

Multiple Agency Fiscal Note Summary

Bill Number: 5454 SB	Title: RN PTSD/industrial insurance
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Estimated Cash Receipts

NONE

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Board of Industrial Insurance Appeals	Fiscal note not available											
Department of Labor and Industries	3.1	0	0	736,000	11.0	0	0	2,509,000	16.0	0	0	3,563,000
Department of Labor and Industries	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.											
Total \$	3.1	0	0	736,000	11.0	0	0	2,509,000	16.0	0	0	3,563,000

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Board of Industrial Insurance Appeals	Fiscal note not available								
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Estimated Capital Budget Breakout

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Individual State Agency Fiscal Note

Bill Number: 5454 SB	Title: RN PTSD/industrial insurance	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.4	4.8	3.1	11.0	16.0
Account					
Accident Account-State 608-1	88,000	279,000	367,000	1,248,000	1,771,000
Medical Aid Account-State 609-1	88,000	281,000	369,000	1,261,000	1,792,000
Total \$	176,000	560,000	736,000	2,509,000	3,563,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

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: Susan Jones	Phone: 360-786-7404	Date: 01/24/2023
Agency Preparation: Allison Kaech	Phone: 360-902-4530	Date: 02/09/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/09/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/10/2023

Part II: Narrative Explanation

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

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

See attached

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

See attached

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
608-1	Accident Account	State	88,000	279,000	367,000	1,248,000	1,771,000
609-1	Medical Aid Account	State	88,000	281,000	369,000	1,261,000	1,792,000
Total \$			176,000	560,000	736,000	2,509,000	3,563,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	1.4	4.8	3.1	11.0	16.0
A-Salaries and Wages	95,000	337,000	432,000	1,584,000	2,307,000
B-Employee Benefits	36,000	129,000	165,000	596,000	870,000
C-Professional Service Contracts					
E-Goods and Other Services	24,000	62,000	86,000	248,000	329,000
G-Travel	1,000	2,000	3,000	11,000	17,000
J-Capital Outlays	20,000	30,000	50,000	70,000	40,000
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	176,000	560,000	736,000	2,509,000	3,563,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE 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 2024	FY 2025	2023-25	2025-27	2027-29
Fiscal Analyst 5	71,520	0.1	0.3	0.2	0.7	1.0
Occupational Nurse Consultant	106,884				0.8	1.0
Workers Compensation Adjudicator 3	68,076	0.8	2.5	1.6	5.3	7.5
Workers Compensation Adjudicator 4	71,520		1.0	0.5	2.5	4.5
Workers Compensation Adjudicator 5	77,028	0.5	1.0	0.8	1.8	2.0
Total FTEs		1.4	4.8	3.1	11.0	16.0

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

See attached

Part II: Explanation

This bill amends RCW 51.08.142 relating to industrial insurance coverage for posttraumatic stress disorders (PTSD) affecting registered nurses (RNs), adds a new section to chapter 51.32 RCW and provides an effective date.

This bill would extend presumptive coverage for posttraumatic stress disorder (PTSD) to direct care registered nurses similar to coverage now provided for certain firefighters and law enforcement officers. The presumption may be rebutted by clear and convincing evidence. The cost of appeals, including attorney and witness fees, must be paid to the worker when the final decision allows the claim for benefits.

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

Section 1 amends RCW 51.08.142.

Sub (1) indicates that with the exception in sub (2) and the new sub (3), claims based on mental conditions or mental disabilities caused by stress do not fall within the definition of occupational disease in RCW 51.08.140.

Sub (2)(c) is modified to include the new subsection (3) and indicates that PTSD is not considered an occupational disease if the condition is directly related to disciplinary action, work evaluation, job transfer, layoff, demotion, termination or similar actions taken in good faith by an employer.

Sub (3)(a) A new subsection is created that indicates the rule in subsection (1) shall not apply to occupational disease claims resulting from PTSD for direct care registered nurses as defined in Section 2 of this act.

Sub (3)(b) contains the same limitation about no PTSD claim for disciplinary and similar action at work as is found in (2)(c) and is, therefore, redundant.

Section 2 creates a new section to RCW 51.32:

Sub (1) In the case of direct care registered nurses who are employed on a fully compensated basis, there is a prima facie presumption that PTSD is an occupational disease under RCW 51.08.140.

Sub (2) The presumption may be rebutted by clear and convincing evidence.

Sub (3) The presumption extends to a claimant after termination of employment for a period of three calendar months for each year the claimant was a direct care registered nurse employed on a fully compensated basis, but may not extend more than sixty months following the last date of employment.

Sub (4) (a) and (b) If validity is appealed to the Board of Industrial Insurance Appeals or to any court and the final decision allows the claim for benefits, all reasonable costs of the appeal including attorneys' fees and witness fees will be paid to the claimant or their beneficiary by the opposing party.

Sub (4)(c) When the department must pay reasonable costs of the appeal in a State Fund case, the costs shall be paid from the Accident Fund and charged to the costs of the claim.

Sub (5) "Direct care registered nurse" means an individual licensed as a nurse under chapter 18.79 RCW who provides direct care to patients.

Section 3 This act takes effect January 1, 2024.

II. B – Cash Receipt Impact

Non-Appropriated – State Fund Premiums

As an insurance entity, Labor & Industries (L&I) premium rates are intended to match premiums to claims cost projections. Therefore, for this fiscal analysis it is assumed that any incremental costs or savings will equal the incremental revenue collected.

Non-Appropriated – Premium Impact to Employers

Individual changes to the Accident and Medical Aid fund do not change rate assumptions by themselves. Cost increases are only one of many components in determining rates. The high-level strategy that is used to determine if a rate change is necessary is as follows:

- Review of liabilities, or costs of the Workers' Comp System.
- Investment earnings.
- Adequate revenue (premiums + investments) based on projected costs (actuarial estimates) will determine need for a premium change.

Non-Appropriated – Self-Insured Employers

If an employer chooses to be self-insured, they are responsible to pay for overall claim costs and a portion of administration costs of L&I's Self-Insurance Program and other costs of related support functions. The administrative assessment is an amount per dollar of claim benefit costs. If benefit costs are increased due to the changes in this bill, self-insured employers would be assessed by L&I for their appropriate portion of administrative costs based on the increase. Incremental costs or savings will equal the incremental revenue collected from assessments.

II. C – Expenditures

Non-Appropriated – State Fund Benefits Costs

There is non-appropriated impact only to the Accident Account, fund 608, and Medical Aid Account, fund 609. (Non-appropriated costs are not included in the Fiscal Note Summary.) There will be an increase in costs, however L&I does not have data to accurately predict, therefore the impact is indeterminate.

Presumptive PTSD claims will impact both the State Fund and for those who choose to be self-insured. If an employer chooses to be self-insured, they are responsible to pay for overall claim costs and a portion of administration costs of L&I's Self-Insurance Program and other costs of related support functions. The administrative assessment is an amount per dollar of claim benefit costs. Incremental costs or savings will equal the incremental revenue collected from assessments.

In 2018, legislation extended PTSD coverage to law enforcement officers, firefighters (LEOFF) and emergency medical technicians. Below is the current incurred costs since the legislation passed:

Year	Claim Count	Avg Incurred Costs	Total Incurred Costs
2018	17	388,667	6,607,337
2019	32	509,088	16,290,802
2020	26	575,887	14,973,053
2021	63	345,083	21,740,247
	138	431,967	59,611,439

Although L&I cannot estimate the costs for expanding to nurses, it is assumed that the costs incurred will be lower since there are more opportunities for light duty and/or transferrable skills for nurses.

Appropriated – Operating Costs

This bill increases expenditures to the Accident Account, fund 608 and the Medical Aid Account, fund 609. The following assumptions were used to estimate the resources requested to implement this bill.

Staffing

6.0 FTE, Workers’ Compensation Adjudicator 3s (WCA 3), permanent, one effective October 1, 2023. One WCA 3 will be added each July until FY29. Duties include managing allowed claims for PTSD from direct care registered nurses, paying benefits, reviewing and allowing treatment, coordinating vocational services and resolving protests to L&I decisions.

- In 2018, legislation extended PTSD coverage to law enforcement officers, firefighters (LEOFF) and emergency medical technicians. The volume of new claims received each year continues to grow. The estimated number of new claims filed was 40 per year. In the fourth and fifth year (2021 and 2022) of the new law, the number of new claims filed was 1.5 times the original estimate at 88 and 82 new claims filed, respectively. In addition, the duration of these claims have an ongoing workload impact.
- LEOFF claims:
 - 267 total claims received

- 196 claims allowed (73%)
- 155 claims (79%) remain open at this time (4.5 years post implementation)
- The anticipated workload for direct care RN presumptive PTSD claims is based on the actuarial mid-range estimate and comparison of LEOFF presumptive PTSD claims.
- Anticipated RN PTSD claims:
 - 184 new claims annually (based on actuarial analysis above)
 - 156 allowed claims annually (85%) since the bar for rebuttal is higher, L&I assumes a higher proportion of allowable claims
 - 872 open claims after 6 years (184 new claims annually x 6 years x 79% claims remaining open = 872 open claims)
- Presently, two WCA 3s handle all presumptive PTSD claims with a caseload of 130-150 claims (140 average caseload)
- 872 open claims / 140 caseload per WCA = 6.2 FTEs

2.0 FTE, Workers' Compensation Adjudicator 5 – Pension Adjudicator – State Fund, permanent, effective January 1, 2024 and January 1, 2026. Duties include adjudicating the validity of new presumptive claims for PTSD from RNs and requests for permanent total disability resulting from these claims and adjudicating disputes to allowance and pension decisions.

- There have been 42 State Fund presumptive claims for first responders that were allowed and have been closed since the legislation became effective.
- Of those 42 closed claims, 15 claims closed with permanent total disability (PTD) benefits or 36% (15 PTD / 42 closed claims = 36% claims with PTD).
- In 2022, the current team of 10 Pension Adjudicators completed 805 pension reviews (for all claims) along with 82 LEOFF PTSD claim validity reviews, for a total of 887 reviews, an average of 89 reviews per adjudicator per year (887 reviews / 10 adjudicators = 88.7 reviews per adjudicator).
- Based on the expected numbers of new PTSD claims, we should see an additional 185 validity decisions needed per year.
- L&I expects that of the 156 claims that are allowed annually, 21% of them will close or 33 claims.

- Of the 33 claims that close, L&I expects a pension review will be needed for 36% of them, or 12 claims (33 closed claims X 36% with PTD = 11.88 claims for pension review).
- Total reviews: 185 validity reviews + 12 pension reviews = 197
- 197 reviews / 89 per adjudicator = 2.2 additional FTEs needed

5.0 FTE, Workers' Compensation Adjudicator 4s – Self Insurance, permanent, one FTE annually effective July 1, 2024 through July 1, 2028. Duties include adjudicating the validity of new presumptive claims for PTSD from registered nurses, adjudicate requests for permanent total disability resulting from these claims. Responsible for reviewing, adjudicating, and ensuring the quality and consistent management of occupational disease PTSD claims from direct care RNs, ensuring benefits are paid correctly, reviewing and resolving disputes and protests to decisions from self-insurers and L&I. Communicate with workers, employers, physicians and their lay or legal representatives concerning individual cases and appropriate application of the Industrial Insurance Act, pertinent rules and policies. Compose correspondence, medical examination and investigation assignments, legal orders and other reports.

- Self-Insurance is expected to receive 70 percent of the new presumption claims under this bill, since 70 percent of the RNs are currently working for self-insured employers.
- In 2018, legislation extended PTSD coverage to law enforcement officers, firefighters (LEOFF) and emergency medical technicians. FTE estimates are based in part on experience with LEOFF claims. In addition, the duration of these claims have an ongoing workload impact.
- LEOFF claims:
 - 153 total claims received, with 113 claims allowed, a 74% allowance rate.
 - Of the total claims received, 108 claims or 71% remain open at this time (4.5 years post implementation)
- The anticipated workload for direct care RN presumptive PTSD claims is based on the actuarial mid-range estimate for state fund, adjusted to 70 percent, and comparison of LEOFF presumptive PTSD claims.
- L&I assumes the following:

- 430 new PTSD claims will be filed annually, with 365 claims allowed, an 85% allowance rate (L&I assumes a higher proportion of allowable claims (85% for RNs vs 74% for LEOFFs, since the bar for rebuttal is higher)
- Assuming 71% of PTSD claims will remain open after 6 years (similar to LEOFF claims), there would be 1,555 open claims (365 allowed claims x 6 years x 71% claims remaining open = 1,555 open claims)
- WCA caseload of 260-300 (280 average)
- $1,555 \text{ open claims} / 280 \text{ claims per WCA} = 5.5 \text{ FTEs}$ (minus capacity of the existing dedicated FTE) = 5 WCA FTEs

2.0 FTE, Workers' Compensation Adjudicator 3 – Pension Benefit Specialist (PBS), permanent, effective July 1, 2025 and July 1, 2026. Duties include processing initial benefits, processing option changes, social security offset, dependent adjustment due to kids in school and out of school. PBSs perform this work for both state fund and self-insured pension claims.

- State Fund

- 155 claims per year from which 21% will close each year (155 claims X 21% = 33 closed claims)
- 36% of the closed claims will be referred for pension (33 closed claims X 36% = 12 pension claims)
- Year 1 = 12 claims
- Year 2 = 24 claims (12 from Year 2 and an additional 12 from Year 1 closing)
- Year 3 = 36 claims (12 claims each from Years 1-3)
- Year 4 = 48 claims (12 claims each from years 1-4)
- Year 5 = 60 claims (12 claims each from years 1-5 with the pattern now leveling off as all claims from Year 1 are closed)

- Self-Insurance

- 430 claims per year from which 21% will close each year (430 claims X 21% = 90 closed claims)
- 36% of the closed claims will be referred for pension (90 closed claims X 36% = 33 claims)
- Year 1 = 33 claims
- Year 2 = 66 claims (33 from Year 2 and an additional 33 from Year 1 closing)
- Year 3 = 99 claims (33 claims each from Years 1-3)
- Year 4 = 132 claims (33 claims each from years 1-4)

- Year 5 = 165 claims (33 claims each from years 1-5 with the pattern now leveling off as all claims from Year 1 are closed)
- Total State Fund and Self Insurance
 - Year 1 = 45 claims (2024)
 - Year 2 = 90 claims
 - Year 3 = 135 claims
 - Year 4 = 180 claims
 - Year 5 = 225 claims (2028)
- A PBS handles about 10 new pensions per month or 120 per year.
 - With 90 new pensions expected annually in 2025 (year 2) and 225 new pensions expected annually by 2028 (year 5), two additional PBS FTEs are needed with one starting January 1, 2025 and another to start January 1, 2027, which allows for six months of training.

1.0 FTE, Occupation Nurse Consultant (ONC) –permanent, effective January 1, 2026. Duties include providing medical consultation for claim staff, reviewing coverage guidelines and medical documentation for Diagnostic & Statistical Manual of Mental Disorders PTSD criteria to ensure the validity of new presumptive claims for PTSD from RNs.

- With the increases in new claims for review at 185 per year and work items associated with the growing body of open PTSD claims managed by claim managers, the anticipated number of work items will likely grow over time to about 1,800 additional items per year.
- Typically, one ONC can manage a workload of about 1,800-2,600 (average of 2,200 items) work items per year. This includes not only ORION referrals but phone calls, claim staffing's, evidence based research, durable medical equipment authorization reviews, home health authorizations, and consulting with internal staff such as the health policy update group, utilization review, and external parties such as providers and nurse case managers.
- Based this new workload, L&I would need one additional ONC FTE (1,800 additional work items per year / 2,200 average work items per ONC = 0.89 FTE)

Rulemaking

Any rulemaking costs created under this bill will be done within existing resources.

Indirect Costs

The amount included in this fiscal note for indirect is:

Fund Name		FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
608	Accident	4,000	14,000	30,000	41,000	47,000	54,000
609	Medical Aid	4,000	14,000	30,000	41,000	47,000	54,000
	Total:	\$8,000	\$28,000	\$60,000	\$82,000	\$94,000	\$108,000

The department assesses an indirect rate to cover agency-wide administrative costs. Labor and Industries’ indirect rate is applied on salaries, benefits, and standard costs. For fiscal note purposes, the total indirect amount is converted into salary and benefits for partial or full indirect FTEs. Salary and benefits costs are based on a Fiscal Analyst 5 (Range 59, Step G).

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

This legislation would result in rule changes to:

- WAC 296-14-300 Mental condition/mental disabilities