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**SUBSTITUTE SENATE BILL 5193**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Conway, Keiser, Hasegawa, and Wilson, C.)

AN ACT Relating to unemployment insurance systems enhancements, including creating a reserve force of unemployment claim adjudicators, effective and equitable claims processing, and transparent performance metrics; adding new sections to chapter 50.12 RCW; creating new sections; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds with roughly $4,700,000,000 in the state unemployment insurance trust fund, Washington entered the COVID-19 pandemic with one of the strongest and best-funded trust funds in the nation. During an unprecedented time, the state's unemployment insurance trust fund provided critical economic support to Washington workers and businesses through unemployment benefits and helped bolster the state's economy.

The legislature recognizes that the employment security department maintains a recession readiness team that prepares the agency to respond to economic changes, helping employers and employees plan for the future. Based on experience with past recessions, the employment security department's readiness team prepared contingency plans for a possible economic crisis. During the great recession, there were approximately 61,000 continued unemployment insurance claims in September 2008, rising to a high of approximately 173,000 claims in January of 2010, a period of 16 months. During the first three months of COVID-19, unemployment insurance claims were more than double those filed during the great recession, a time period that was seven times longer. From February 2020 to April 2020, unemployment insurance claims went from approximately 62,000 to approximately 447,000 claims. The sudden magnitude of claimants overwhelmed the system; contributing to Washingtonians waiting months for their earned benefits and facing deep economic insecurity.

The legislature finds that, despite conscientious economic emergency planning by the employment security department, claims processing issues are central problems encumbering the employment security department's ability to timely meet a suddenly increased demand for benefits. Immediate additional measures to facilitate rapid and equitable provision of unemployment benefits now, and enhanced preparation to do so in future economic downturns or emergencies, are critically important.

The legislature further finds that a federal retroactive funding model that looks back instead of preparing for potential economic shocks ahead was a major contributing factor to the challenges faced by all states during the COVID-19 pandemic in quickly paying benefits to unemployed workers. Our employment security department cannot quickly scale up for increased workloads and new programs if its administrative funding is based on funding that looks backward instead of forward.

Amid an unprecedented need for benefits and stresses on our unemployment insurance program, the legislature intends to create a pool of qualified unemployment insurance claim adjudicators, reduce claimants' need for assistance, assure transparency of claims processing performance measures, and make other system enhancements. Together, these systems enhancements will ensure quicker claim resolution and benefit payment; thus providing critical economic support during future unemployment crises.

NEW SECTION. **Sec.**  A new section is added to chapter 50.12 RCW to read as follows:

(1) The employment security department must create an annual training program to prepare a reserve force of skilled unemployment insurance claim adjudicators who can be available quickly when claims volume demands.

(2) The program must:

(a) Be open to both state and other public employees and private citizens;

(b) Be of sufficient quality that persons completing the training and any required continuing education would be ready to work as an unemployment insurance claim adjudicator within one week of commencing employment with the employment security department; and

(c) Provide a certification of completion to participants who complete the program.

(3) The office of financial management must collaborate with the employment security department to provide opportunities for state employees, who meet the minimum qualifications to work as an unemployment insurance claim adjudicator, to participate in the annual trainings.

(4) By October 1, 2021, and each year thereafter, the employment security department must provide a report to the house of representatives committee on labor and workplace standards and the senate committee on labor, commerce, and tribal affairs, or successor committees, on the number of persons with current certifications under subsection (2)(c) of this section, as well as how many were employed by the department and over what period of time.

NEW SECTION. **Sec.**  A new section is added to chapter 50.12 RCW to read as follows:

(1) The department must designate department employees to assure that letters, alerts, and notices produced manually or by the department's unemployment insurance technology system are written in plainly understood language and tested on claimants before they are approved for use. Criteria for approval must include comprehensibility, clarity, and readability. If the messaging of any letter, alert, or notice falls short of those criteria, manual methods of producing a comprehensible version shall be considered while the department waits for their unemployment insurance technology system to incorporate required modifications.

(2) Determinations and redeterminations must clearly convey applicable statute numbers, a brief explanation of pertinent law, outline of relevant facts, reasoning, decision, and result.

(3) The department will work with an advisory committee comprised of unemployment insurance advocates to explore establishing:

(a) Thresholds that will trigger automatic adjustments in department staffing assignments and phone agent staffing levels;

(b) A pilot to provide a caseworker approach to the claims of a group of claimants with that casework carrying over to reemployment services.

(4) Dedicated toll-free phone lines must be established for claimants who lack computer skills or access to computers, claimants with disabilities, and claimants with limited English proficiency.

(5) The department must provide translation of notices sent to claimants as part of their unemployment insurance claims into any of the top 10 languages utilized in the state.

NEW SECTION. **Sec.**  A new section is added to chapter 50.12 RCW to read as follows:

(1) The department must maintain an online data dashboard.

(2) The department must provide quarterly reports with performance metrics that include:

(a) Weekly updates of unemployment rates;

(b) Total numbers of claims paid, amount compensated, claims denied, claims pending in adjudication, claims on which payment has been halted for review, pending appeals, appeals redetermined by the department, and appeals sent to the office of administrative hearings;

(c) Claims center phone statistics including call volume, hold times, abandoned calls, repeat calls, and all-circuits-busy messages for both claimants and employers;

(d) Ratio of staff phone agents to employers and ratio of staff phone agents to claimants;

(e) Number and dollar total of overpayments imposed and overpayment waiver approval rate; and

(f) The percentage of unemployed persons in the state receiving benefits (recipiency rate).

NEW SECTION. **Sec.**  A new section is added to chapter 50.12 RCW to read as follows:

(1) Within existing state resources and any available federal funds, the department may consult with the other state agencies, including the department of labor and industries, department of commerce, and department of social and health services, to further the department's economic cycle plan and build a cross-agency plan.

(2) Economic cycle planning must include the following topics:

(a) Impacts of various economic impact thresholds and triggers;

(b) Resources needed to scale support for claimants and employers; and

(c) How to address the needs of those most vulnerable during an economic crisis, including those with limited English proficiency, those without digital access, and those belonging to other marginalized communities.

(3) The department must conduct regular drills to practice their response to emergency economic conditions.

NEW SECTION. **Sec.**  (1) The unemployment insurance legislative work group is established. The work group consists of the following members:

(a) Two members from each of the two largest caucuses of the senate appointed by the president of the senate; and

(b) Two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives.

(2) The employment security department must:

(a) Meet with the unemployment insurance legislative work group at least quarterly to:

(i) Inform the members of the progress in implementing this act; and

(ii) Report on any new federal programs or funds received by the department for unemployment compensation and administration and the use of such funds; and

(b) Provide information and research unemployment issues as requested by members of the work group.

(3) The work group must choose a chair or cochairs from among its legislative membership. The chair is, or cochairs are, responsible for convening the meetings of the work group no less than quarterly each year.

(4) This section expires December 1, 2022.

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