2016 Annual Report

Legal
Unemployment Insurance
Labor Market Information Services
Industrial Safety and Health
Workers Compensation

Kansas Department of Labor
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Under the direction of Governor Sam Brownback, the Kansas Department of Labor is responsible for the administration and enforcement of state laws related to employment. Our Department continues to respond to the needs of Kansas’ workforce and industry, making Kansas a great place to live, work and do business.

Message from the Secretary

During the Brownback administration we have focused on ensuring the integrity and solvency of the Unemployment Insurance (UI) Trust Fund, as well as providing excellent service to agency customers.

Our Fraud unit works closely with other state, local and federal agencies to prevent and pursue unemployment and workers compensation fraud as well as other criminal activities. We continually submit cases to the district and federal court for review and filing of those charges.

KDOL was one of the state agencies which joined with the Attorney General in drawing attention to the disturbing problem of Human Trafficking. Human Trafficking is the criminal activity of holding another person for the purpose of exploitation. We developed a website dedicated to explaining and assisting with the reporting of any such exploitation (http://www.dol.ks.gov/HumanTrafficking.aspx) and joined with the Governor in proclaiming January as Human Trafficking Awareness Month in Kansas.

Some of the other highlights of the recent year, which are covered in greater detail in this report, include:

• The UI Fraud/Special investigations unit recovered and returned to the UI Trust Fund more than $4M in 2016.
• The number of individuals claiming unemployment benefits also has dropped from 13,207 individuals at the first of the year to 7,634 at the end of 2016.
• Our Safety and Health consultants conducted more than 520 safety and health visits at Kansas businesses during the year. These visits identified 1,342 hazards in a variety of industries.
• The Workers Compensation Division assisted more than 48,075 injured workers, insurance agents, attorneys, employers and health care providers with questions about the Workers Compensation Law.

Additional information about the agency can be found on our website at www.dol.ks.gov.

Lana Gordon
Secretary of Labor
January 2017
Mission Statement: KDOL assists in the prevention of economic insecurity through unemployment insurance and workers compensation, by providing a fair and efficient venue to exercise employer and employee rights, and by helping employers promote a safe work environment for their employees. This facilitates compliance with labor laws while enabling advancement of the economic well-being of the citizens of Kansas.

The Kansas Labor Department (KDOL) is comprised of the five divisions:

**Division of Employment Security**
Administering the unemployment insurance program, processing benefit claims and collecting unemployment taxes.

**Legal Services**
Representing the agency and all subordinate units and divisions of the agency in state and federal court and in administrative hearings. The legal division provides legal advice, counsel and representation to the Secretary, Directors and other Managers and employees of the Department of Labor.

**Division of Labor Market Information Services**
Compiling data and performing research on the labor market, workforce and industries in Kansas.

**Division of Industrial Safety and Health**
Offering free workplace safety consultations for private employers and overseeing job safety for public employees.

**Division of Workers Compensation**
Overseeing the state’s workers compensation system.

Customers of KDOL include some 74,868 employers and 1.6 million workers in Kansas.
Kansas Department of Labor is composed of 387 employees. KDOL has eight remote office locations throughout Kansas: Garden City, Great Bend, Hays, Independence, Manhattan, Lenexa, Salina and Wichita.
Legal Services

The KDOL legal division represents the agency and all subordinate units and divisions of the agency in state and federal court and in administrative hearings. The legal division provides legal advice, counsel and representation to the Secretary, directors, and other managers and employees of the Department of Labor.

KDOL attorneys have expertise on:

- Contract formation
- Contract enforcement
- Civil litigation, including matters arising under the Kansas Judicial Review Act (KJRA), and defense of the agency in state and federal court
- Kansas Open Records Act (KORA)
- Kansas Open Meetings Act (KOMA)
- Kansas Amusement Rides Act
- Fair Labor Standards Act (FLSA)
- Family and Medical Leave Act (FMLA)
- Americans with Disabilities Act (ADA)
- Kansas Civil Service Act
- Social Security Act (SSA)
- Public Employer-Employee Relations Act (PEERA)
- Professional Negotiations Act (PNA)
- Kansas Wage Payment Act
- Kansas Workers Compensation Act
- Kansas Employment Security Law
- Kansas Child Labor Law
- Kansas Minimum Wage and Maximum Hours Law
- Industrial Safety and Health Laws
- Governmental Ethics
- Civil Collections and Enforcement
- Subpoena Enforcement
- Civil Rights Laws
- Various Kansas Administrative Regulations
- Miscellaneous General Counsel Legal Expertise
The KDOL legal division also represents the State of Kansas Public Employee Relations Board (PERB) and the Kansas Employment Security Board of Review, and defends their administrative decisions when such decisions are appealed under the Kansas Judicial Review Act.

**Employment Standards**

The unit administers the Kansas Wage Payment Act and other labor laws. Its primary focus is to ensure employees recover unpaid wages. In 2016, KDOL received 778 new claims for unpaid wages, with 758 served. The remainder were closed prior to service, referred to the proper agency or sent back for additional information. A total of 697 claims were fully processed and closed by investigation or order at year’s end. A total of $570,000 was collected and returned to Kansas employees during the year.

**Asset Recovery**

The Asset Recovery Unit focuses on preserving the Employment Security Trust Fund by aggressively combating fraud and actively recovering overpayment benefits. In 2016, more than $4M was recovered for the Trust Fund.

These collections fall into three categories:

- **Voluntary cash payments** – represent all cash, credit card and check payments recovered directly from claimants.
- **UI Benefit Offsets** – represent all funds collected by withholding UI benefits to satisfy outstanding UI overpayments.
- **State Tax Setoffs** – represent all funds collected by the Kansas Department of Administration on behalf of KDOL.
- **United States Treasury Offset Program (TOP)** - funds collected by KDOL from federal tax refund or other federal payments to be applied to overpayment obligations.

**UI Fraud/Special Investigations**

During the past year the fraud unit was assigned approximately 6,646 cases with an associated amount of more than $3M dollars in fraudulent overpayments. Several of the above mentioned overpayments were referred to the Special Investigations Unit for follow-up and consideration of criminal prosecution. In addition to the fraudulent overpayments fraud unit investigators discovered approximately $697,000 in non-fraud overpayments. These were investigated by the fraud unit investigators. Once the overpayment is established they are referred for possible collection.

The Fraud Unit has been involved in a pilot project for data analytics while exploring programs that will assist in identifying and preventing possible fraud cases. This effort is a continuation to KDOL’s proactive approach to fraud detection.

In 2016, quarterly regional meetings were started with all Region V states to discuss common issues, as well as processes. This cooperative effort has assisted all involved, as it provides ideas of how we might better utilize our processes. This also keeps us informed on the common issues shared between our Region’s states.

**In the Integrity Unit**, we monitor unemployment claims that are filed and the processing of those claims to identify, detect and possibly prevent any potential improper payment of benefits.
In 2016 the Fraud unit developed a direct working relationship with the Social Security Administration (SSA) by becoming a participant with Social Security Administrations Office of Inspector General (OIG) - Cooperative Disability Investigations Unit (CDI). This partnership allows for criminal, civil and administrative investigations in the State of Kansas related to disability fraud. This direct working relationship allows for a seamless transfer of information from one agency to another. Fraud also developed a more direct working relationship with US DOL OIG’s office. This relationship will allow for an expanded working relationship involving upper level fraud cases involving different areas of the labor force in Kansas.

Cooperation was developed with the Department of Revenue, Division of Taxation, to investigate situations of ID Theft related to State of Kansas Tax Returns.

In pursuit of unemployment benefit fraud and misclassified workers within the State of Kansas, the Fraud unit continually submits cases to district and federal court for review and filing of charges.

KDOL Fraud unit developed a brochure about fraud in Kansas. This brochure is available on the website and is distributed at the workforce centers and local libraries across Kansas.
The stated public policy behind the Employment Security Law is to prevent economic insecurity – and the related dangers to the health and welfare of the citizens of the State of Kansas – brought about by involuntary unemployment. See K.S.A. 44-702.

This policy is accomplished in large part by the compulsory setting aside of financial reserves to be used for the benefit of persons unemployed. The reserves distributed as benefits are funded entirely by contributions assessed against Kansas employers. Further, these funds are maintained in the Kansas Employment Security Trust Fund in accordance with applicable state and federal laws.

The framework of the Unemployment Insurance (UI) program is both state and federal. The program is administered by state employees under state law. But federal laws – the Social Security Act and the Federal Unemployment Tax Act – set forth broad coverage provisions, some benefit provisions and numerous administrative requirements. Further, the federal government provides administrative funding, ensures conformity and compliance with federal law and monitors state performance.
Kansas UI Trust Fund
The growth and health of the Kansas economy continues to be reflected in the improving solvency of the UI Trust Fund. At the end of the 2016, the Trust Fund balance stood at $534,275,119. The following chart shows changes in the Trust Fund balance since 2009. (Weekly Trust Fund Balance Chart - Jan 01, 2009 – Dec 31, 2016)

Kansas Unemployment Contact Center
KDOL saw a continued reduction in the number of Kansans filing for unemployment benefits in 2016. In 2015, there were 151,967 initial claims filed in 2015. In 2016 that number declined to 132,336. Approximately $254.9 million in benefits were paid. In 2016, that number declined to $205,343,450.

In terms of paying benefits, the federal government establishes a key performance metric of first-payment promptness. Nationwide, states have continued to struggle to meet this metric. But Kansas met and exceeded federal first-payment promptness standards for every month in 2016.
Unemployment Tax Administration

There are currently 74,768 Kansas employers reporting employee wages under the provisions of the Employment Security Law. UI tax staff completed 41,798 assignments (January to November) 2016, including audits, investigations, collections and reports.

There were 1,013 employer audits conducted (January to November), with approximately $523,613,975.96 in pre-audit wages audited. A difference of $13,681,625.17 (total wages) was reported as a result of audit findings. This includes Kansas employers both under reporting and over reporting taxable wages.

The efforts of UI tax staff also uncovered 2,616 misclassified workers (January to November) from 329 employers. The corrected classification of these workers created an additional $19,385,239.21 in reportable wages. The potential amount to be returned to the Trust Fund from these wages is $385,426.75. This amount does not include assessed penalties and interest.

UI tax staff was once again timely concerning its legal obligation to inform Kansas employers of their contribution rate for the upcoming year by no later than Nov. 30. See K.S.A. 44-710b(a). Experience rating notices for 2016 were mailed on Nov. 10, 2016.

Unemployment Appeals

Similar to the Contact Center, the Office of UI Appeals must comply with federal government performance standards concerning the timeliness of its ability to hold hearings and issue appropriate decisions. Under federal standards, at least 60 percent of appeal decisions must be issued within 30 days of the appeal being filed. UI appeals staff continued to exceed this metric throughout 2016.

Reemployment

State and Federal law requires individuals receiving unemployment benefits to actively pursue reemployment. In 2016, the Kansas Department of Labor moved away from the traditional and ineffective work-search requirement that simply required claimants to list a certain number of job contacts per week. These types of work search requirements are difficult to administer, lack accountability and fail to facilitate reemployment. The Unemployment Insurance program now places an emphasis on informing and encouraging claimants to undertake the types of behaviors that are likely to result in faster reentry into the workforce. This includes giving workers the opportunity at the onset of their unemployment claim to take a skills assessment and develop a proactive reemployment plan.
Economic Report
LMIS released the 2016 Economic Report in October. The Economic Report provides details related to the state’s economic condition in 2015, including job growth, employment gains, unemployment rates, the state’s global business position and an economist’s note. The report, including charts and tables, gives the reader insight into what is happening currently in the Kansas economy. It is the most comprehensive annual report published about the Kansas labor market.

The report can be found at https://klic.dol.ks.gov/gsipub/index.asp?docid=524
Job Vacancy Survey

The Kansas Job Vacancy Survey provides an assessment of labor demand in the state and each of the five local areas based on a survey of Kansas employers. It gives valuable information regarding the specific occupations that are in demand as well as numerous details pertaining to such openings. These details include the duration of vacancies, the permanent/temporary and full-time/part-time status of vacancies and the educational requirements, average wage offers and benefits associated with an area’s job openings.

The 2016 Job Vacancy Survey was released in September, reporting 44,826 job vacancies in Kansas during the second quarter of 2016. This is a 5.2 percent decrease in the number of openings from the previous year. At the time of the survey, there were 3.2 vacancies for every 100 jobs. The report can be found at https://klic.dol.ks.gov/gsipub/index.asp?docid=647

Kansas Wage Survey

The Kansas Wage Survey produces employment and wage estimates for more than 700 occupations. The report includes estimates of the number of jobs in certain occupations, and estimates of the wages paid to them. Estimates are available for the state, its metro areas and designated non-metro areas including all Kansas counties. This survey is the most requested and used product from LMIS.

The 2016 Wage Survey was released in September. It reported the average hourly wage in Kansas increased 2.18 percent to $20.64. The average annual wage in the state is $42,930.

The report can be found at https://klic.dol.ks.gov/gsipub/index.asp?docid=600
Kansas Career Posters

The Kansas career posters outline different career paths that high school students might be considering. The posters, for high demand industries, guide students to occupations that they can obtain immediately after high school, along with future careers that they can work towards with additional education or work experience. High demand occupations mean they have larger than average combined current and projected demand from employers in the state.

The posters are made available for download online. Secretary Gordon has also promoted the posters and shared them with many technical schools, economic development groups, the Governor's Council of Economic Advisors and others during her visits across Kansas. The statistical information is updated regularly.


High Demand Occupations

The list of high demand occupations in Kansas, released annually, combines the number of projected job openings with the number of current job openings to rank occupations by demand from Kansas employers. Occupations are ranked by the number of job openings at the current time, in the next two years and in the next ten years. The job vacancy survey, short-term projections program and long-term projections program are all used to compile the list of high demand occupations. This list is widely used by groups such as the Kansas Legislature, the Department of Commerce and the Board of Regents in crafting policies and programs related to workforce development.

The Kansas High Demand Occupations report can be found at https://klic.dol.ks.gov/gsipub/index.asp?docid=403
Collaborations

Kansas LMIS continues working with the Kansas Department of Commerce, Kansas Board of Regents and the Kansas State Department of Education on the Workforce Data Quality Initiative (WDQI) Grant. The Kansas State Longitudinal Data System (SLDS) built linkages between education and labor data and workforce systems for program evaluation. WDQI expands the SLDS to connect workforce systems to education, including adult basic programs. The links will enable agencies to create indicators and/or analyze data relationships to support enhanced reporting and/or training capacity. Not only will this avoid duplication in collection and reporting where possible, it will help evaluate performance of federally and state supported job training and education programs to make policy adjustments for continuous program improvements. The creation of a collaborative web-based dashboard will include information on Kansas programs providers, High Demand data and training programs. Consumers will have real-time information with easily accessible information including, but not limited to, demand occupations, earnings information, current job vacancies, training providers for credentials, estimated costs per training and related statistical information by local area. Members of the LMIS team have been involved with the KansasWorks State Board in implementing the Workforce Innovation and Opportunity Act (WIOA). As labor market information plays a key role in informing decisions under WIOA, LMIS looks forward to continued involvement in workforce policy for the State of Kansas. LMIS, along with the WDQI partnering agencies, launched a new website, [KscareerNav.gov](http://KscareerNav.gov) to highlight career paths.

Career Technical Education

For the fifth straight year, LMIS has implemented the occupation selection system called for by the Career Technical Education Initiative. The selection of occupations begins with survey data collected from employers in the state and, when complete, provides a list of occupations that are attainable by a student at high school graduation. The occupations selected must be considered high demand and pay at least 70 percent of the average wage of all occupations in the state. Twenty-two occupations made the list for the 2016-2017 school year. Some examples of these occupations are truck drivers, nursing assistants, carpenters, mechanics and computer user support specialists.
Identifying safety hazards and helping Kansas businesses and public sector entities eliminate unsafe practices are the focuses of the Industrial Safety and Health Division. Helping Kansas workers avoid on-the-job injuries and providing a safe working environment is the ultimate goal of the Division. These programs are promoted throughout the State, but sell themselves by word of mouth from satisfied employers.

The Kansas Consultation Program has a Cooperative Agreement with the Occupational Safety and Health Administration (OSHA). The 10 Safety and Health Consultants assigned in the OSHA grant conducted 426 safety and health visits. These visits identified 1,370 hazards in a variety of industries. OSHA has placed an emphasis on construction, oil and gas, manufacturing facilities with amputation hazards, nursing homes and grain handling. The focus of this program continues to be small companies with less than 250 employees on-site that are considered a high hazard industry.

The division is responsible for investigating safety and health issues with public entities. During 2016, five Safety and Health Consultants assigned to this unit conducted 219 inspections at 1,187 cities, counties, school districts and colleges. These inspections identified 5,103 hazards and involved 24,413 employees. The division investigated two fatalities.

| 426 On-Site Consultations Conducted | 1,370 Hazards Identified | $400,000 in Potential OSHA Penalties Avoided |
State Workplace Health and Safety Program

The division has assisted KDHE with the State Workplace Health and Safety Program, created under K.S.A 44-575, section f. During 2016 our division has conducted 411 ergonomic assessments at 77 locations and made 2,506 recommendations; and 70 safety and health inspections at 376 State Agency sites, assisting 6,683 employees. Additionally, our safety and health consultants have identified and corrected 1,343 hazards.

For 20 years, as a prerequisite for authority to provide workers compensation insurance coverage, Kansas insurance companies and group-funded plans, have been required to provide accident prevention programs upon request of the covered employer. KDOL is charged with inspecting these programs. The division completed over 600 audits.

The main focus of the Division’s Hispanic Outreach Program is to provide safety and health information to the Hispanic workforce. Through partnerships with established associations, we are able to conduct outreach and training activities to all their membership throughout the State. Thirteen hispanic workers received their OSHA 10-hr training in Spanish in 2016.

Annual Safety and Health Conference

The 67th Annual Safety and Health Conference was held October 18-21, in Wichita with 190 persons and 35 exhibitors in attendance. The conference covers a variety of topics for the diverse array of industries in attendance. Feedback from those in attendance included: “It gets better every year”.

Safety and Health Award for Public Employers (SHAPE)

The Safety and Health Award for Public Employers (SHAPE) program, recognized public sector and state workplace entities, such as state and local governments, state universities and unified school districts. Implemented in 2014, these entities are awarded for providing an exemplary safety and health program for their employees. Flint Hills Technical College, Emporia was awarded this prestigious award in 2015 and the City of Lansing in 2016. KDOL’s safety consultants continuously seek out public sector and state workplace entities that qualify for the award.

KDOL’s Industrial Safety and Health Division presented the City of Lansing with the SHAPE award on May 9, 2016.
Safety and Health Achievement Recognition Program

The Safety and Health Achievement Recognition Program (SHARP) continues to grow in Kansas with 179 active sites and two pre-SHARP sites. Kansas continues to have the greatest number of SHARP sites in the nation and the highest percentage of SHARP sites per workplace establishment in states under both state and federal OSHA jurisdiction.

The Kansas SHARP Association, established in 2011, provides an avenue for networking and mentoring, serving as a valuable tool for businesses. The Association prides themselves on their web-site to assist Kansas employers in many safety initiatives. Additionally, they have partnered with Pittsburg State University (PSU) to sponsor a scholarship for students pursuing a degree in Occupational Safety Management at PSU.

Skyland Grain sites received the latest SHARP award. Five of their sites qualified for the award. The presentation was in Cunningham at the area headquarters.

PTMW of Topeka was the first manufacturer in Topeka to receive the SHARP award.

![Industries in Kansas SHARP 2016 Pie Chart]
The Kansas Division of Workers Compensation administers programs that provide services to all stakeholders including workers who were injured on the job. Work Comp makes sure injured workers receive benefits they are entitled to under the Kansas Workers Compensation Law.

Revisions to the Workers Compensation Act were passed by the 2013 Kansas Legislature. The revisions enacted included adoption of the American Medical Association (AMA) Guides to Rating Impairments 6th Edition. The new 6th Edition is used to determine impairment ratings for injured workers beginning Jan. 1, 2015. In response, the division conducted training for both our judicial staff and administrative staff on the new guides.

Division of Workers Compensation accomplishments:

• The Workers Compensation Division assisted more than 48,075 injured workers, insurance agents, attorneys, employers and health care providers with questions about the Workers Compensation Law, a 4.9 percent decrease from 2015.

• Planning phase for the digital (paperless) system continued in 2016 with development of requirements and a completed request for proposal.

• Five hundred sixty-six (566) workers compensation fraud and abuse referrals were received and investigated. Forty-five fraud and abuse administrative cases were prosecuted, collecting more than $225,000 in fraud and abuse fines and restitution.

• KDOL received settlement in the case of KDOL versus Labor Pros, LLC., Elite Employment Group, Inc. and Gregory D. Van Etten, after 10 months of investigation. This dispute involved the failure to secure payment of workers compensation insurance, the failure to file accident reports in a timely manner with the division, the failure to pay workers compensation benefits when due and the false or misleading statements made, without admitting or denying any violation and to avoid any further administrative hearings. Ezra Ginzburg, Assistant Attorney General, KDOL, was the lead attorney on the case along with Jon Flippin, Special Investigator. The $80,000 civil penalty collected was distributed per the settlement agreement for the violations of K.S.A. 44-532.
• Provided educational presentations to a total of 498 individuals including attorneys and representatives from employers, insurance carriers and health care providers

• Assisted 19,795 injured workers, insurance agents, attorneys, employers and health care providers with questions about the workers compensation law

• Hosted more than 535 attendees and 89 exhibitors and sponsors at the annual Workers Compensation Seminar held in Overland Park. The seminar focused on the changes resulting from amendments to the Kansas Workers Compensation Act and recent court decisions.

• Mediation settled more than 650 disputes between medical providers and payers. Work Comp mediation is a means of resolving disputes in an informal and non-adversarial atmosphere. The issues that can be mediated are not restricted to medical or temporary total disability benefits. The parties to a dispute use a neutral third party to facilitate discussion. The mediator’s job is to assist the parties in identifying the issues in dispute and establishing common goals. The mediator has no decision-making authority or interest in the outcome of the dispute. The key to mediation is self-determination or allowing the parties to work through their dispute and create their own agreements.

Judicial Section

The Judicial Section has 10 administrative law judges throughout the state whose primary function is to conduct timely hearings in contested workers compensation claims, and render orders based on the facts presented, as applied to the Workers Compensation Act. For an initial determination of benefits, preliminary hearings are set on a priority basis, and preliminary decisions are issued within five days of the hearing. A list of the workers compensation administrative law judges and their contact information is available.

Workers Compensation Board Section

The Workers Compensation Board was established in 1993 to decide appeals of orders and awards from the workers compensation administrative law judges. Hoping to obtain more uniform decisions throughout the state, the Legislature created the Board to replace the state’s district court judges in the appeal process.

Current Board Members
• Tom Arnhold
• John Carpinelli
• Gary Korte (chair)
• Gary Terrill
• Seth Valerius
## Fiscal Year 2016 Actual Expenditures

<table>
<thead>
<tr>
<th>Actual Expenditures</th>
<th>Percent</th>
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<td>$279,721,515</td>
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### State General Fund:
- General Administration: $5,872
- Legal Services: $136,274
- Employment Standards: $171,834
- Public Employees Relations Board: $568
- **Total SGF**: $314,548 (0.11%)

### Fee Funded Programs:
- Wage Claims Assignment Fund: $2,584
- Workers Compensation: $10,554,245
- **Total Fee Funds**: $10,556,829 (3.77%)

### Federal Funded Programs:
- Unemployment Insurance: $22,630,831
- Wagner Peyser (LMI One-Stop): $434,729
- OSHA: $808,441
- Labor Force Statistics (BLS): $698,991
- OSH/CFOI: $108,563
- Workforce Data Quality Initiative: $34,183
- **Total Federal**: $24,715,738 (8.84%)

### Unemployment Insurance Benefits:
- **$240,492,530** (85.98%)

### Other Funds:
- Penalty & Interest Funds: $885,334 (0.32%)
- Federal Indirect Offset Fund: $41,332 (0.01%)
- Indirect Cost Fund: $1,966,314 (0.70%)
- Human Resources Special Projects Fund: $165,771 (0.06%)
- Special Wage Payment Clearing Trust Fund: $33,041 (0.01%)
- KDOL Off Budget (MOUs): $550,078 (0.20%)