

A photograph showing the silhouettes of several people standing in a meeting room, illuminated by a bright light source from the left, creating a strong backlight effect. The people appear to be engaged in a discussion or presentation.

# Unemployment Insurance ADVISORY COMMITTEE



**Employment Security Department**  
WASHINGTON STATE

February 25, 2022

# Agenda



- UI State Legislative Update
  - SB 5873 Communications Plan
  - ESD Budget
  
- UI Rulemaking Update
  - Brief Adjudicative Proceeding Rule

# UI State Legislative and Rulemaking Update



**Employment  
Security  
Department**  
WASHINGTON STATE

**Unemployment Insurance Advisory Committee Presentation**

**February 25, 2022**

Scott Michael, Legal Services Manager  
Employment Security Department

# 2022 Unemployment Bills of Interest



- Engrossed Substitute House Bill 2076
  - Convenes a work group of industry and labor stakeholders to “study the appropriate application of Title 50” on transportation network companies and drivers.
  - Employment Security submits a report by December 1, 2022 on “findings and suggested changes to state law to establish applicable rates and terms by which transportation network companies and drivers participate” in unemployment insurance.

# 2022 Unemployment Bills of Interest



- Engrossed Substitute Senate Bill 5873
  - For 2022 tax rate year
    - Reduces the flat social cost factor from .75% to .50%
  - For 2023 tax rate year
    - Reduces the maximum flat social cost factor from .80% to .70%
    - Employers with 10 or fewer employees have a graduated social tax capped at Rate Class 7

# SB 5873 Communications Plan



## Notable messaging to employers (subject to revision)

Timing	Audience	Channel
When bill is signed	Media	News release
When bill is signed	Website visitors	Alert on esd.wa.gov
Within one week	Employers, stakeholders, news media, general public	Web (updates to esd.wa.gov)
Within two weeks	Employers	Email
Within four weeks	Employers	Mail (tax rate notice and instructional insert)

# 2022 Legislative Budget



- The House and Senate both released budget proposals on February 21.
- The House budget provided \$4.6 million in General Fund-State to provide additional resources for Unemployment Insurance caseloads if backlogs increase. The Senate budget did not include this funding.
- Both the Senate and House budgets provided full time equivalent (FTE) authority for state fiscal year 2022, needed by the large increase in non-permanent staff.
- The Senate budget also included \$702,000 in administrative funding to implement Senate Bill 5873.

# House v. Senate



Description	Senate	House
<b>Paid Family and Medical Leave</b>	\$350 million (Sect 715) for fund reserve. Also exempts from affecting rate setting (Sect 954)	Does not address reserve or cash flow but does include almost \$400M to buy down rate for this calendar year 2023
<b>Economic Security for All</b>	\$6.2 million (GF-State)	\$6.2 million (GF-State)
<b>WorkSource (WIT) System Replacement</b>	\$4.8 million	\$4.8 million
<b>PFML Staffing model</b>	FTEs included	FTEs included
<b>UI FTEs for backlogs/staffing model</b>	Not included	Included \$4.6 million
<b>1732 LTS Program Delay</b>	(\$1.6 million)	(\$1.6 million)
<b>1733 LTS Exemptions</b>	\$5.3 million	\$5.3 million
<b>SB 5649 -PFML changes</b>	\$1.7 million	\$100k for actuarial services
<b>SB 5847 – Public employee info</b>	\$262,000	\$0*
<b>5873 – Unemployment premiums</b>	\$702,000	\$0*
<b>Total Appropriation (all funds)</b>	<b>\$1,674,653,000</b>	<b>\$1,683,917,500</b>



# Rulemaking Agenda Update



- Rulemaking hearing on March 24 at 9:00 a.m.
  - Making COVID-19 emergency rules permanent.
  - Determining what is an underlying health condition that puts someone at high risk for serious illness from COVID-19.
- Technical Corrections
  - Removing lump sum retirement rule.
  - Updating definition of domestic violence.
  - Updating cross-reference on rule requiring claimants to personally certify their unemployment claims.

# Brief Adjudicative Proceeding Rule



**Employment  
Security  
Department**  
WASHINGTON STATE

**Unemployment Insurance Advisory Committee Presentation**

**February 25, 2022**

Scott Michael, Legal Services Manager, ESD

Brendon Tukey, Division Chief Administrative Law Judge, OAH

# Appeal Backlog



## Numbers as of December 2021

- 40,947 pending appeals
- 167 days waiting for a hearing
- 4% of cases closed within 45 days\*

## Numbers as of December 2019

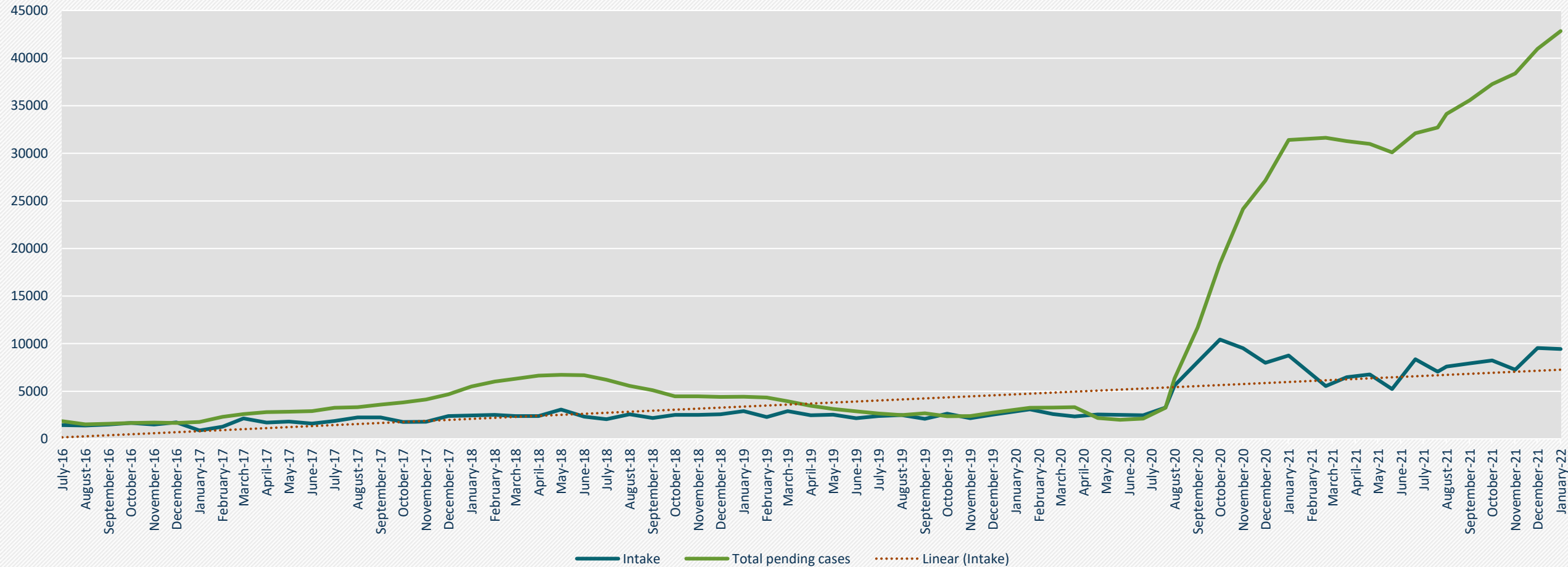
- 2,470 pending appeals
- 31 days waiting for a hearing
- 94% of cases closed within 45 days

\* Federal standard is 80% of cases closed within 45 days

# Appeal Backlog



## Intake and Pending Inventory



# Brief Adjudicative Proceeding Rule



- What is a brief adjudicative proceeding?
  - All parties get to submit their written arguments and evidence to the OAH Administrative Law Judge (ALJ) to review.
  - ALJ issues a decision based off the written record.
  - No need for anyone to take time off work to appear in front of an ALJ to give testimony or verbal argument.
- When will this be used?
  - Only where the claimant is the appellant, and there is no employer involved.
  - Only when the ALJ decides the case is right for a brief adjudicative proceeding.

# Brief Adjudicative Proceeding Rule



- Conversion to a regular hearing
  - Claimant can request that a brief adjudicative proceeding be converted to a regular hearing. This is automatically granted.
  - ALJ can decide, upon review of the written record, that a regular hearing is needed.
- Petition for review rights
  - Claimant can file petition for review of the outcome of a brief adjudicative proceeding.
  - If this occurs, case is sent back to have a regular hearing.

# OAH Implementation



- First start mailing notices of hearing for brief adjudicative proceedings on April 1.
- Hearing notices will give parties 5 weeks to submit evidence and documents.
- 10 ALJs will be assigned to conduct brief proceedings at the outset.
- Implementation may be adjusted based on the experience of claimants and the ALJs.