A BILL

To modernize the technology for delivering unemployment compensation, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Unemployment Insur-
ance Technology Modernization Act of 2021”.

SEC. 2. MODERNIZATION OF TECHNOLOGY FOR DELIV-
ERING UNEMPLOYMENT COMPENSATION.

(a) Establishment.—

(1) In general.—Not later than 2 years after
shall develop, operate, and maintain a modular set of technology capabilities to modernize the delivery of unemployment compensation (in this section referred to as the “technology capabilities”).

(2) PURPOSES.—The purposes of developing the technology capabilities are the following:

(A) For such capabilities to be utilized for any Federal administrative function associated with the provision of unemployment compensation.

(B) To provide States with modular, open system technology capabilities and shared services to administer their unemployment compensation programs.

(3) CONSULTATION.—In developing, operating, and maintaining the technology capabilities under paragraph (1), the Secretary shall—

(A) coordinate with the Administrator; and

(B) consult, design, and conduct usability testing with—

(i) current and former claimants;

(ii) employers that participate in unemployment compensation programs;

(iii) employees of State workforce agencies;
(iv) experts in technology and user experience;

(v) Federal administrators of unemployment compensation;

(vi) any other potential user of the technology capabilities; and

(vii) subject matter experts as deemed appropriate by the Secretary.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The technology capabilities shall—

(A) incorporate a modular open systems approach and include modular components for each function necessary to administer an unemployment compensation program, including—

(i) receiving, processing, and paying claims for unemployment compensation, including disaster benefits;

(ii) online claim filing;

(iii) the determination of claimant eligibility;

(iv) the collection of unemployment taxes;

(v) the submission of employer wage records;
(vi) the appeals and adjudication processes for claimants and employers;

(vii) sharing relevant data among States and the Secretary; and

(viii) any other functionality that addresses the issues and goals identified during the pre-development study described in subsection (c)(1);

(B) comply with best practices and standards for privacy and cybersecurity, including digital identity proofing services, identified in consultation with the Director of the National Institute of Standards and Technology (NIST) and the Director of the Cybersecurity and Infrastructure Security Agency (CISA);

(C) prioritize end-to-end user experience for claimants, employers, and administrators of unemployment compensation programs;

(D) include centralized Federal technology capabilities that allow for the storage, exposure, and exchange of data required by States to administer their unemployment compensation programs (with the respective States retaining possession of such data without regard to the stor-
age, exposure, or exchange of such data in the Federal technology capabilities);

(E) provide States with the option to use only some of the modular components of the Federal technology capabilities while continuing to utilize State technology capabilities to store any data required to administer their unemployment compensation program in a State database, provided that the State database meets any guidelines established by the Secretary that enable machine-to-machine interfaces to facilitate communication among States and between such State and the Federal Government;

(F) allow States to easily adapt the modular components of the Federal technology capabilities to meet the requirements of their unique unemployment compensation programs;

(G) ensure the timely and accurate payment of benefits, including measures to minimize susceptibility to attacks by organized criminal networks seeking to defraud State or Federal unemployment compensation programs; and

(H) to the extent practicable, be made available (along with any associated data pro-
duced under this section) to support other interagency and intergovernmental activities as appropriate.

(2) ACCESSIBILITY REQUIREMENTS FOR ONLINE CLAIM FILING.—With respect to the online claim filing component described in paragraph (1)(A)(ii), such component shall—

(A) ensure that the process of filing initial and continuing claims for unemployment compensation can be readily understood and accomplished by the vast majority of claimants, including individuals with limited English proficiency, individuals with disabilities (in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d)), older individuals, and individuals with literacy challenges;

(B) be available in any language spoken by more than 1 percent of the national population or any State’s population (with such translations completed by human translators rather than translation software) and comply with the requirements of the Plain Writing Act of 2010 (5 U.S.C. 301 note);

(C) be accessible and optimized for all commonly used desktop computers, tablets, and
mobile devices and operating systems such that
any features of the online claim filing compo-

tent (such as the ability to upload documenta-
tion) that are available in the desktop version
of the online claim filing component are also
available in the tablet and mobile versions;

(D) allow for electronic submission of docu-
mentation required to support a claim, includ-
ing the ability of claimants to scan or photo-
graph and submit documentation using a tablet
or mobile device;

(E) be available 24 hours a day, 7 days a
week, with the exception of scheduled and emer-
gency maintenance that the State conducts, to
the extent practicable, at nonpeak hours;

(F) provide self-service account recovery
that can be completed online; and

(G) deploy multiple methods of commun-
ication with claimants, such as short message
service (SMS) message, email, postal mail, live
chat, or chatbots.

(3) REQUIREMENTS REGARDING HIGH-RISK
AUTOMATED DECISION SYSTEMS.—

(A) IN GENERAL.—The technology capa-
bilities shall not rely solely on a high-risk auto-
mated decision system to deny a claim for un-
employment compensation, reduce the amount
of unemployment compensation for which a
claimant is eligible, or deny the right of a
claimant to appeal an unemployment compensa-
tion decision.

(B) PARTIAL RELIANCE.—

(i) IN GENERAL.—If any of the tech-
nology capabilities rely on a high-risk auto-
mated decision system to determine that a
claimant is ineligible for unemployment
compensation, to reduce the amount of un-
employment compensation for which a
claimant is eligible, or to deny the right of
a claimant to appeal an unemployment
compensation decision, the Secretary
shall—

(I) require that an employee of a
State workforce agency review the de-
termination before—

(aa) the claim for unemploy-
ment compensation of such
claimant may be denied;

(bb) the amount of unem-
ployment compensation for which
such claimant is eligible may be reduced; or

(cc) the right of such claimant to appeal an unemployment compensation decision may be denied;

(II) consult with experts in the Federal Government (including the Director of the National Institute of Standards and Technology and the Director of the National Science Foundation), regarding the potential benefits and risks of partial reliance on a high-risk automated decision system;

(III) prior to utilizing such part of the technology capabilities that relies on a high-risk automated decision system—

(aa) establish clear methods to measure the accuracy of such part of the technology capabilities; and

(bb) ensure that such part of the technology capabilities
minimizes the occurrence of biased results based on race, gender, ethnicity, disability status, income, occupation, or other personal characteristics as determined by the Secretary, and prevents any increase in such bias;

(IV) develop algorithmic impact assessments, incorporating public feedback and expert agency review, to proactively assess the necessity of additional formal policies and safeguards to mitigate risks; and

(V) establish transparency requirements that include an annual public disclosure of any use of a high-risk automated decision system, a plain language explanation of the decision making structure of such high-risk automated decision system, and the details regarding such use and related outcomes.

(ii) Training.—The Secretary shall establish best practices for training any relevant employee of the Department or a
11

State workforce agency to reduce the impact of automation bias.

(C) MONITORING.—The Secretary shall continuously monitor claim determinations that rely, in part, on the use of a high-risk automated decision system to ensure that biased results based on the characteristics described in subparagraph (B)(i)(III)(bb) do not occur.

(e) PRE-DEVELOPMENT STUDY AND REPORT.—

(1) STUDY.—Prior to the development of the technology capabilities under subsection (a) or the procurement of such technology capabilities under subsection (g), the Secretary, in coordination with the Administrator, shall conduct a study assessing the technology needs of Federal and State unemployment compensation programs. Such study shall consider the following:

(A) The Federal and State capabilities that need to be upgraded or replaced to ensure the smooth administration of their respective unemployment compensation programs.

(B) How to design and develop a Federally-maintained system that serves the needs of both the Federal Government and each of the State unemployment compensation programs.
(C) The features necessary to effectively respond to rapid changes in volume in times of emergency, including features that enable easy adaptation of, and updates to, such technology capabilities in order to implement new rules or benefits.

(D) The features necessary to ensure the technology capabilities have the capacity to handle an increased number of claims during periods of high unemployment.

(E) How the technology capabilities can prioritize claimant experience and ensure accessibility, including by soliciting feedback from claimants and claimant representatives during the development process.

(F) How the technology capabilities can ensure effective and equitable benefit delivery, including the following:

(i) The standardization of data collection and reporting across States to facilitate administration and interoperability.

(ii) The features that will facilitate accurate and timely delivery of benefits and reduce the time from successful unemployment.
ment compensation claim to benefit delivery.

(iii) The features that will help to identify and prevent organized fraud schemes without causing unreasonable delays for legitimate claimants or penalizing mistakes.

(iv) The appropriate level of ongoing audit and analysis needed to evaluate the effectiveness and equitability of benefit delivery.

(v) How privacy-protective data exposure and exchange between government entities and privacy-protective public reporting could be utilized to improve and ensure effective and equitable benefit delivery.

(G) How the technology capabilities can improve the employer experience, including tax payment, the submission of wage information, and the verification of claim information.

(H) How the technology capabilities can improve processes for employees of State workforce agencies.

(I) The information security measures necessary to protect claimants’ personal data while
enabling auditing and research, including recommendations for privacy-protective technologies, such as secure multi-party computation, that can enable such auditing and research in a manner that does not involve sharing data on individual claimants.

(J) How the technology capabilities can improve data sharing among States and the Federal Government with respect to recipiency, benefit levels, timeliness, and accuracy.

(K) How the technology capabilities can minimize disparities in unemployment compensation recipiency by race, gender, ethnicity, disability status, income, or occupation, and prevent any increase in such disparities.

(L) Potential approaches for development or procurement of the technology capabilities, including, for each approach presented, range estimates for development, implementation, and operational costs, and range estimates of capability delivery schedules.

(2) REPORT.—Not later than 4 months after the date of enactment of this section, the Secretary, in coordination with the Administrator, shall submit to Congress a report containing the results of the
study conducted under paragraph (1), together with
the Department’s strategy for development and proc-
curement of the technology capabilities, including
any recommendations for such legislation and ad-
ministrative action as the Secretary determines ap-
propriate.

(d) Digital Services Team.—

(1) Establishment.—The Secretary, in co-
ordination with the Administrator, shall establish in
the Department a Digital Services Team (in this
section referred to as the “Team”).

(2) Membership.—The Team shall include—

(A) technology experts;

(B) user experience experts;

(C) an experienced technical team leader
with experience in human-centered design and
modern software development practices; and

(D) any other member deemed appropriate
by the Secretary.

(3) Duties.—The Team shall carry out the fol-
lowing duties:

(A) Assist the Secretary in the develop-
ment, operation, and maintenance of the tech-
nology capabilities under subsection (a).
(B) After the development and deployment of the technology capabilities under subsection (a) is complete, assist the Secretary in operating and overseeing the maintenance and continued improvement of the technology capabilities, including by providing technological assistance—

(i) to State workforce agencies; and

(ii) to States seeking to adapt their State databases to interface with the Federally provided modular and open systems technology capabilities described in subsection (b)(1)(E).

(C) Ensure the Department has sufficient in-house technical expertise and procurement support.

(D) Assist the Department with technology needs.

(E) Engage in such other activities deemed appropriate by the Secretary.

(4) STAFF AND RESOURCES.—The Secretary shall ensure that the Team has such staff, resources, and access to information as may be necessary to carry out the duties of the Team.
(5) DIGITAL SERVICES TEAM FUNDING.—Out of any money in the Treasury not otherwise appropriated, there are appropriated to the Secretary $5,000,000 to carry out this subsection. Amounts appropriated under the preceding sentence shall remain available until expended.

(e) PILOT PROGRAM.—Prior to the deployment of the technology capabilities to all States, the Secretary shall select not fewer than 4 States to participate in a pilot program to test the technology capabilities and demonstrate that such technology capabilities meet the requirements and end-to-end user experience needs established by this Act, including those identified in the pre-development study described in subsection (e)(1).

(f) DATA SHARING.—To enable the storage, exposure, and exchange of data required by States to administer their unemployment compensation programs, the Secretary shall—

(1) establish Computer Matching Agreements in accordance with the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a note) to obtain information necessary to verify a claimant’s eligibility for unemployment compensation;

(2) determine appropriate aggregate data to share on a regular basis with the public through the
Data.gov internet website pursuant to the Foundations for Evidence-Based Policy Making Act of 2018 (5 U.S.C. 101 note);

(3) establish appropriate controls and monitoring to make available only the data necessary for States to administer their unemployment compensation programs; and

(4) establish a data retention policy for retaining or archiving historical unemployment compensation program data as deemed appropriate.

(g) PROCUREMENT AND CONTRACTS WITH PRIVATE VENDORS.—If the Secretary contracts with a private vendor to procure or develop or assist with the development of the technology capabilities under subsection (a), the Secretary shall—

(1) ensure that any agreement with such private vendor stipulates that the resulting technology capabilities and associated research, applications, automated processes, and associated metadata shall be the proprietary information of the Federal Government;

(2) follow best practices for Government IT procurement to de-risk projects; and

(3) provide funding based on program outcomes rather than volume.
(h) **Oversight.**—

(1) **Oversight.**—During and after the development of the technology capabilities under subsection (a), the Secretary shall—

(A) respond to requests from Congress for updates on the development of the technology capabilities; and

(B) participate in oversight hearings and demonstrations of the technology capabilities as requested by Congress.

(2) **Publicly Available Status.**—Not later than 6 months after the date of enactment of this section, the Secretary shall establish and maintain publicly available content, available on the internet website of the Department, that provides the status of—

(A) the technology capabilities being developed under this section;

(B) the metrics of success for such development;

(C) the results from piloting and testing of such technology capabilities; and

(D) deployment of such technology capabilities in each of the States and the Federal Government.
(i) TECHNOLOGY CAPABILITIES MODERNIZATION

FUNDING.—Out of any money in the Treasury not otherwise appropriated, there are appropriated to the Secretary $500,000,000 to carry out this section (other than subsection (d)). Amounts appropriated under the preceding sentence shall remain available until expended.

(j) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the United States Digital Service.

(2) AUTOMATED DECISION SYSTEM.—The term “automated decision system” means a computational process, including one derived from machine learning, statistics, or other data processing or artificial intelligence techniques, that makes a decision or facilitates human decision making that impacts claimants.

(3) AUTOMATION BIAS.—The term “automation bias” means the tendency for humans to over-rely on the recommendation of an automated decision system, to place overconfidence in such recommendation based on perceived superiority to analog or human processes, or to ignore evidence that would indicate the automated decision system has made an error.
(4) **CLAIMANT.**—The term “claimant” means a claimant for unemployment compensation.

(5) **DEPARTMENT.**—The term “Department” means the Department of Labor.

(6) **HIGH-RISK AUTOMATED DECISION SYSTEM.**—The term “high-risk automated decision system” means an automated decision system that—

(A) poses a significant risk—

(i) to the privacy or security of personal information of claimants; or

(ii) of resulting in or contributing to inaccurate, unfair, biased, or discriminatory decisions impacting claimants;

(B) makes decisions, or facilitates human decision making, based on systematic evaluations of current and historical claimant data, including attempts to analyze or predict sensitive aspects of claimants’ lives or characteristics or activities that may affect their eligibility for unemployment compensation, such as their reason for separation from employment, availability for work, work search activities, work performance, economic situation, health, personal preferences, interests, behavior, location, or movements, that—
(i) alter legal rights of the claimants;

or

(ii) otherwise significantly impact the claimants;

(C) involves the personal information of a significant number of claimants regarding race, color, national origin, political opinions, religion, trade union membership, genetic data, biometric data, health, gender, gender identity, sexuality, sexual orientation, disability status, criminal convictions, or arrests; or

(D) meets any other criteria deemed appropriate by the Secretary.

(7) MODULAR OPEN SYSTEMS APPROACH.—The term “modular open systems approach” means an integrated business and technical strategy that—

(A) employs a modular design that uses system interfaces between a system platform and a system component, between system components, or between system platforms;

(B) is subjected to verification to ensure system interfaces comply with, if available and suitable, widely supported and consensus-based standards; and
(C) uses a system architecture that allows
severable system platforms or components at
the appropriate level to be incrementally added,
removed, or replaced throughout the life cycle
of a system platform or component while yield-
ing—

(i) significant cost savings or avoid-
ance;

(ii) schedule reduction;

(iii) opportunities for technical up-
grades;

(iv) increased interoperability; or

(v) other benefits during the
sustainment phase.

(8) SECRETARY.—The term “Secretary” means
the Secretary of Labor.

(9) SECURE MULTI-PARTY COMPUTATION.—The
term “secure multi-party computation” means a
computerized system that enables different partici-
pating entities in possession of private sets of data
to link and aggregate their data sets for the exclu-
sive purpose of performing a finite number of pre-
approved computations without transferring or oth-
ewise revealing any private data to each other or
anyone else.
(10) **State.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.