

UNEMPLOYMENT INSURANCE REFORM TASK FORCE

Minutes of the 2nd Meeting of the 2021 Interim

July 27, 2021

Call to Order and Roll Call

The 2nd meeting of the Unemployment Insurance Reform Task Force was held on Tuesday, July 27, 2021, at 10:00 AM, in Room 131 of the Capitol Annex. Senator Michael J. Nemes, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Michael J. Nemes, Co-Chair; Representative Russell Webber, Co-Chair; Senators Ralph Alvarado, and David Yates; Representatives Josh Branscum, McKenzie Cantrell, Phillip Pratt, and Scott Sharp.

Guests: Jamie Link, Secretary, Labor Cabinet; Buddy Hoskinson, Executive Director, Office of Unemployment Insurance, Labor Cabinet; and Morgan Eaves, Director of Legislative Affairs, Labor Cabinet.

LRC Staff: Andrew Manno, Audrey Ernstberger, Kirk Smith, Sasche Allen, and Helen McArthur.

Approval of Minutes

A motion to approve the minutes of the June 17, 2021 meeting was made by Senator Ralph Alvarado, seconded by Representative Josh Branscum, and approved by voice vote.

Unemployment Insurance Systems and Processes

The Labor Cabinet restored unemployment insurance in-person services at 13 Kentucky Career Centers and opened a call center to assist unemployment insurance claimants in April 2021. From April 15, 2021 to July 15, 2021, the Career Development Office (CDO) and Office of Unemployment Insurance (OUI) staff have assisted with more than 40,000 in-person appointments and OUI staff have taken more than 70,000 calls through the unemployment insurance hotline. Staffing for the OUI is regulated by the federal government and guidelines are outlined in an unemployment insurance program letters. Flexible staffing was approved for the OUI in April 2021, which allowed employees from other state agencies and cabinets to assist with unemployment insurance claims, but the approval will expire September 6, 2021, unless the federal government extends the flexible staffing plan. On March 4, 2021, former Labor Secretary Larry Roberts issued a written budget request to legislative leadership which included \$1.1 million of general fund dollars for fiscal year 2021 and \$8.4 million in fiscal year 2022 to provide funding to restore

90 OUI staff positions. The General Assembly allocated one-time federal funds for these positions instead. According to the current Labor Cabinet Secretary, Jamie Link, a one-time allocation of funds makes it difficult to attract skilled employees since there is no guarantee of permanent employment.

Responding to a question from Representative Russell Webber, Executive Director Buddy Hoskinson explained that the 90 positions currently needed would be federally funded time limited (FFTL) positions that would be eliminated after one year when the federal funding will no longer be available. Secretary Link added that current state employees are reluctant to fill these positions, because they would be leaving a state merit position for a FFTL position.

Modernization is imperative, because the current unemployment insurance operating system was coded in the 1970's. An RFP for a new system was published in January 2020 with the project estimated to cost \$40 million. National fraud cyber-attacks hit the unemployment insurance system which meant additional elements needed to be added to ensure claimants' personal and financial information was secure. Resulting changes were made to the RFP causing the vendor to withdraw. With recension of the RFP, Labor Cabinet leadership immediately formed a steering committee to review all aspects of the RFP process. The Cabinet will continue to update software to make the system better while awaiting the anticipated overhaul. The Labor Cabinet has also submitted an application to be part of a national modernization process with the U.S. Department of Labor, wherein some modernization and system rebuild costs could be covered by the federal government. Approval of this application is pending. After the RFP was initially bid, the Governor appropriated \$4.8 million of CARES Act funding for four projects that were included in the original RFP. Almost \$3.7 million of those funds have been spent on upgrades to make the system more user friendly and secure.

Executive Director Hoskinson discussed key qualifiers for traditional unemployment insurance benefits. Unemployment insurance benefits are for individuals who are totally unemployed or who are working less than full time while seeking full time work. To claim benefits in the state, you must have earned wages in Kentucky during your base period. Benefits are paid to workers who lose their job through no fault of their own while they are attempting to return to the workforce. A claimant must be able to work and be available for work each week in order to qualify to receive benefits. The claimant has to also be making a reasonable effort to find new full time work and provide details about their job search. There were different qualifiers for pandemic unemployment insurance benefits. It is important for claimants to file their initial claim for benefits as soon as possible after becoming either unemployed or experiencing a reduction in hours. Claimants should also keep their mailing address, phone number, and email address updated through the online claim portal. Executive Director Hoskinson pointed out that claimants are also responsible for timely requesting benefits. Benefits are claimed every two weeks and

benefits have to be requested weekly with e-claims. The first benefit request will be 13 days after the date the claim was filed which provides the employer with a protest period.

Answering questions from Representative Russell Webber, Secretary Jamie Link stated the Labor Cabinet will adhere to the original time line as closely as possible for the planned system upgrades despite the recension of the RFP. The estimated \$40 million is still the target cost for the system upgrades. The original RFP did not address the full scope of work necessary to adequately upgrade the system, but the new RFP will include those necessary upgrades and the Labor Cabinet will continue to do its own upgrades until the new RFP is awarded.

Replying to Senator Mike Nemes, Secretary Link confirmed the original RFP was in the later stages but was not awarded.

Addressing Representative Russell Webber, Secretary Link said he was not aware of the original number of vendor respondents but would provide that information to the committee.

Responding to questions from Representative McKenzie Cantrell, Secretary Link explained that general fund support would allow the Labor Cabinet to hire state merit system employees but any help the General Assembly is willing to offer is welcomed. Morgan Eaves, Director of Legislative Affairs for the Labor Cabinet, added that the additional employees would be cross trained to provide assistance with unemployment insurance and career development services. Addressing a follow up, Executive Director Hoskinson said that he is in regular communication with other states regarding unemployment insurance in an effort to learn from other states' mistakes and to collaborate on solutions moving forward.

Answering questions from Representative Josh Branscum, Secretary Link explained that in forming the new RFP and planning for the system upgrades the Cabinet has looked to other states that have modernized their systems, communicated with individuals who have extensive experience with unemployment insurance, and worked with the Commonwealth Office of Technology. Executive Director Hoskinson added that the Cabinet is also utilizing a technical advisor from the OUI's national organization for guidance on the new RFP. Responding to a follow up, Executive Director Hoskinson said that the OUI's debit card provider is now US Bank. Although some businesses has recently been receiving benefit cards which could be a signifier of a false claim being filed, these cards do not have any funds loaded onto them.

Replying to questions from Senator Ralph Alvarado, Secretary Link stated that there is a working group that is drafting the RFP but there are certain details that cannot be discussed during the current stage of the RFP process. Executive Director Hoskinson commented that using multiple RFP's is also being considered which would allow more

flexibility with the scope of work. In the event that more funding is needed, the scope of work would have to be amended, additional funding would be requested, or the assistance through the U.S. Department of Labor initiative may be used. Answering a follow up question, Executive Director Hoskinson said about 219 state employees from various agencies have been used to assist with unemployment insurance claims, and the federal unemployment insurance program letter details the perimeters of staffing for the OUI.

Addressing questions from Representative Phillip Pratt, Executive Director Hoskinson confirmed violations were handled through the Personnel Cabinet for those OUI employees that had filed unemployment insurance claims. Director Eaves said a separate investigation was performed by the Office of the Inspector General. Replying to a follow up question, Executive Director Hoskinson said that the reported archived 400,000 emails were not all from unique claimants. About 120,000 of those emails were unique individuals and over 67,000 of those emails were those of claimants that had already been issued benefits. Answering another follow up, Executive Director Hoskinson said work search requirements went back into effect on May 9, 2021, and it is the individual's responsibility to report, but employers can report a work refusal on the employer portal.

Senator Mike Nemes reiterated the purpose of the task force and said he is looking for solutions and ways to move forward.

Responding to Representative Scott Sharp, Director Eaves explained that the OUI is in the process of adding a feature to the online unemployment insurance appointment website that would allow claimants to receive a phone call about their claim instead of traveling to a location for an in person appointment that may not be convenient.

Answering questions from Senator Mike Nemes, Executive Director Hoskinson stated the federal government will base future funding on the OUI's current workload. Responding to follow up questions, Secretary Link confirmed that the extended federal pandemic unemployment insurance benefits will end September 6, 2021. Executive Director Hoskinson added that some other states have faced legal issues after terminating the extended federal pandemic unemployment insurance benefits and have had to restore those benefits. Responding to a follow up, Secretary Link said the application to be part of the national modernization process with the U.S. Department of Labor has been submitted but the time frame for the application to be approved is unknown. Addressing another follow up, Executive Director Hoskinson stated there were 14,300 notices of overpayment were sent out to claimants. As of July 23, 2021, 2300 were submitted electronically, which totaled \$3 million, and 2600 were submitted by mail that totaled about \$3 million.

Senator Mike Nemes announced the next meeting of the Unemployment Insurance Reform Task Force will be August 30, 2021.

There being no further business before the committee, the meeting adjourned at 11:11 a.m.