr. Johnson noted the KDOL system uses a mainframe, but the agency is working toward abandoning the technology through modernization. KDOL is seeking an “off-the-shelf” solution that is about 80 percent set and about 20 percent customizable. The agency is looking to be able to scale the product to the needs of the agency. He said the development of the RFP preceded the passage of HB 2196, and several items were crosschecked with the legislation. The RFP has nine sections that cover the sections of the agency: vendor, project delivery, regulatory/compliance, finance, technical, benefits, tax, appeals, and legal. Mr. Johnson stated KDOL is currently engaged in ranking and scoring each of the four vendors who submitted bids. The Department of Administration controls the pricing information, and that is not available until KDOL finishes its evaluation of the vendor bids ([Attachment 10](#)).

The conferee responded to questions.

A request was made for the list of the four vendors who submitted bids. It was clarified that members of the Council may not reach out to any of the vendors.

Adjourn

The Chairperson asked the Council to change the next meeting dates from July 21-22 to July 22-23. There were no objections to the change of dates.

The Chairperson restated the Council must report to the Legislative Coordinating Council by July 27.

The Council will meet in September as part of the pre-bid conference. A specific date will be determined later.

With no further business, the meeting was adjourned at 3:04 p.m.

Prepared by Sky Westerlund

Edited by Matthew Willis

Approved by the Committee on:

September 8, 2021

(Date)