Multiple Agency Fiscal Note Summary

Bill Number: 5566 E SB	**Title:** Injured workers/workers comp

Estimated Cash Receipts

Agency Name	2011-13		2013-15		2015-17	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of Attorney General	0	3,615,977	0	2,955,499	0	4,646,830
Department of Labor and Industries	0	(1,260,638,500)	0	(548,718,000)	0	(548,718,000)
Total $	**0**	**(1,257,022,523)**	**0**	**(545,762,501)**	**0**	**(544,071,170)**

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of Attorney General	15.5	0	3,615,977	13.2	0	2,955,499	20.6	0	4,646,830
Board of Industrial Insurance Appeals	17.0	0	6,531,536	16.5	0	6,352,336	16.5	0	6,352,336
Department of Labor and Industries	69.9	0	(1,231,446,500)	68.5	0	(532,034,000)	57.5	0	(532,683,000)
Total	**102.4**	**$0**	**$(1,221,298,987)**	**98.2**	**$0**	**$(522,726,165)**	**94.6**	**$0**	**$(521,683,834)**

Estimated Capital Budget Impact

NONE

Prepared by: Matthew Bridges, OFM	**Phone:** (360) 902-0575	**Date Published:** Final

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID 29702

Individual State Agency Fiscal Note

Bill Number: 5566 E SB	Title: Injured workers/workers comp	Agency: 100-Office of Attorney General

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Legal Services Revolving Account-State 405-1	1,512,022	2,103,955	3,615,977	2,955,499	4,646,830
Total $	1,512,022	2,103,955	3,615,977	2,955,499	4,646,830

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	13.0	18.0	15.5	13.2	20.6
Account					
Legal Services Revolving Account-State 405-1	1,512,022	2,103,955	3,615,977	2,955,499	4,646,830
Total $	1,512,022	2,103,955	3,615,977	2,955,499	4,646,830

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Joan Elgee	Phone: 360-786-7106	Date: 03/08/2011
Agency Preparation:	Tina Kondo	Phone: (206) 464-6293	Date: 03/24/2011
Agency Approval:	Sarian Scott	Phone: (360) 586-2104	Date: 03/24/2011
OFM Review:	Matthew Bridges	Phone: (360) 902-0575	Date: 03/25/2011

Request # 11-232-3

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 adds a new section to RCW 51.04. Parties to an allowed claim for benefits may enter into a voluntary settlement agreement (VSA) beginning September 1, 2011. This section also details what the agreement can cover, which parties may not be bound, time limits, conditions, and it defines the parties covered. The Department of Labor and Industries (LNI) shall negotiate agreements for state fund claims. A process is instituted for approving agreements with persons not represented by counsel.

Section 2 adds a new section to RCW 51.04. An independent study of settlement agreements and return to work provisions shall be conducted in calendar years 2016, 2021, and 2026. This section also covers who shall conduct the study and what it shall entail.

Section 3 adds a new section to RCW 51.04. LNI must maintain copies of settlement agreements and provide them, along with a claims history, to other parties contemplating settlement with the same worker. An employer may not consider a prior settlement agreement or claims history when making a decision about hiring.

Section 4 adds a new section to RCW 51.04. If a worker has received a prior award of, or entered into a voluntary settlement for, total or partial permanent disability benefits, it shall be conclusively presumed that the medical condition causing the prior permanent disability exists and is disabling at the time of any subsequent industrial injury or occupational disease. Permanent disability awards for any one body part cannot exceed 100% over the workers lifetime.

Section 5 amends RCW 51.32.090. This section states intent to reduce costs from injuries by keeping workers on the job in different capacities following injury. Employers may offer work to those temporarily totally disabled. Employer or Department will obtain a professional's opinion that such work is consistent with the injury. Disability payments will stop while the employee is engaged in this alternative work. Employers offering alternative work will be reimbursed for a portion of the wages paid, up to certain maximums. New language is included in this bill that covers reimbursement for other costs to employers, covers the procedure for seeking reimbursement, accounts for penalties if such requests are fraudulent, and states that such requests shall have no affect on employer experience ratings.

LNI shall create a Washington Stay-at-Work Account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by this section and for the cost of creating a reserve for anticipated liabilities. Employers may collect up to one-half of the fund assessment from workers.

Section 6 is a new section that says LNI may adopt rules to implement this Act.

Section 7 is a new section and is a severability clause.

The Attorney General's Office (AGO) estimates a workload impact of 5.2 Assistant Attorney General (AAG), 4.8 Paralegal (PL), and 3.0 Legal Assistant (LA) at a cost of $1,512,022 in Fiscal Year (FY) 2012, 7.4 AAG, 6.3 PL, and 4.3 LA at a cost of $2,103,955 in FY2013, 6.0 AAG, 7.4 PL, and 3.5 LA at a cost of $1,912,179 in FY2014, 2.9 AAG, 4.9 PL, and 1.7 LA at a cost of $1,043,320 in FY2015, and 7.2 AAG, 9.2 PL, and 4.2 LA at a cost of $2,323,415 in FY 2016 and in each FY thereafter.

The increase in staffing is to provide legal services for Voluntary Settlement Agreement (VSA) development, training, and negotiations, and for advice relating to the Stay at Work program.

This bill is assumed effective July 1, 2011.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Funds are assumed to be Legal Service Revolving Account dollars. Legal services costs incurred by the AGO will be billed through the revolving fund to the client agency.

The client agency is assumed to be LNI.

Please note that these cash receipts represent the AGO authority to bill and are not a direct appropriation to the AGO. The direct appropriation is reflected in the client agencies fiscal note. Appropriation authority is necessary in the AGO budget.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The AGO estimates a workload impact of 5.2 AAG, 4.8 PL, and 3.0 LA at a cost of $1,512,022 in FY2012, 7.4 AAG, 6.3 PL, and 4.3 LA at a cost of $2,103,955 in FY2013, 6.0 AAG, 7.4 PL, and 3.5 LA at a cost of $1,912,179 in FY2014, 2.9 AAG, 4.9 PL, and 1.7 LA at a cost of $1,043,320 in FY2015, and 7.2 AAG, 9.2 PL, and 4.2 LA at a cost of $2,323,415 in FY 2016 and in each FY thereafter.

Assumptions

1. We assume direct litigation costs will be paid by LNI.

2. LNI and the AGO assume the number of VSAs to be 11,815 in FY2012, 12,996 in FY2013, 14,296 in FY2014, 11,437 in FY2015, and 9,149 in FY2016 and in each FY thereafter.

3. We assume early settlements in 10% of VSAs which will not require any legal services. We assume this number to be 1,182 in FY2012, 1,300 in FY2013, 1,430 in FY2014, 1,144 in FY2015, and 915 in FY2016 and in each FY thereafter.

4. We assume 1,000 cases per FY will not require legal services due to VSAs. This equates to cost avoidance of -10.0 AAG and -5.0 PL per FY.

5. We assume 20% of all VSAs will require limited legal services for assistance with file reviews, LNI staff work, and claim and settlement assessment. We assume this number to be 2,363 in FY2012, 2,600 in FY2013, 2,860 in FY2014, and 2,288 in FY2015. We assume 25% of all VSAs will require these limited assessment legal services for negotiations

in FY2016 and in each FY thereafter, which is a total of 2,288 per FY.

6. We assume every 400 VSAs requiring limited assessment legal services will result in FTE requirements of 1.0 AAG and 0.5 PL.

7. We assume every 200 VSAs that go before a settlement officer at the Board of Industrial Insurance Appeal (BIIA) will require 1.0 AAG or 1.0 PL based on case complexity.

8. We assume an additional 50% of VSAs will require active settlement discussions involving some level of legal services. We assume this number to be 5,908 in FY2012, 6,498 in FY2013, 7,148 in FY2014, and 5,719 in FY2015. We assume 40% of VSAs will require legal services for BIIA settlements with conferences before a settlement officer in FY2016 and in each FY thereafter, which is a total of 4,575 per FY.

A. Of these matters involving active settlement discussions, 20% (1/5) will result in no settlement and should require simple negotiations and legal services. We assume that number to be 591 in FY2012, 650 in FY2013, 715 in FY2014, and 572 in FY2015. For this 20%, we assume that every 400 matters will result in FTE requirements of 1.0 AAG and 0.5 PL.

B. Of these matters involving active settlement discussions, 20% (1/5) will result in the parties agreeing initially but then one party may back out or the settlement will not be approved by the BIIA. We assume that number to be 591 in FY2012, 650 in FY2013, 715 in FY2014, and 572 in FY2015. For this 20%, we assume that every 200 matters will result in FTE requirements of 1.0 AAG or 1.0 PL

C. Of these matters involving active settlement discussions, 60% (3/5) will ultimately settle. We assume that number to be 1,773 in FY2012, 1,950 in FY2013, 2,145 in FY2014, and 1,716 in FY2015. For this 60%, we assume that every 200 matters will result in FTE requirements of 1.0 AAG or 1.0 PL

9. We assume 2.5 AAG in FY2012 and FY2013 for VSA rulemaking, program development, LNI training on long term settlements, and VSA team assistance.

10. We assume legal advice for the Washington Stay at Work Program will require 0.3 AAG in FY2012 and FY2013.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	13.0	18.0	15.5	13.2	20.6
A-Salaries and Wages	845,864	1,173,906	2,019,770	1,690,100	2,645,920
B-Employee Benefits	236,842	328,694	565,536	473,228	740,858
C-Personal Service Contracts					
E-Goods and Services	289,476	497,500	786,976	642,341	1,025,572
G-Travel	35,840	49,855	85,695	70,630	110,880
J-Capital Outlays	104,000	54,000	158,000	79,200	123,600
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	$1,512,022	$2,103,955	$3,615,977	$2,955,499	$4,646,830

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
Assistant Attorney General	83,952	5.2	7.4	6.3	4.5	7.2
Legal Assistant II	42,588	3.0	4.3	3.7	2.6	9.2
Paralegal II	58,656	4.8	6.3	5.6	6.2	4.2
Total FTE's	185,196	13.0	18.0	15.5	13.2	20.6

III. C - Expenditures By Program (optional)

Program	FY 2012	FY 2013	2011-13	2013-15	2015-17
Labor and Industries Division (LNI)	1,512,022	2,103,955	3,615,977	2,955,499	4,646,830
Total $	1,512,022	2,103,955	3,615,977	2,955,499	4,646,830

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

Individual State Agency Fiscal Note

Bill Number: 5566 E SB	Title: Injured workers/workers comp	Agency: 190-Board of Indust Insurance Appeals

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	17.5	16.5	17.0	16.5	16.5
Account					
Accident Account-State 608-1	1,677,684	1,588,084	3,265,768	3,176,168	3,176,168
Medical Aid Account-State 609-1	1,677,684	1,588,084	3,265,768	3,176,168	3,176,168
Total $	3,355,368	3,176,168	6,531,536	6,352,336	6,352,336

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates,

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Joan Elgee	Phone: 360-786-7106	Date: 03/08/2011
Agency Preparation:	William Chase	Phone: 360-753-2790	Date: 03/30/2011
Agency Approval:	Bob Liston	Phone: 360-753-6823	Date: 03/30/2011
OFM Review:	Matthew Bridges	Phone: (360) 902-0575	Date: 03/30/2011

Request # 10-3

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 of this proposed legislation allows parties to an allowed claim for workers compensation benefits to enter into voluntary settlement agreements to settle any or all aspects of the allowed claim. Settlement agreements must be submitted to, and approved by, the Board of Industrial Insurance Appeals (BIIA) and become final and binding 30 days after approval, unless any party revokes consent to the settlement. Settlements must be approved if the BIIA finds that the parties have entered into the agreement knowingly and willingly. If the injured worker is unrepresented, a settlement officer at the BIIA must review the settlement agreement, explain to the worker the benefits generally available, ensure the worker has an adequate understanding of the proposal and its consequences, and can approve the settlement only if it is in the best interest of the worker. The legislation provides factors for the settlement officer to consider when making the best interest determination.

Section 5 provides wage subsidies and other incentives to employers insured with DLI, encouraging light duty or transitional work for their injured workers.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Section 1
The BIIA analysis on settlement agreements is informed by the experience of the Oregon worker compensation (WC) system. Oregon implemented settlement agreements in 1990. Oregon also substantially reformed their dispute resolution system in 1988. The Oregon WC system is considerably different from the Washington system.

Section 1 of this proposed legislation allows parties to an allowed claim for worker's compensation benefits to enter into voluntary settlement agreements to settle any or all aspects of the allowed claim. Settlement agreements:

- must be submitted to, and be approved by, the Board of Industrial Insurance Appeals (BIIA)
- become final and binding 30 days after approval, unless any party revokes consent to the settlement.
- must be approved if the BIIA finds that the parties have entered into the agreement knowingly and willingly.

If the injured worker is unrepresented, a settlement officer at the BIIA must review the settlement agreement, explain to the worker the benefits generally available, ensure the worker has an adequate understanding of the proposal and its consequences, and can approve the settlement only if it is in the best interest of the worker. The legislation provides factors for the settlement officer to consider when making the best interest determination.

Assumptions:

1. We assume expedited transcripts in all settlement agreements
2. We assume 40% of settlement agreements will be non-represented
3. We assume 1 IAJ for every 200 non-represented settlement agreements
4. We assume 1 IAJ for every 400 represented settlement agreements
5. We assume 1 New Appeals Specialist/Legal Secretary for every 1000 settlement agreements
6. We assume 1 Legal Secretary for every 800 settlement agreements

The percent of settlement agreements as a percentage of compensable claims in Oregon in the first full year after the law changed was 9.0%. Applying this percentage to Washington 2010 compensable claims data (9% x 33,300) results in approximately 3,000 new settlement agreements. We do not know how many of the settlement agreements will be approved or rejected until we receive the evidence in each individual case.

This legislation also has potential for reducing hearing requests appealed to the BIIA. In Oregon the reduction in hearing requests as a percentage of compensable claims was 4.5% in the year after the law changed. We assume the settlement agreements created half the decrease in hearing requests (there were other substantial changes to limit litigation). Applying half of this decrease (2.25%) to BIIA appeals received data equates to a reduction of approximately 300 new appeals received.

Based on the stated assumptions and calculations the BIIA estimates we will need 10.5 IAJs, 6 LS 1's and 1.0 ITAS5 at a cost of approximately, $3,355,000 for FY12 and $3,176,000 each fiscal year thereafter.

Section 5

Provides wage subsidies and other incentives to employers insured with DLI, encouraging light duty or transitional work for their injured workers.

The BIIA annually receives approximately 4,500 appeals where time-loss compensation is challenged. We anticipate this provision will create new appealable issues in 4-5% of the time-loss compensation determinations, this equates to approximately 200 new appeals per year. This figure takes into consideration all appealable issues that could arise from both the employer and the employee. Although this is a voluntary program it creates mandatory duties and responsibilities. A list of appealable issues follows.

5(4)(c): This creates appellate issues on whether work was actually performed and whether what they did was work.
5(4) (d): At issue will be whether or not a worker received training to do the offered work. We will see appeals when training or instruction is offered on whether that qualifies a worker to do the offered work. We will also see appeals on the issue of reimbursing tuition, books, fees and materials required for training or instruction.
5(4) (e) We will see appeals on whether the employer provided clothing to the worker that is necessary to allow the worker to perform the offered work. We will also have to determine whether the provided clothing is something normally provided to the worker.
5(4) (f) We will receive appeals on whether the employer is eligible for reimbursement when it provides such tools and equipment. In the event the employer does provide tools we will have to determine whether the tools and equipment are normally provided to the worker.
5(4) (h) This will create timeliness appeals (1 year from date work was performed) and whether all related information

required by the DLI was submitted. We will have to hear appeals from employers when the DLI rejects reimbursement because the worker's physician or licensed advanced registered nurse practitioner has released the worker to perform the work offered.

5(4) (i) There will be an increase in penalty cases where the funds were obtained through willful misrepresentation.

5(4) (j) We will hear a significant number of appeals on whether the employer directed the claimant to perform any work beyond the attending physician's approval.

5(4) (l) We will hear appeals on the validity of work offered

5(4) (l)(6) We will hear premium assessment appeals for employers failure to pay into the stay at work account. We will hear appeals from whether the employer collected more than ½ the fund assessment from workers.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	17.5	16.5	17.0	16.5	16.5
A-Salaries and Wages	1,243,984	1,164,984	2,408,968	2,329,968	2,329,968
B-Employee Benefits	345,070	324,070	669,140	648,140	648,140
C-Personal Service Contracts					
E-Goods and Services	1,661,464	1,661,464	3,322,928	3,322,928	3,322,928
G-Travel	25,650	25,650	51,300	51,300	51,300
J-Capital Outlays	79,200		79,200		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	$3,355,368	$3,176,168	$6,531,536	$6,352,336	$6,352,336

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
Assistant Chief	8,536	1.0	1.0	1.0	1.0	1.0
IAJ3	6,908	5.0	5.0	5.0	5.0	5.0
IAJ4	7,440	4.5	4.5	4.5	4.5	4.5
ITAS5	6,583	1.0		0.5		
LS1	3,293	3.0	3.0	3.0	3.0	3.0
New Appeals Specialist	3,549	3.0	3.0	3.0	3.0	3.0
Total FTE's	36,309	17.5	16.5	17.0	16.5	16.5

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5566 E SB	Title: Injured workers/workers comp	Agency: 235-Department of Labor and Industries

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Accident Account-Non-Appropriated 608-6	(491,279,500)	(507,159,000)	(998,438,500)	(443,818,000)	(443,818,000)
Medical Aid Account-Non-Appropriated 609-6	(131,100,000)	(131,100,000)	(262,200,000)	(104,900,000)	(104,900,000)
Total $	(622,379,500)	(638,259,000)	(1,260,638,500)	(548,718,000)	(548,718,000)

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	67.7	72.0	69.9	68.5	57.5
Account					
Accident Account-State 608-1	6,344,000	5,944,000	12,288,000	7,174,000	6,953,000
Accident Account-Non-Appropriated 608-6	(491,279,500)	(507,159,000)	(998,438,500)	(443,818,000)	(443,818,000)
Medical Aid Account-State 609-1	8,836,000	8,068,000	16,904,000	9,510,000	9,082,000
Medical Aid Account-Non-Appropriated 609-6	(131,100,000)	(131,100,000)	(262,200,000)	(104,900,000)	(104,900,000)
Total $	(607,199,500)	(624,247,000)	(1,231,446,500)	(532,034,000)	(532,683,000)

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

[X] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[ ] Capital budget impact, complete Part IV.

[X] Requires new rule making, complete Part V.

Legislative Contact:	Joan Elgee	Phone: 360-786-7106	Date: 03/08/2011
Agency Preparation:	Melody Porter	Phone: 360-902-6648	Date: 03/25/2011
Agency Approval:	Victoria Kennedy	Phone: 360-902-4997	Date: 03/25/2011
OFM Review:	Matthew Bridges	Phone: (360) 902-0575	Date: 03/30/2011

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See attached.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See attached.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	67.7	72.0	69.9	68.5	57.5
A-Salaries and Wages	3,895,864	4,168,590	8,064,454	7,732,149	6,376,144
B-Employee Benefits	1,332,834	1,424,287	2,757,121	2,643,098	2,179,026
C-Personal Service Contracts	406,458	229,583	636,041	459,166	252,916
E-Goods and Services	8,836,684	8,144,278	16,980,962	5,800,447	7,187,434
G-Travel	24,780	26,460	51,240	49,140	39,480
J-Capital Outlays	683,380	18,802	702,182		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	(622,379,500)	(638,259,000)	(1,260,638,500)	(548,718,000)	(548,718,000)
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	$(607,199,500)	$(624,247,000)	$(1,231,446,500)	($532,034,000)	$(532,683,000)

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
Actuary 3	139,248	1.0	1.0	1.0	1.0	1.0
Administrative Assistant 3	40,524	2.0	2.0	2.0	2.0	2.0
Business Manager - EMS	109,140	1.0	1.0	1.0	1.0	1.0
Customer Service Specialist 2	36,756	6.0	6.0	6.0	6.0	6.0
Financial Analyst 5	61,632	1.0	1.0	1.0	1.0	1.0
Financial Incentive Coordinator	58,656	2.0	2.0	2.0	2.0	2.0
Fiscal Analyst 2	53,755	8.7	9.0	8.9	9.0	7.5
Information Technology Specialist 4	71,496	4.0	6.0	5.0	5.0	5.0
Information Technology Specialist 5	78,900	2.0	2.0	2.0	2.0	2.0
Office Assistant 3	33,468	2.0	2.0	2.0	2.0	1.0
Research Analyst 3	50,568	1.0	1.0	1.0	1.0	1.0
Risk Manager - EMS	96,900	1.0	1.0	1.0	1.0	1.0
Vocational Service Specialist	57,420	3.0	3.0	3.0	3.0	3.0
WMS 1 IT Business Expert	61,000	1.0	1.0	1.0		
WMS 2 Business Manager	74,850	2.0	2.0	2.0	2.0	2.0
WMS 2 IT Project Manager	74,850	2.0	2.0	2.0		
Worker Compensation Adjudicator 4	58,656	24.0	26.0	25.0	26.0	19.0
Worker Compensation Adjudicator 5	63,192	4.0	4.0	4.0	4.5	3.0
Total FTE's	1,221,011	67.7	72.0	69.9	68.5	57.5

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

See attached.

Part II: Explanation

This executive request legislation makes changes to the Washington's workers' compensation system:

- Allowing parties to enter into voluntary settlements.
- Keeping workers at work and improving return-to-work rates.
- Authorizing studies of occupational disease, voluntary settlement agreements, and return to work.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 1(1):

(a) Allows parties to a claim to voluntarily enter into a settlement agreement beginning September 1, 2011. All workers' compensation voluntary settlement agreements (VSA) must be approved by the Board of Industrial Insurance Appeals (BIIA).

The VSA criteria proposed in ESB 5566:

(i) May bind parties to any or all aspects of a claim; including but not limited to monetary payment, vocational services, and claim closure.

(ii) Assign responsibility only to employers who are signatories to the agreement.

(b) Defines "parties": For self insurance: the worker and the employer. For state fund: the worker, the employer, and the department.

(c) A VSA must be signed by each of the parties or their representatives. Directs that a VSA must state the parties understand and agree to the terms. A VSA becomes final 30 days after the BIIA issues approval unless a party revokes their consent.

(2) (a) Provides that a conference occur with a settlement officer at the BIIA when a worker does not have representation. This conference must occur within 14 days of the BIIA's receipt of the request by the parties. The purpose of the conference is to inform the worker of the benefits generally available under Title 51 and that a VSA may alter these benefits. Settlement officers are not allowed to provide legal advice.

(b) Prior to approving the VSA, the settlement officer will ensure the worker has an understanding of the proposal and its consequences.

(c) (i) The settlement officer may only approve a settlement agreement if they find the settlement is in the best interest of the worker. The settlement officer will consider, but is not limited to, the following factors:

- the nature and extent of the injuries and disability of the worker;
- the age and life expectancy of the worker;
- whether the worker has any health, disability, or related insurance;
- any other benefits the worker is receiving or is entitled to receive where the settlement may have an effect on those benefits;
- the marital status of the worker; and
- the number of dependents of the worker.

(ii) The decision of the settlement officer will be made within seven days after the conference. This decision is not appealable.

(d) If the settlement officer allows the VSA, the order will be submitted to the BIIA.

(3) If the worker is represented by an attorney when entering into the VSA, the parties may submit the VSA directly to the BIIA without the conference.

(4) The BIIA must approve the VSA within 30 days of receipt, unless it finds the parties have not entered into the agreement knowingly and willingly. If the BIIA approves the settlement, they must notify the department of the terms and provide for placement of the agreement in the applicable claim file.

(5) A party may revoke their consent to the VSA by providing written notice to the other parties and the BIIA within 30 days of the approval.

(6) Requires payment of approved temporary total disability or permanent total disability during the negotiation and revocation period of the process and until the VSA is final.

(7) If future liability for medical benefits is released in a VSA, any monetary compensation for medical benefits must be provided according to a schedule of payments as established in the VSA. These payments must be calculated to provide the worker

with periodic payments throughout the expected time the worker will need medical treatment.

(8) A claim closed through a VSA can be reopened only upon a showing of worsening of the related medical conditions for medical treatment. Further disability benefits are not payable.

Section 2 Requires the department to contract for an independent study of VSAs approved by the BIIA in 2016, 2021, and 2026. The study must be performed by a researcher that is experienced in workers' compensation systems. The department will consult with the workers' compensation advisory committee when selecting the independent researcher. The study must evaluate the quality and effectiveness of VSAs for state fund and self-insured claims the impact of settlements on the state fund and self-insured employers, and outcomes for workers who settled their claims. The study will be submitted to the legislature.

The department will contract with an independent entity with research experience in workers' compensation systems nationwide to study the nature, incidence, and cost of occupational disease claims in the Washington workers' compensation system. The department will consult with the workers' compensation advisory committee when selecting the independent researcher. The study will include an examination of the frequency and severity of occupational disease claims for state fund and self-insured employers, both current and historical trends; impacts on long-term disability and pension trends; the statutory definition of occupational disease, and interpretation of it by courts, the BIIA, and the department; how the definition compares to those in other states' systems; and issues related to the apportionment of occupational diseases among employers. The study must be submitted to the legislature by September 1, 2012.

The department will contract with an independent entity with research experience in workers' compensation systems to study the return to work provisions in current statute[1]. The department will consult with the workers' compensation advisory committee when selecting the independent researcher. The study will evaluate the quality and effectiveness of the return-to-work program

[1] RCW 51.32.090

and whether the program is being utilized by employers, and the outcomes of workers participating in the program. The study must be submitted to the legislature by December 2016.

Section 3 Requires L&I to maintain copies of all VSAs for self-insured and state fund claims and to develop processes to furnish copies of VSAs to a party contemplating any subsequent VSA with the worker on any claim. Also requires the department to furnish claims histories that include all prior permanent partial disability (PPD) awards of the worker on any claims by body part and category or percentage rating, as applicable. If a written request is made for this documentation, it must be provided within ten days from receipt of the request. Prohibits an employer from considering prior settlements or claims history in hiring or terms of employment.

Section 4 If a worker has received a prior award or settlement for permanent partial disability or permanent total disability, it is assumed the condition causing this award or settlement continues to exist at the time of any subsequent injury or occupational disease. Prohibits the aggregate total of all awards to any one part of the body to exceed 100 percent over the worker's lifetime. Provides that the department or self-insured employer may exclude amounts paid to settle claims for prior portions of a worker's permanent total or partial disability.

Section 5

5 (4) Makes changes to support quick and efficient early return-to-work approaches, and creates the Washington stay-at-work program.

To encourage employers to provide light-duty or transitional work for their injured workers at the time of injury, this new program will:

- Allow wage subsidies equal to 50 percent of the basic, gross wages paid for a maximum of 66 work days within a consecutive 24-month period. The wage subsidy is limited to $10,000 on a claim. Wage subsides will not include costs or items such as tips, housing, or fringe benefits.
- Provide reimbursement for tuition, books, fees, and materials to a maximum of $1,000 if the employer offers light-duty or transitional work, and the worker needs training or instruction to perform it.

- Allow reimbursement up to $400 for required clothing.
- Allow reimbursement up to $2,500 for tools or equipment.

An employer must request reimbursement within one year on forms that L&I will develop. To be eligible, the worker's medical provider must have restricted the worker from performing his or her usual work and released the worker to perform the work offered.

Payments made under this program are subject to penalties if the funds were obtained through willful misrepresentation.

Once the worker returns to work under the terms of this program, he or she cannot be assigned to work activities other than the available work described unless approved by the medical provider.

In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work, the department shall make the final determination and issue an appealable order.

5 (5) An employer's experience rating will not be affected by the employer's request for or receipt of reimbursements for wages.

5 (6) The Washington stay-at-work account is funded by assessments of state fund employers for the costs of the payments and of creating a reserve for anticipated liabilities. Employers may collect up to one-half the assessment from workers.

Section 6 Allows the department to adopt rules.

Section 7 Preserves the remainder of the Act or its application of the provisions in the event any one part or application is held to be invalid.

II. B – Cash Receipt Impact

As an insurance entity, Labor and Industries' (L&I) premium rates are intended to match premiums to claims cost projections. Therefore, for this fiscal analysis we assume any incremental costs or savings for these workers' compensation system changes will equal the incremental revenue collected.

II. C – Expenditures

Voluntary Settlement Agreements

Based on the proposed legislation the department recognizes that there are two potential policy extremes we could use to estimate the volume of VSAs:

1) The department could adopt a policy to not participate in any VSA; which would result in a zero impact, except for possible added FTEs to respond to requests.
2) The department could have no criteria for when we agree to be a willing party and essentially entertain any and all settlement offers.

In determining the impact to operations and projecting potential costs for the legislation, the following assumptions were made:

For analyzing the fiscal impact, we assume a policy between the two extremes mentioned above. Labor and Industries will process all requests received; however, not all VSA requests will result in a settlement agreement. It is assumed that VSA requests will come from employers and employees and that one-quarter of the requests will result in the claims being settled. This means that the workload associated with VSAs will vary from a simple processing task to a complex negotiation.

We further assume that VSAs are most likely to be requested when there is a perception that benefits are not swift and certain or the entitlement is unclear. These perceptions often manifest as protests or appeals. Protests and appeals result from a cross section of issues that may end up as VSA requests. The number of appeals varies each year but roughly average about 10,000 annually. (This number is not precise and will not match data of the BIIA as a result.)

Protests are a less formal category of dispute and can be filed over misunderstandings and resolved quickly. Based on the fact that some protests end up as appeals and would be counted separately, we assume 20 percent of all protests would come in as requests for VSAs. This would equal roughly 6,800 VSA requests each year.

Appeals are a more serious category of dispute since they have most often gone through the protest process and have already been reviewed once for correctness of the decision. For this reason, we assume 50 percent of all appeals would come in as requests for VSAs. This would equal about 5,000 VSA requests.

We assume there will be an initial 10 percent spike in VSA requests in Fiscal Years 13 and 14 as stakeholders become aware of VSAs, but in Fiscal Years 15 and 16, a 20 percent decrease each year is expected as existing claim levels would decrease. Finally in Fiscal Year 17, VSA requests would level off to Fiscal Year 16 levels. See table 1.

Table 1

Voluntary Settlement Agreement - Workload Estimates

Estimated Workload	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
Protests workload - Annual Average of FY 09 and 10	34,074	37,481	41,230	32,984	26,387	26,387
20% will result in VSA request	6,815	7,496	8,246	6,597	5,277	5,277
Appeals workload - Annual Average of FY 09 and 10	10,000	11,000	12,100	9,680	7,744	7,744
50% will result in VSA request	5,000	5,500	6,050	4,840	3,872	3,872
Estimated VSA workload:	**11,815**	**12,996**	**14,296**	**11,437**	**9,149**	**9,149**

This legislation's effective date presents challenges to implementation of staffing, facilities, and systems. Initially processing work will need to be done manually.

The number of FTEs needed based on the estimated VSA requests (table 1) are shown in table 2. Worker Compensation Adjudicator 4s (WCA4) will process all incoming VSAs and negotiate a percentage of the less complex cases. Some workers will be represented by legal counsel and some will be pro se, requiring more staff time to educate them about the process. About one-fourth of current time-loss cases over one-year old have attorney involvement. This number is based on the current caseload of existing WCA4 claim consultants who process appeals. Worker Compensation Adjudicator 5s will supervise the WCA4s as well as engage in the more sophisticated negotiations.

Table 2						
Voluntary Settlement Agreements - Estimated Staffing Needs						
FTEs Requested	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
WCA4	24.0	26.0	29.0	23.0	19.0	19.0
WCA5	4.0	4.0	5.0	4.0	3.0	3.0
OA3	2.0	2.0	2.0	2.0	1.0	1.0
EMS - Risk Manager	1.0	1.0	1.0	1.0	1.0	1.0
WMS - Program Manager	1.0	1.0	1.0	1.0	1.0	1.0
AA3	2.0	2.0	2.0	2.0	2.0	2.0
CSS2	6.0	6.0	6.0	4.0	3.0	3.0
ITS4 (RDS)	1.0	1.0	1.0	1.0	1.0	1.0
RA3 (RDS)	1.0	1.0	1.0	1.0	1.0	1.0
Actuary	1.0	1.0	1.0	1.0	1.0	1.0
Total Staffing:	**43.0**	**45.0**	**49.0**	**40.0**	**33.0**	**33.0**

There will be three units handling the VSAs, and each will be supported by two Customer Service Specialist 2s (CSS2). The CSS2s will do manual searches for the permanent partial disability (PPD) histories of workers who are the subject of a VSA. The bill requires that the department provide all information in ten days about any prior impairment award the worker has received. Without the ability to run an automated search to produce the record, this will have to be done manually. The CSS2s will do other research related tasks as there will likely be a two to three year waiting period for the technology to be fully developed and operational. Once the technology is in place for automated queries, the need for the CSS2 positions is reduced by half.

One Washington Management Services (WMS) manager will supervise the WCA5s. The WCA4s and 5s will be supported by two office assistant 3s and the WMS will be supported by one Administrative Assistant 3 (AA3). One Exempt Management Services (EMS) Risk Manager will conduct internal auditing of the system and be supported by one AA3. One actuary is also requested along with one Information Technology Specialist 4 and one Research Analyst 3 to manage the database and produce performance measures and reports, which can be used both internally and for the studies which must be conducted on the VSA program.

Medicare Set-Aside Account

The department will need to consider and comply with Medicare set-aside account (MSA) requirements. Any settlement provision which eliminates the department from future medical exposure will require a determination of whether the claim meets the criteria necessary to create a Medicare set-aside account. Once the estimated medical exposure is identified, it is approved by the Centers for Medicare and Medicaid Services and the money is deposited into an account that is accessed only for medical expenses related to the injury or condition agreed to. Before Medicare will assume payment (or relieve L&I for possible future payment) for medical expenses associated with a settled medical claim, the MSA will need to be depleted.

If a third party vendor is used, fees and costs vary. For purposes of the fiscal note, we assume costs of $350 per claim for 600 claims per year. This results in a total cost of $210,000 annually.

Information Technology Enhancements –VSA

The department would need to make changes in our existing technology systems to meet the requirements related to voluntary settlement agreements. The modifications are as follows:

- Enable tracking, storage, and access of required VSA data
    - The department will have to track the incidence and results of the VSAs to provide to the entity conducting the research.
    - To respond to requests for prior disability awards and copies of VSAs, the department will do manual searches initially; however, it is assumed that information system changes will make it possible to fill these requests

automatically after two to three years.

- Provide new payment types and ability to make payments
    - A tracking system or flag of claims with VSAs as needed to ensure staff know these claims are eligible for medical treatment only upon reopening.
- Modify BPS, Rating and Retro systems
- Update the electronic data exchange with the BIIA
- Implement reporting functions in the data warehouse
- Add new system actions and business rules to support new correspondence.

To build the staff skill set needed for sound negotiations and enable staff to recognize claims for possible settlement, a statistically based reserving tool will be needed. Current reserving practices involve staff judgment and will not be viewed as an objective valuation of a claim for purposes of settlement. This tool will be critical for settlement evaluations where future medical exposure is negotiated. The staffing required for technology implementation is as follows and in table 3:

Information Technology Staffing			
FTE	**Position**	**Permanent or Project**	**Start Date and End Date**
1	WMS 2 - Project Manager	Project	7/1/11-6/30/13
1	WMS 1 - Business Expert	Project	7/1/11-6/30/13
2	Information Technology Specialist 5	New permanent full-time	7/1/12-ongoing
2	Information Technology Specialist 4	New permanent full-time	7/1/12-ongoing
2	Information Technology Specialist 5	Existing Permanent/part-time	7/1/11-6/30/13
2	Information Technology Specialist 4	Existing Permanent/part-time	7/1/11-6/30/13

Table 3						
Voluntary Settlement Agreements - Estimated Information Technology Staff						
FTEs Requested	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17
WMS 2 Project Manager	1.0	1.0				
WMS1 Project Business Expert	1.0	1.0				
ITS5	2.0	2.0	2.0	2.0	2.0	2.0
ITS4	2.0	2.0	2.0	2.0	2.0	2.0
Total IT Staffing:	**6.0**	**6.0**	**4.0**	**4.0**	**4.0**	**4.0**

Information technology enhancements are estimated at $7,421,872 for the initial implementation (Phase 1) in the 2013-15 Biennium.

Facilities

Due to the number of staff needed to administer changes, we will need to lease additional office space. There will be a one-time cost of $87,000 in Fiscal Year 2012 for initial move-in expenses. We are basing the amount needed for lease costs on the lease rate we are currently paying at our Town Center 3 facility.

Legal Services

The Attorney General's Office (AGO) workload assumptions are based on L&I's estimated number of VSAs by fiscal year. The AGO assumes:

- Early settlements in 10 percent of VSAs that will not require legal services.
- There will be 1,000 cases each fiscal year that will not require legal services due to voluntary settlement. This results in a reduction of 10 AAGs and five paralegals for each fiscal year.
- Of all VSAs, 20 percent will require limited legal services for file review, staff work, and claim and settlement assessment. Of all VSAs, 25 percent will require limited assessment legal services for negotiation in Fiscal Year 2016 and thereafter.
- Every 400 VSAs that requires limited assessment legal services will require 1.0 AAG and 0.5 paralegal.

- Every 200 VSAs that go before a settlement officer at the BIIA will require 1.0 AAG and 1.0 paralegal based on case complexity.
- An additional 50 percent of VSAs will require active settlement discussions involving some level of legal services. It is assumed 40 percent will require legal services for the BIIA settlements with conferences before a settlement officer in Fiscal Year 2016 and thereafter.
  - Of these matters involving active settlement discussions, 20 percent will result in no settlement and should require simple negotiations and legal services. For this 20 percent, it is assumed every 400 matters will require 1.0 AAG and 0.5 paralegal.
  - Of these matters involving active settlement discussions, 20 percent will result in the parties agreeing initially but then one party may back out or the settlement will not be approved by the BIIA. For this 20 percent, it is assumed that every 200 matters will result in FTE requirements of 1.0 AAG or 1.0 paralegal.
  - Of these matters involving active settlement discussions, 60 percent will ultimately settle. For this 60 percent, it is assumed that every 200 matters will result in FTE requirements of 1.0 AAG or 1.0 paralegal.
- For VSA rulemaking, program development, training on long-term settlements, and VSA team assistance 2.5 AAGs are needed in Fiscal Years 12 and 13.
- The Washington Stay-at-Work program will require 0.3 AAG in Fiscal Years 12 and 13.

The detailed FTE and costs by fiscal year for legal services are reflected in table 4.

Table 4						
Legal Services	**FY 12**	**FY 13**	**FY 14**	**FY 15**	**FY 16**	**FY17**
Net FTE need for VSAs and WSAW	**13.0**	**18.0**	**16.9**	**9.5**	**20.6**	**20.6**
Legal Services Cost	**$1,512,022**	**$2,103,955**	**$1,912,179**	**$1,043,320**	**$2,323,415**	**$2,323,415**

Voluntary Settlement Agreements – Claim Savings

Actuarial Assumptions:

- Based on the accident year that ended March 31, 2010 the number of claims by type of claims are estimated as follows for the state fund firms:

Number		Claim Type
70		Fatalities
1,320		Total Permanent Disability (TPD)
3,920		Permanent Partial Disability (PPD) with more than 4 months of time-loss
2,401		Time-loss claims (no TPD or PPD) with more than 4 months of time-loss
7,711		**Number of long-term disability claims**
632		Hearing loss Permanent Partial Disability claims
3,747		Permanent Partial Disability with less than 4 months of time-loss
13,455		Time-loss claims with less than 4 months of time-loss
17,834		**Number of short-term disability claims**

- The total number of VSAs that resolve claims each year are distributed as follows:

Percentage	Claims
60% of settlements are Total Permanent Disability (TPD) cases	
30% are long-term PPD award claims with more than 4 months of time-loss	
10% are long-term time-loss claims (no PPD or TPD) with more than 4 months of time-loss	

We don't anticipate VSAs for short-term disability claims.

- The department estimates reduced costs on average per claim from accident fund benefits as follows:

Average Savings	Per Claim
$56,000	Total Permanent Disability (TPD) pensions
$115,000	PPD claims with more than 4 months of time-loss
$44,000	Time-loss claims (no PPD or TPD) with more than 4 months of time-loss

These averages are based on assumptions that settlement amounts and benefits paid up to the settlement will total an average 80 percent of the expected lifetime claim costs and that ultimate

TPD cases will settle at an average age of 60 months, PPD claims at an average of 30 months, and time-loss claims at an average of 12 months.

Because workers compensation is an insurance program, it's important to understand that what L&I's fiscal note will reflect as a reduction in expenditures is actually a reduction to long-term claim liabilities. This should not be interpreted as reduced payouts in a given year.

- The department will save 7.5 percent overall on Medical Aid benefits incurred due to fewer medical and vocational rehabilitation payments.

The estimated annual savings for new claims is $190.2 million for the Accident Fund and $52.5 million for the Medical Aid Fund, for a total annual savings of $242.6 million.

Voluntary Settlement Agreement - Annual Savings on New Claims	**Claim Numbers**	**% of Claims that Voluntary Settle**	**Number of Claims that Voluntary Settle**	**Per Claim Savings**	**Annual Savings**
Total Permanent Disability (TPD) pensions	1,320	60%	792	56,000	$44,400,000
PPD claims with more than 4 months of time-loss	3,920	30%	1,176	115,000	$135,200,000
Time-loss claims (no PPD or TPD) with more than 4 months of time-loss	2,401	10%	240	44,000	$10,600,000
Savings to Accident Fund for Long-term Claims:	**7,641**	**-**	**2,208**	**215,000**	**190,200,000**
Total - Annual Medical Aid Fund Savings:	MAF Losses Incurred $699,400,000 x 7.5% =				***$52,500,000***
Total - Annual Savings for VSAs:					***$242,600,000***
Annual Savings #s are rounded					

The estimated savings for existing claims is $570.4 million for the Accident Fund and $157.4 million for the Medical Aid Fund, for a total annual savings of $727.8 million. This savings is split equally between Fiscal Years 2012 and 2013, and is in addition to the annual savings of $242.6m for each of these years. Some workers who settle their claims in a VSA will pursue assistance from other social service programs. We cannot determine the frequency or fiscal impact this will have on other public funds.

Voluntary Settlement Agreement - Savings on Existing Claims	Annual Savings	Years Impact	Reserve Impact
Total Permanent Disability (TPD) pensions	44,400,000	5.0	$221,800,000
PPD claims with more than 4 months of time-loss	135,200,000	2.5	$338,100,000
Time-loss claims (no PPD or TPD) with more than 4 months of time-loss	10,600,000	1.0	$10,600,000
Total - Accident Fund Savings to the Reserve:	**190,200,000**		**$570,400,000**
Total - Medical Aid Fund Savings to the Reserve:	**52,500,000**		**$157,400,000**
Total - Savings to the Reserve for VSAs:			***$727,800,000***
Annual Savings #s rounded.			

Self Insured Program:

We assume L&I's self insured program will not participate in agreements beyond providing required claims histories and past PPD award information.

We also assume that when self-insured employers (SIE) initiate VSAs with the state fund (for worker's with both state fund and self-insured claims, or when there is a joint order issue) negotiations and fact finding will be handled by the state fund programs.

- The Self Insured Employers will request claim histories and PPD records for all allowed claims as a routine business practice (in order to evaluate for VSA). These will also result in an increase in claim file requests. We have not included additional FTEs specifically for this program.

Washington Stay-at-Work Program

Claims Costs and Savings

The legislation creates new incentives for employers to help maintain the employment of their injured workers. Employers can be reimbursed for a variety of costs that are not charged to the employer's record for premium rating purposes:

- Half of wages for up to 66 days, and up to $10,000;
- Training costs up to $1,000;
- Special tools or equipment up to $2,500; and
- Clothing up to $400.

This program is modeled after the "Employer-at-Injury" program in Oregon. Labor and Industries (L&I) assumes that half of the normal level of participation will occur in the first year of the program, with the program maturing in its second year. This is faster than accomplished in Oregon due to the staffing for L&I's existing Early Return-to-Work Program, Washington's kept-on-salary provisions, and new staff for the Stay-at-Work program.

Actuarial Assumptions:

The following assumptions are based on statistics from Oregon:

- 17 percent of time-loss claims and 7.5 percent of non-time-loss claims will participate in this program.
- 70 calendar days of average wage subsidy participation for time-loss claims.
- 35 calendar days of average wage subsidy participation for non-time-loss claims.
- Other costs are 10 percent of the wage reimbursement amounts (on average)
- Additional 11 percent of these time-loss claims will permanently go back to work as compared to experience before the Stay-at-Work program.
- Average days to job placement is 90 days from the date of injury or illness.

We further assume the following values based on actuarial studies on State Fund claims:

- The average daily time-loss rate for Fiscal Year 2012 is $67.33.
- The average ratio of time-loss benefit to wage is 64 percent.

- Because of the first two assumptions, the average wage rate before reimbursement is \$105.21 = \$67.33 / 64%.
- There will be 24,201 lost-time claims, 2,185 kept-on-salary claims, and 89,108 total claims accepted for injuries and illness during Fiscal Year 2012.
- 16 percent of long-term disability claims get TPD pensions. The same percentage of the time-loss claims that permanently go back to work as compared to the program before this new program will avoid TPD pensions.

Ongoing annual net savings or costs (mature year of the program)

The annual program costs for payment of wage reimbursement and other employer subsidies are \$24,909,000.

The savings will come from avoided time-loss benefits and pensions. Time-loss benefits will not be paid while the worker is working at the job where the wage reimbursement is taking place, and some workers from this program will permanently remain in the workforce, as opposed to being able to work, after the initial qualifying job reimbursement period, as compared to the current program. Pensions will be avoided from these additional workers permanently working in the workforce.

The total annual savings are \$56,668,000. The annual net savings is equal to \$31,759,000 (=\$24,909,000 -\$56,668,000); with the exception of the first year of the program being half of the normal level of participation resulting in a net savings of \$15,879,500 for Fiscal Year 2012.

One-time change in unpaid losses

There will be no change in unpaid losses from old claims. The program will only affect new claims.

Funding of the program

Employers will not be experience rated nor retrospectively rated based on these program charges. The costs will be pooled and then spread evenly amongst all employers and workers.

The annual funding amount will be $24,909,000; however, $56,668,000 because of avoided time-loss and pension benefit costs. The net savings is 1.9 percent of accident year losses.

Table 7			
ANNUAL NET SAVINGS FOR WSAW			
Fiscal Year	Savings	Cost	Net Savings
2012	$28,334,000	$12,454,500	**$15,879,500**
2013*	$56,668,000	$24,909,000	**$31,759,000**
2014	$56,668,000	$24,909,000	**$31,759,000**
2015	$56,668,000	$24,909,000	**$31,759,000**
2016	$56,668,000	$24,909,000	**$31,759,000**
2017	$56,668,000	$24,909,000	**$31,759,000**

Staffing

The legislation creates the Washington Stay-at-Work Program (WSAW) to encourage employers at the time of injury to provide light-duty or transitional work for their employees.

Labor and Industries (L&I) needs the following resources to implement and maintain the new program. Staffing needs are based on the ramp-up requirements of the Oregon program that is being used as a model.

- 1.0 WMS Band 2 Business Manager. This permanent position will begin July 1, 2011, and will direct development activities for the business areas to administer and market this new program. This position will work with technology specialists to establish workflows so supporting technology can be developed. This will be done for several program areas, such as Claims Administration, Early Return-to-Work, and Employer Services, impacting a variety of technology systems. Once the program is created and implemented, this position will be responsible for the day-to-day management.
- 1.0 WMS Band 2 IT Project Manager. This project position will begin July 1, 2011, and end June 30, 2013.

- 1.0 Information Technology Specialist 4. This project position will begin July 1, 2011, and end June 30, 2013.
- 1.0 Information Technology Specialist 4. This permanent position will begin July 1, 2012, and be responsible for on-going maintenance of the system.
- 3.0 Vocational Service Specialists. These permanent positions will begin July 1, 2011, and will be responsible for making presentations to interested customers and L&I staff about the benefits of WSAW and coordinating on consumer outreach efforts.
- 1.0 Financial Analyst 5. This permanent position will begin July 1, 2011, and will be responsible for:
    - Posting cash receipts and processing additional expenditures,
    - Reconciling asset, liabilities, revenues, and expenditure accounts,
    - Preparing quarterly statutory financial statements,
    - Reflecting activities in the Workers' Compensation Program Comprehensive Annual Financial Report, and
    - Presenting the new fund in the statutory annual financial statement.
- 2.0 Financial Incentive Coordinators. These permanent positions will begin July 1, 2011, and will be responsible for reviewing incoming forms requesting wages or other benefits and validate the requester's eligibility to receive them. They will also approve or deny the request, and issue approved wage replacement payments.
- Existing L&I staff will be responsible for assisting contracted information technology vendors and internal technology staff to determine required changes, reviewing existing agency policies, training new staff, and marketing the new program.

Information Technology

L&I estimates the following work will need to be completed in order to update internal systems:

- Update all existing programs that use "fund" information, and create new reports for the new fund.

- Create new receivable types for multiple program codes in the Accounts Receivable and Collections system.
- Develop rate notices by January 1, 2012 and modify online quarterly filing and quarterly reports to include data on the fund and the employer's and employees' contributions.
- Add the ability to track dollars paid/received for reporting and rating purposes.
- Provide the ability to uniquely identify employers and claims that are being reimbursed under WSAW, and authorize and pay for program purchases with the ability to set maximum dollar amounts.
- Provide edits as necessary for worker eligibility.
- Create new legal orders and correspondence.
- Change fund split reports sent to Accounting Services to show the amount going to this program.
- Allow the ability for employers to request reimbursement online via CAC.

Necessary contract tasks, hours, and rates are listed in table 8 below.

Table 8			
Task	**# of Hours**	**Hourly Rate**	**Total**
Modifications to Claims, LINIIS, ORION, CAC, ECS	2,620	$81	$212,220
Modifications to EASE and Quarterly Online Filing mainframe systems	2,720	$81	$220,320
Modifications to EASE and Quarterly Online Filing Web systems	500	$94	$47,000
Modifications to MIPS	1,976	$81	$160,056
Modifications to Retro and Employer Claim Arrival Letter	2,400	$81	$194,400
Modifications to ARC	2,530	$94	$237,820
Class and Firm Rating, RAP, Actuarial Reporting and Data Warehouse extracts	1,660	$81	$134,460
New eTransaction in CAC to allow employers to request reimbursement online	1,782	$94	$167,508
New doctypes for ORION	480	$149	$71,520
TOTAL	**16,668**		**$1,445,304**

This project will also require the time of one existing Information Technology Specialist 5 and one existing Information Technology Specialist 4. Additional costs are necessary for rulemaking; developing new rate notices, legal orders, and letters; postage; focus groups; and reporting on the pilot project.

Total Cost

The total cost for the Washington Stay-at-Work program is shown in table 9.

Table 9 Washington Stay-at-Work Program				
FY12	**FY13**	**BI 11-13**	**BI 13-15**	**BI 15-17**
$2,503,000	$2,136,000	$4,639,000	$2,353,000	$2,147,000

Overall Miscellaneous Costs

The following miscellaneous costs are necessary for overall implementation of the workers' compensation system's reforms:

- 1.0 Permanent EMS Band 3 Program Manager responsible for managing the overall implementation of all new programs.
- Contract dollars for quality assurance of implementation of all new programs and reforms to existing programs for Fiscal Years 2012, 2013, and 2014.

The total miscellaneous costs are shown in table 10.

Table 10 Miscellaneous Costs				
FY12	**FY13**	**BI 11-13**	**BI 13-15**	**BI 15-17**
$443,000	$429,000	$872,000	$608,000	$358,000

Study Provisions

There are studies required for voluntary settlement agreements in 2016, 2021, and 2026. The studies will evaluate the outcomes of workers who have settled their claims and the quality and effectiveness of settlement agreements for the state fund and self-insured employers.

We estimate the cost for each study to be $250,000. This estimate is based on the work performed for the research study of the Vocational Rehabilitation Improvement Program (VIP), which is a similar study.

There is a study required for occupational disease claims that will:

- Examine the frequency and severity of occupational disease claims for state fund and self-insured employers, both currently and with respect to historical trends;
- Review impact of occupational disease claims on long-term disability and pension trends;
- Consider the statutory definition of occupational disease, and interpretation of it by courts, the board, and the department, how it compares to definitions in other states' systems and whether as applied it clearly delineates conditions caused by occupational exposures and those caused by non-occupational exposures;
- Consider the statute of limitation for filing occupational disease claims, and its interpretation by courts, and whether as applied it functions as an appropriate limitation on the filing of state claims;
- Review issues related to the apportionment of occupational diseases between workers and employers; and
- Compare other states and their definitions of occupational disease.

Many of the research elements required are similar to the work done in the Pension Review conducted by Upjohn. The final cost of that contract was $613,000. The scope of occupational disease claims study may not require an extensive claim file review or the model building required for the pension study. We estimate the cost for the study to be $475,000 in Fiscal Year 2012.

There is a study required for the return to work provisions under RCW 51.32.090[2]. This study will evaluate:

- The quality and effectiveness of return-to-work program
- Whether return to work option is being utilized by employers
- Program outcomes

The scope of this study is limited compared to the other studies required. The scope is similar to work performed in one of the Retro proviso studies which had a budget of $236,000. We estimate the cost for this study to be $250,000 in Fiscal Year 2016.

FTE Standard Costs

Permanent and temporary FTE costs include salary and benefits, and the standard costs associated with a new FTE. These standard costs include:

- Leased office space.
- Work unit (desk, file cabinet, etc.) and furniture (if needed).
- Telephone and communication expenses.
- Training.
- Travel.
- Leased PC equipment.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Rulemaking is necessary for the Washington stay-at-work program; rule hearings are assumed in the costs. Minimal rulemaking will be required, mostly procedural, for VSAs.

[2] RCW 51.32.090 covers Temporary total disability, Partial restoration of earning power, Return to available work, When employer continues wages