

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5193

67th Legislature
2021 Regular Session

Passed by the Senate April 19, 2021
Yeas 47 Nays 2

President of the Senate

Passed by the House April 5, 2021
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5193** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5193

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

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

READ FIRST TIME 02/11/21.

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

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

7 NEW SECTION. **Sec. 1.** The legislature finds with roughly
8 \$4,700,000,000 in the state unemployment insurance trust fund,
9 Washington entered the COVID-19 pandemic with one of the strongest
10 and best-funded trust funds in the nation. During an unprecedented
11 time, the state's unemployment insurance trust fund provided critical
12 economic support to Washington workers and businesses through
13 unemployment benefits and helped bolster the state's economy.

14 The legislature recognizes that the employment security
15 department maintains a recession readiness team that prepares the
16 agency to respond to economic changes, helping employers and
17 employees plan for the future. Based on experience with past
18 recessions, the employment security department's readiness team
19 prepared contingency plans for a possible economic crisis. During the
20 great recession, there were approximately 61,000 continued
21 unemployment insurance claims in September 2008, rising to a high of

1 approximately 173,000 claims in January of 2010, a period of 16
2 months. During the first three months of COVID-19, unemployment
3 insurance claims were more than double those filed during the great
4 recession, a time period that was seven times longer. From February
5 2020 to April 2020, unemployment insurance claims went from
6 approximately 62,000 to approximately 447,000 claims. The sudden
7 magnitude of claimants overwhelmed the system; contributing to
8 Washingtonians waiting months for their earned benefits and facing
9 deep economic insecurity.

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

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

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

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.12
35 RCW to read as follows:

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

1 (2) The program must:

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

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

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

10 (3) The office of financial management must collaborate with the
11 employment security department to assist the department in
12 identifying agencies with current state employees who meet the
13 minimum qualifications for unemployment insurance claims'
14 adjudicator. Employees at other agencies, who meet the minimum
15 qualifications of the unemployment insurance claims' adjudicator
16 classification, may, upon approval of their agency, attend required
17 training provided by the department. In designated times of high
18 unemployment claims, current state employees who have completed
19 required training and who are otherwise qualified may be selected to
20 assist the department in processing unemployment insurance claims or
21 related activities. The office of financial management may adopt
22 rules or issue guidance to assist in the implementation of this
23 provision.

24 (4) By October 1, 2021, and each year thereafter, the employment
25 security department must provide a report to the house of
26 representatives committee on labor and workplace standards and the
27 senate committee on labor, commerce, and tribal affairs, or successor
28 committees, on the number of persons with current certifications
29 under subsection (2)(c) of this section, the number of people
30 employed by the department and over what period of time, and the
31 adjudicator training and hiring costs.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.12
33 RCW to read as follows:

34 (1) The department must designate department employees to assure
35 that letters, alerts, and notices produced manually or by the
36 department's unemployment insurance technology system are written in
37 plainly understood language and tested on claimants before they are
38 approved for use. Criteria for approval must include
39 comprehensibility, clarity, and readability. If the messaging of any

1 letter, alert, or notice falls short of those criteria, manual
2 methods of producing a comprehensible version shall be considered
3 while the department waits for their unemployment insurance
4 technology system to incorporate required modifications.

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

8 (3) The department will work with an unemployment insurance
9 advisory committee comprised of business and worker advocates to
10 explore:

11 (a) Establishing thresholds that will trigger automatic
12 adjustments in department staffing assignments and phone agent
13 staffing levels;

14 (b) Establishing a pilot to provide a caseworker approach to the
15 claims of a group of claimants with that casework carrying over to
16 reemployment services;

17 (c) Increasing language access, including by providing
18 translation of notices sent to claimants as part of their
19 unemployment insurance claims; and

20 (d) Frequency of the initial and continuing training to meet the
21 needs of section 2 of this act.

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

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.12
26 RCW to read as follows:

27 The department must:

28 (1) Maintain an online data dashboard.

29 (2) Provide quarterly reports with performance metrics that
30 include:

31 (a) Updates of unemployment rates;

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

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

- 1 (d) Ratio of staff phone agents to employers and ratio of staff
2 phone agents to claimants;
- 3 (e) Number and dollar total of overpayments imposed and
4 overpayment waiver approval rate; and
- 5 (f) The percentage of unemployed persons in the state receiving
6 benefits (reciprocity rate).

7 NEW SECTION. **Sec. 5.** (1) By September 1, 2021, and at least
8 quarterly through September 1, 2022, the employment security
9 department must provide a report to the house of representatives
10 committee on labor and workplace standards and the senate committee
11 on labor, commerce, and tribal affairs, or successor committees, that
12 includes:

- 13 (a) The department's progress in implementing this act;
- 14 (b) Updates on any new federal programs or funds received by the
15 department for unemployment compensation and administration and the
16 use of such funds;
- 17 (c) Any software or technology issues related to claims
18 processing, including any issues causing claim delays or inaccurate
19 automated notifications;
- 20 (d) Updates on the department's protocols and process for
21 protecting sensitive data; and
- 22 (e) Any other relevant unemployment issues, or information
23 related to enhancing the unemployment insurance system, as determined
24 by the department.
- 25 (2) This section expires December 1, 2022.

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