Multiple Agency Fiscal Note Summary

Bill Number: 5454 SB	**Title:** RN PTSD/industrial insurance

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	.3	0	0	96,705	.4	0	0	128,940	7.4	0	0	128,940
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.											
Actuarial Fiscal Note - State Actuary	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Total $	**3.4**	**0**	**0**	**832,705**	**11.4**	**0**	**0**	**2,637,940**	**23.4**	**0**	**0**	**3,691,940**

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	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Actuarial Fiscal Note - State Actuary	.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

Prepared by: Anna Minor, OFM	Phone: (360) 790-2951	Date Published: Revised 2/18/2023

Individual State Agency Fiscal Note

Revised

Bill Number: 5454 SB	Title: RN PTSD/industrial insurance	Agency: 190-Board of Industrial Insurance Appeals

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	0.2	0.4	0.3	0.4	7.4
Account					
Accident Account-State 608-1	16,118	32,235	48,353	64,470	64,470
Medical Aid Account-State 609-1	16,117	32,235	48,352	64,470	64,470
Total $	32,235	64,470	96,705	128,940	128,940

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:	William Chase	Phone: 360-753-2790	Date: 02/14/2023
Agency Approval:	Bob Liston	Phone: 360-753-6823	Date: 02/14/2023
OFM Review:	Anna Minor	Phone: (360) 790-2951	Date: 02/14/2023

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.

Section 2 of this proposed legislation creates a prima facie presumption that posttraumatic stress disorder is an occupational disease, for direct care registered nurses covered under workers' compensation who are employed on a fully compensated basis. The presumption may be rebutted by clear and convincing evidence.

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.

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.

Our expenditure estimates are based on workload estimates from the Department of Labor and Industries (L&I).

State Fund and Self Insured Claims

L&I projects 184 State Fund claims per year as a result of this bill. The BIIA estimates 12 percent (22) will result in appeals. L&I also projects 430 Self Insured claims per year as a result of this bill. The BIIA estimates 7 percent (30) will result in appeals for a combined total of 52 appeals annually. Based on these estimates and assumptions, the BIIA estimates the cost for this proposed bill to be approximately $32,235 in FY24 and $64,470 each year after.

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	16,118	32,235	48,353	64,470	64,470
609-1	Medical Aid Account	State	16,117	32,235	48,352	64,470	64,470
		Total $	32,235	64,470	96,705	128,940	128,940

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.2	0.4	0.3	0.4	7.4
A-Salaries and Wages	19,534	39,067	58,601	78,134	78,134
B-Employee Benefits	6,428	12,856	19,284	25,712	25,712
C-Professional Service Contracts					
E-Goods and Other Services	5,644	11,288	16,932	22,576	22,576
G-Travel	629	1,259	1,888	2,518	2,518
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total $	32,235	64,470	96,705	128,940	128,940

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
Assistant Chief Judge	10,149	0.0	0.0	0.0	0.0	0.0
Industrial Insurance Appeals Judge 3 (IAJ3)	8,846	0.1	0.1	0.1	0.1	0.1
Industrial Insurance Appeals Judge 4 (IAJ4)	9,530	0.1	0.1	0.1	0.1	0.1
Legal Assistant 3	4,656	0.1	0.1	0.1	0.1	7.1
Total FTEs		0.2	0.4	0.3	0.4	7.4

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

Part V: New Rule Making Required

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

Individual State Agency Fiscal Note

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

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 in Indeterminate.

Presumptive PTSD claims will impact both the State Fund and for those 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 open claims / 280 claims per WCA = 5.5 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 12 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

Individual State Agency Fiscal Note

Bill Number: 5454 SB	Title: RN PTSD/industrial insurance	Agency: AFN-Actuarial Fiscal Note - State Actuary

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

Non-zero but indeterminate cost 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:	Melinda Aslakson	Phone: 360-786-6161	Date: 02/17/2023
Agency Approval:	Michael Harbour	Phone: 360-786-6151	Date: 02/17/2023
OFM Review:	Marcus Ehrlander	Phone: (360) 489-4327	Date: 02/18/2023

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.

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.

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.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

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

Part V: New Rule Making Required

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

SUMMARY OF RESULTS

BRIEF SUMMARY OF BILL: Creates rebuttable presumption that Post-Traumatic Stress Disorder (PTSD) is an occupational disease for Registered Nurses (RNs).

COST SUMMARY

- ❖ This bill has an **indeterminate** cost to PERS and PSERS due to a lack of data to set assumptions for the following:
  - ▪ The expected impact of the PTSD presumption on duty-related death and catastrophic disability benefits for RNs, and the number of RNs in each of these retirement systems.
  - ▪ The expected impact of the presumption window, which begins up to 60 months prior to the effective date of the bill. This provision includes the pandemic and may lead to significant additional costs.
- ❖ There is no expected cost to TRS and SERS under this bill due to the assumed limited number of RNs in those retirement systems.

HIGHLIGHTS OF ACTUARIAL ANALYSIS

- ❖ This bill provides RNs, in all retirement systems, expanded eligibility to duty-related death benefits. RNs in PSERS may also receive enhanced disability benefits if experiencing a catastrophic disability covered by the PTSD presumption; catastrophic disability benefits are not available in PERS, TRS, and SERS.
- ❖ Applicable data was not available to set a best estimate assumption for the costs of this bill. Instead, we provide example impacts that rely on our current PTSD assumptions for LEOFF 2.
  - ▪ For this illustration, we estimate PSERS contribution rates would increase by 0.01 percent (1 basis point) to fund the cost of future incidences of PTSD. We caution that this example does not include the potential impact of past incidences of PTSD during the 60-month window, which could materially increase the cost of the bill.
  - ▪ RNs in PERS make up a smaller portion of the plan membership relative to PSERS, and PERS members are not eligible for catastrophic disability benefits. As a result, we anticipate PERS contributions rate impact would be lower.
  - ▪ The illustration in this AFN can vary under a different set of assumptions. For example, if a larger/smaller portion of the PSERS population work as RNs or they incur PTSD at a higher/lower rate than LEOFF 2 members, then the cost of this bill would increase/decrease. The costs could also vary as a result of differing criteria in the bill used to assess PTSD claims for RNs.
- ❖ We may submit a revised AFN if we receive additional data on the impact of the PTSD presumption and the number of RNs by retirement plan.

See the remainder of this fiscal note for additional details on the summary and highlights presented here.

WHAT IS THE PROPOSED CHANGE?

Summary of Bill

This bill impacts the following systems:

- ❖ Public Employees’ Retirement System (PERS).
- ❖ Teachers’ Retirement System (TRS).
- ❖ School Employees’ Retirement System (SERS).
- ❖ Public Safety Employees’ Retirement System (PSERS).

This bill creates a rebuttable presumption for the purpose of workers compensation benefits that PTSD is an occupational disease for RNs. The presumption extends for up to 60 months following the last day of employment. However, the presumption does not apply if the disorder is directly attributed to disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by an employer. The presumption may be rebutted by clear and convincing evidence.

Effective Date: January 1, 2024.

In this summary, we only include changes pertinent to our Actuarial Fiscal Note (AFN). See the legislative bill report for a complete summary of the bill.

What Is the Current Situation?

Pension benefits are administered by the Department of Retirement Systems (DRS), and workers compensation benefits are administered by the Department of Labor and Industries (L&I). RNs who work for a public employer will typically be covered by and could receive benefits from both DRS and L&I.

RNs may be employed by a PERS employer such as a state or local health department, a TRS or SERS employer such as a school district, or a PSERS employer such as a correctional facility or state institution. PERS, TRS, SERS, and PSERS provide death and disability benefits as follows.

- ❖ Death Benefits:
  - ▪ Survivors of members experiencing a non-duty death receive an actuarially reduced retirement benefit.
  - ▪ Survivors of members experiencing a duty-related death are provided a $150,000 lump-sum payment and an unreduced retirement benefit.
- ❖ Disability Benefits:
  - ▪ Members experiencing a disability receive an actuarially reduced retirement benefit.
  - ▪ Catastrophic Disability: PSERS provides a larger disability benefit (relative to PERS, TRS, and SERS) for a duty-related disability that is considered permanent. A PSERS member who

is totally disabled in the line of duty is entitled to receive a retirement allowance equal to 70 percent of the member's final average salary, subject to certain offsets and caps.

DRS may rely on a L&I determination that a death or disability is duty-related in establishing eligibility for certain death or disability benefits from the pension systems. A statutory presumption that a condition is an occupational disease makes it more likely that a resulting death or disability would be considered duty-related for purposes of both workers compensation and retirement system death and disability benefits.

Currently, PTSD is not presumed an occupational disease for RNs.

Who Is Impacted and How?

We expect this bill could improve retirement benefits for any RNs from all DRS retirement systems that are currently active or that separated in the last 60 months. Specifically, the bill provides greater access to death and disability benefits for RNs experiencing work-related PTSD.

It is our understanding that RNs are primarily covered by employers in PERS and PSERS. We expect a small number of RNs are members of TRS and SERS, and therefore anticipate there will be no material cost impacts for these two retirement systems.

Death Benefits

- Survivors of RNs that experience a death caused by duty-related PTSD will receive a lump-sum of $150,000 in addition to the unreduced survivor pension benefit.

Disability Benefits

- RNs in PERS, TRS, and SERS experiencing disabilities related to PTSD may receive a disability benefit. However, the disability benefit is an actuarially reduced retirement and does not change due to PTSD.
  - Similarly, PSERS members experiencing non-catastrophic disabilities also receive an actuarially reduced benefit.
- RNs in PSERS experiencing a catastrophic disability related to PTSD will receive an enhanced benefit. The example below compares the annual disability benefit to the expected catastrophic disability benefit for a PSERS RN aged 40, with 10 Years Of Service (YOS), and an average final salary of $64,000.
  - Disability Benefit: 2% x 10 YOS x $64,000 x 0.195 (Early Retirement Factor) = $2,500

- Catastrophic Benefit: $64,000 x 0.40 (Assumed Minimum Benefit[1]) = $25,600

The bill also provides the PTSD presumption up to 60 months after separating from employment. As such, RNs separated from active employment may claim duty-related benefits for PTSD from prior to the effective date of the bill.

This bill could impact all members and employers of the retirement systems that cover RNs through increased contribution rates.

HOW THIS BILL IMPACTS RETIREMENT SYSTEM COSTS

Why This Bill Has an Indeterminate Cost

This bill adds PTSD to the list of occupational diseases for RNs, which expands eligibility for death and disability benefits from the retirement systems. Providing additional duty-related death benefits for all plans and catastrophic disability benefits in PSERS for RNs will increase contribution rates.

- We do not expect this bill will increase the total number of annual deaths but do expect a shift in the death benefits paid from non-duty to duty related as a result of this PTSD presumption.
- Additionally, we expect this bill will increase the total number of annual disabilities (and more notably, catastrophic disabilities in PSERS) since this bill expands the coverage of occupational diseases to include PTSD as a new presumption.

We are unable to determine a best estimate cost for this bill because limited data is available to set assumptions on (1) the number of RNs in each retirement system, and (2) the increased number of duty-related deaths and catastrophic disabilities. We reviewed the L&I fiscal note and determined their assumptions could not be applied for our purposes of measuring the impact of this bill on the state retirement systems. The L&I assumptions were developed for all RNs in Washington State (i.e., public and private sector), and include short duration claims which are not applicable to our pricing exercise.

Furthermore, we were not able to quantify the impact of PTSD incidences that occurred prior to the effective date of this bill. This bill creates up to a five-year window that will allow members to apply for PTSD benefits under this new presumption. We do not know the extent of PTSD incidences that may result in an enhanced pension benefit for RNs. This period of time includes the height of the pandemic and may result in significantly more PTSD claims than we might anticipate on an ongoing basis in the future.

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[1] *Members receive 70 percent of their final average salary catastrophic disability, reduced by benefits from L&I and Social Security. We assume the net benefit is 40 percent after reductions; please see our actuarial fiscal note on [House Bill (HB) 1669](#) from the 2022 Legislative Session for details.*

We may submit a revised AFN (potentially including best estimate costs) if additional data becomes available.

Who Will Pay for These Indeterminate Costs?

The costs that result from this bill will be divided between members and employers according to standard funding methods that vary by plan:

- Plan 2: 50 percent member and 50 percent employer.
- Plan 3: 100 percent employer.

Since the cost of this bill is indeterminate, no supplemental contribution rate will be charged. The actual costs that emerge will be incorporated into subsequent actuarial valuations and could increase future contribution rates. We will continue to monitor actual PTSD experience for RNs and develop/update our assumptions accordingly.

HYPOTHETICAL EXAMPLE OF COSTS UNDER THIS BILL

For illustrative purposes only, we estimated the contribution rate impact to PSERS by relying on our PTSD assumptions in the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 2. These assumptions were developed for SSB 6214 in the 2018 Legislative Session.

Please note that RNs and LEOFF members are distinctly different populations with different retirement plan provisions, so actual experience may differ. Further, actual administration of the PTSD benefits may differ between RNs and LEOFF 2 members based on the bill language.

To perform this analysis, we applied the following assumptions:

- Assumed Proportion of PSERS Employed as RNs:
  - Substitute House Bill 1558 from the 2018 Legislative Session expanded PSERS membership to include eligible security staff and nurses employed by certain state institutions and local corrections departments. At that time, approximately 4,000 members were eligible to join PSERS adding to the current active membership of 5,200.
  - We do not have data on the proportion of those 4,000 members that were RNs. For purposes of this illustration, we assumed 25 percent of the total PSERS population are RNs; the actual proportion could be higher or lower.
- LEOFF 2 Duty-Related Death assumption:
  - As part of SSB 6214, we applied a 0.013 percent increase to our LEOFF 2 duty-related death rate for PTSD. This corresponded to roughly two additional duty-related deaths per year.
  - For purposes of this illustration, we applied this same duty-related death rate in PSERS but reduced it for the assumed

proportion of members employed as RNs, resulting in about 0.3 additional duty-related deaths per year.

  - To estimate the cost for this illustration, we correspondingly increased the current law PSERS duty-related death liabilities from our valuation and calculated the contribution rate change. Note that the underlying duty-related death rate in PSERS is 0.0015 percent.

- LEOFF 2 Catastrophic Disability assumption:
  - HB 1669 from the 2022 Legislative Session added catastrophic disability benefits to PSERS. The assumptions we selected for that pricing resulted in approximately three catastrophic disabilities per year with a contribution rate impact of 0.10 percent.
  - As part of SSB 6214, we anticipated roughly 0.5 additional catastrophic disabilities per year in LEOFF 2. For purposes of this illustration, we reduced that figure by (1) the ratio of the active counts in PSERS to LEOFF 2, and (2) the assumed proportion of members employed as RNs, resulting in an estimated 0.1 additional catastrophic disabilities per year in PSERS.
  - To estimate the PSERS contribution rate impact for this illustration, we multiplied the contribution impact we observed in HB 1669 by the ratio of these catastrophic disability counts.

Based on these assumptions and methods, we estimate the member and employer PSERS contribution rates would increase by 0.01 percent (for both the duty-related death and catastrophic disability benefits combined). Based on these assumptions, a majority of the cost is attributable to the duty-death benefits. While catastrophic disability benefits are larger than a member may otherwise receive, the shift to more expected disabilities under this bill is partially offset by fewer standard retirements.

This hypothetical example is sensitive to the proportion of RNs, as well as the PTSD duty-related death and catastrophic disability assumptions. For example, doubling the proportion of RNs on its own would result in roughly a 0.02 percent increase in PSERS contribution rates. Similarly, doubling PTSD duty-related death and catastrophic disability assumptions (without a change to the proportion of RNs) would do the same. Please note that this illustration does not capture any potential impact from PTSD that occurred during the height of the pandemic, which could materially increase the cost of this bill.

We did not provide example impacts for PERS because we expect RNs are a small portion of the overall membership. Additionally, PERS does not offer catastrophic disability benefits. Therefore, we anticipate PERS contribution rate impacts will be lower PSERS.

Otherwise, we relied on data, assumptions, and methods consistent with our most recent *June 30, 2021, Actuarial Valuation Report*.

Comments on Risk

Our office performs annual risk assessments to help us demonstrate and assess the effect of unexpected experience on pension plans. The risk assessment allows us to measure how affordability and funded status can change if investment experience, expected state revenue growth, and inflation do not match our long-term assumptions. Our annual risk assessment also considers past practices, for funding and benefit enhancements, and their impact on pension plan risk if those practices continue.

The following table displays our latest risk measurements as of June 30, 2021. The figures in this table were not reproduced for this bill. For more information, please see our Risk Assessment, Commentary on Risk, and Glossary webpages.

Select Measures of Pension Risk *(As of 6/30/2021)*		
	FY 2022-41	**FY 2042-71**
Affordability Measures		
Chance of Pensions Double their Current Share of GF-S*	1%	2%
Chance of Pensions Half their Current Share of GF-S*	44%	42%
Solvency Measures		
Chance of PERS 1, TRS 1, in Pay-Go**	<1%	2%
Chance of Open Plan in Pay-Go**	<1%	1%
Chance of PERS 1, TRS 1, Total Funded Status Below 60%	5%	1%
Chance of Open Plans Total Funded Status Below 60%	20%	31%

**Pensions approximately 4.9% of current GF-S budget; does not include higher education.*
***When today's value of annual pay-go cost exceeds $50 million.*

In terms of risk, we anticipate this bill would worsen the affordability and solvency risk measures because it expands eligibility for duty-related death and catastrophic disability benefits. However, we expect the impact to the risk measures across all retirement systems may be limited.

ACTUARY’S CERTIFICATION

The undersigned certifies that:

1. The actuarial assumptions, methods, and data used are reasonable for the purposes of this pricing exercise. The use of another set of assumptions, methods, and data may also be reasonable and might produce different results.
2. The risk analysis summarized in this AFN involves the interpretation of many factors and the application of professional judgment.
3. We prepared this AFN based on our current understanding of the bill as of the date shown in the footer. If the bill or our understanding of the bill changes, the results of a future AFN based on those changes may vary from this AFN. Additionally, the results of this AFN may change after our next annual update of the underlying actuarial measurements.
4. We prepared this AFN and provided opinions in accordance with Washington State law and accepted Actuarial Standards of Practice as of the date shown in the footer of this AFN.

We prepared this AFN to support legislative deliberations during the 2023 Legislative Session. This AFN may not be appropriate for other purposes.

We advise readers of this AFN to seek professional guidance as to its content and interpretation, and not to rely on this communication without such guidance. Please read the analysis shown in this AFN as a whole. Distribution of, or reliance on, only parts of this AFN could result in its misuse and may mislead others.

The undersigned, with actuarial credentials, meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

While this AFN is meant to be complete, the undersigned is available to provide extra advice and explanations as needed.

Michael Harbour

Michael T. Harbour, ASA, MAAA
Actuary

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