

Individual State Agency Fiscal Note

Bill Number: 2127 HB	Title: Incentives to return to work	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:

NONE

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.

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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

NONE

III. B - Expenditures by Object Or Purpose

NONE

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.

See attached.

Part II: Explanation

This proposal would expand incentives to return a workers' compensation injured or ill worker to work, consistent with their medical restrictions. It enhances several types of existing incentives and adds options for:

- Stay at Work Program ~ Increasing what an employer may receive in reimbursement for creating a light-duty job to a maximum of half the wages paid to a worker for up to 120 workdays and capped at \$25,000. These are increased from the current 66 workdays and a cap of \$10,000. In addition, the employer may also be eligible for up to \$2,000 reimbursement for training (increased from \$1,000), \$1,000 for clothing (increased from \$400), and \$5,000 for equipment (increased from \$2,500) to perform the modified job.
- Preferred Worker Program ~ Increasing employer incentives consistent with the Stay at Work Program for a maximum of half the wages paid to a worker for up to 120 workdays and capped at \$25,000. These are increased from the current 66 workdays and a cap of \$10,000. The employer may also be eligible for up to \$1,000 for clothing (increased from \$400) and \$5,000 for equipment (increased from \$2,500) to perform the modified job. In addition, the continuous employment incentive benefit of \$25,000 is increased from \$10,000.
- Vocational Rehabilitation Benefits ~ Allowing the Department of Labor & Industries (L&I) to provide funds during vocational recovery and assessment so that workers can participate in approved basic skills training (such as English language training, computer literacy, and completion of a GED) to improve labor market readiness and to enable workers to benefit from other return-to-work services.
- Job Modification/Pre-Job Accommodation ~ Increasing the amount available to both of these benefits. These cover costs when a job is modified to allow an injured worker with work-related medical restrictions to return to work or to participate in retraining. The current amount is capped at \$5,000 for each. This would increase the cap to \$10,000 for each.

This proposal would take effect January 1, 2025.

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

Section 1 amends RCW 51.32.090.

- Subsection 4(c) is updated to increase the maximum number of workdays reimbursable through the stay at work incentive from 66 to 120 workdays within a consecutive 24-month period. Subsection 4(c) is also updated to increase the maximum amount of stay at work wage subsidies paid to an employer for a claim from \$10,000 to \$25,000.
- Subsection 4(d) is updated to increase the amount available as reimbursement to employer for tuition, books, fees, and materials required for training or instruction from \$1,000 to \$2,000.
- Subsection 4(e) is updated to increase the amount available as reimbursement to an employer for clothing from \$400 to \$1,000.
- Subsection 4(f) is updated to increase the amount available as reimbursement to an employer for tools or equipment to perform the offered work from \$2,500 to \$5,000.
- Subsection 6 adds funding through the Stay at Work Program for costs authorized under RCW 51.32.095(2) for basic skills training.

Section 2 amends RCW 51.32.095.

- New subsection 2 is created giving L&I the ability to pay for basic skills training prior to a worker being found eligible for formal training benefits.
- Subsection 5(f) is updated to increase the one-time payment to the employer for continuous employment from \$10,000 to \$25,000.
- Subsection 5(h) is updated to remove the requirement that the worker's health care provider confirms that the job is consistent with the workers' restrictions. It clarifies that a department-employed vocational rehabilitation professional has determined the work is reasonably consistent with the worker's restrictions.
- Subsection 7 is updated to increase pre-job accommodation benefits from \$5,000 to \$10,000.

Section 3 amends RCW 51.32.096.

- New subsection 2 is created allowing L&I to authorize payment for workers choosing to take basic skills development training prior to being found eligible for plan development.

Section 4 amends RCW 51.32.250.

- Updated to increase job modification benefits for eligible workers from \$5,000 to \$10,000.

Section 5 provides an effective date of January 1, 2025.

II. B – Cash Receipt Impact

Non-Appropriated – State Fund Premiums

As an insurance entity, 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 change 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.) The following assumptions were used to calculate the estimates.

Increasing the Current Caps on Stay at Work (SAW) Reimbursements

The amounts below estimate the impact of replacing the current 66-day cap with a 120-day cap and replacing the current \$10,000 reimbursement cap with a \$25,000 cap.

We estimate that increasing the current caps on SAW reimbursements would increase average SAW duration by 2.1 days and average SAW reimbursements by 5.6%, assuming no other changes in participant behavior. However, some of these additional reimbursements would replace time-loss payments, offsetting some of the costs. We estimate that the savings in time-loss benefits would be equivalent to a 2.7% reduction in SAW benefits, based on the proportion of SAW claims with paid time-loss benefits. So the net impact would be an increase of 2.9% (=5.6% - 2.7%). The annual costs of the SAW benefits at 2025 cost levels are anticipated to be \$18,050,000, so a 2.9% increase is equivalent to an annual increase of \$520,000 (=2.9% x \$18,050,000) in SAW costs. The liability for unpaid SAW benefits as of 9/30/23 is approximately \$17,000,000, so a 2.9% increase is equivalent to an increase of \$490,000 (=2.9% x \$17,000,000) in the liability for unpaid SAW benefits.

We expect that increasing or removing the caps will encourage changes in behavior that increase the number of SAW participants and the average duration of SAW participation, so we consider two additional scenarios below:

Scenario 1: Average SAW duration increases by an additional 2.1 days, and overall SAW participation increases by 5%.

- Increasing the caps and increasing the average duration of SAW by an additional 2.1 days would increase average SAW reimbursements by 11.7%. We estimate

that the corresponding savings in time-loss benefits would be equivalent to a 4.8% reduction in SAW benefits, for a net impact of **6.9%** (=11.7% - 4.8%).

- A 5% increase in SAW participation would increase SAW reimbursements by 5%. We assume the additional reimbursements would replace time-loss payments on
 - 25% of the non-compensable and kept on salary (KOS) claims, and
 - 100% of the non-KOS compensable claims.

So the reduction in time-loss benefits would reduce costs by the equivalent of 3.8% of SAW reimbursements, for a net impact of **1.2%** (=5.0% - 3.8%).

The combined net impact is **8.2%** (= [100% + 6.9%] x [100% + 1.2%] - 100%) which would be equivalent to an annual increase of **\$1,480,000** (=8.2% x \$18,050,000) in SAW costs, and an increase of **\$1,390,000** (=8.2% x \$17,000,000) in the liability for unpaid SAW benefits.

Scenario 2: Average SAW duration increases by an additional 4.2 days, and overall SAW participation increases by 10%.

- Increasing the caps and increasing the average duration of SAW by an additional 4.2 days would increase average SAW reimbursements by 18.1%. We estimate that the corresponding savings in time-loss benefits would be equivalent to a 6.8% reduction in SAW benefits, for a net impact of **11.3%** (=18.1% - 6.8%).
- A 10% increase in SAW participation would increase SAW reimbursements by 10%. We assume the additional reimbursements would replace time-loss payments on
 - 25% of the non-compensable and kept on salary (KOS) claims, and
 - 100% of the non-KOS compensable claims.

So the reduction in time-loss benefits would reduce costs by the equivalent of 7.7% of SAW reimbursements, for a net impact of **2.3%** (=10.0% - 7.7%).

The combined net impact is **13.8%** (= [100% + 11.3%] x [100% + 2.3%] - 100%) which would be equivalent to an annual increase of **\$2,490,000** (=13.8% x \$18,050,000) in

SAW costs, and an increase of **\$2,350,000** (=13.8% x \$17,000,000) in the liability for unpaid SAW benefits.

The estimates above only consider the offsetting reduction in time-loss costs during participation in Stay at Work. To the extent that these changes to the Stay at Work Program further reduce long-term disability, there could be additional savings.

Increase in SAW wage cap

Anticipated 2025 Annual SAW claim cost	18,050,000	(1)
Liability for Unpaid SAW benefits at 6/30/23	17,000,000	(2)

Scenario 1:

(New Caps but no change in participant behavior)

Additional Stay at Work reimbursements	5.6%	(3) based on Study
Reduced timeloss benefits during participation	<u>-2.7%</u>	(4) Based on proportion of SAW claims with paid timeloss
Net % impact on annual claim costs	2.9%	(5) = (3) + (4)
Net \$ impact on annual claim costs	520,000	(6) = (1) x (5)
Net impact on liabilities for unpaid SAW costs	490,000	(7) = (2) x (5)

Scenario 2:

(New Caps, 2.1 day additional increase in average duration, and 5% increase in participation)

Increased Caps and duration:

Additional Stay at Work reimbursements	11.7%	(8) based on Study
Reduced timeloss benefits during participation	<u>-4.8%</u>	(9) Based on proportion of SAW claims with paid timeloss
Net % impact on annual claim costs	6.9%	(10) = (10) + (11)

Increased Participation

Additional Stay at Work reimbursements	5.0%	(11) Assumption
Reduced timeloss benefits during participation	<u>-3.8%</u>	(12) Assumes the additional SAW reimbursements replace timeloss on 100% of the compensable non-KOS SAW claims and 25% of the other SAW claims
Net % impact on annual claim costs	1.2%	(13) = (11) + (12)

Combined % impact	8.2%	(14) = [1+(11)] x [1 + (13)] - 1
Net \$ impact on annual claim costs	1,480,000	(15) = (1) x (14)
Net impact on liabilities for unpaid SAW costs	1,390,000	(16) = (2) x (14)

Scenario 3:

(New Caps, 10% increase in participation, 4.2 day additional increase in average duration)

Increased Caps and duration:

Additional Stay at Work reimbursements	18.1%	(17) based on Study
Reduced timeloss benefits during participation	<u>-6.8%</u>	(18) Based on proportion of SAW claims with paid timeloss
Net % impact on annual claim costs	11.3%	(19) = (17) + (18)

Increased Participation

Additional Stay at Work reimbursements	10.0%	(20) Assumption
Reduced timeloss benefits during participation	<u>-7.7%</u>	(21) Assumes the additional SAW reimbursements replace timeloss on 100% of the compensable non-KOS SAW claims and 25% of the other SAW claims
Net % impact on annual claim costs	2.3%	(22) = (20) + (21)

Combined % impact	13.8%	(23) = [1+(19)] x [1 + (22)] - 1
Net \$ impact on annual claim costs	2,490,000	(24) = (1) x (23)
Net impact on liabilities for unpaid SAW costs	2,350,000	(25) = (2) x (23)

Increasing the Caps for Stay-at-Work-like Preferred Worker Benefits

The amounts below estimate the impact on the Stay-at-Work-like Preferred Worker Program (SAW-like PWP) benefits of replacing the current 66-day cap with a 120-day cap and replacing the current \$10,000 reimbursement cap with a \$25,000 cap.

We estimate that the annual SAW-like PWP benefits have an annual cost of approximately \$944,000 per year at 2025 cost levels, and liabilities for unpaid claim costs of approximately \$3,831,000 as of 9/30/2023.

We consider the same three scenarios that were considered with the increase in the Stay at Work caps, and assume the costs for the SAW-like PWP benefits would see similar increases to the Stay at Work increases.

Scenario 1: The caps are increased but there is no increase in participation.

Under this scenario we anticipated the Stay at Work costs would increase by approximately 2.9%. A similar increase in the SAW-like PWP benefits would result in an annual increase of **\$27,000** ($= \$944,000 \times 2.9\%$), and a one-time increase in the liabilities for unpaid claim costs of **\$111,000** ($= \$3,831,000 \times 2.9\%$).

Scenario 2: Duration of participation increases by 2.1 days and overall participation increases by 5%.

Under this scenario we anticipated the Stay at Work costs would increase by approximately 8.2%. A similar increase in the SAW-like PWP benefits would result in an annual increase of **\$77,000** ($= \$944,000 \times 8.2\%$), and a one-time increase in the liabilities for unpaid claim costs of **\$314,000** ($= \$3,831,000 \times 8.2\%$).

Scenario 3: Duration of participation increases by 4.2 days and overall participation increases by 10%.

Under this scenario we anticipated the Stay at Work costs would increase by approximately 13.8%. A similar increase in the SAW-like PWP benefits would result in

an annual increase of **\$130,000** (= \$944,000 x 13.8%), and a one-time increase in the liabilities for unpaid claim costs of **\$529,000** (= \$3,831,000 x 13.8%).

Increasing caps for Stay at Work-like (SAW-like) Preferred Worker Program (PWP) benefits

Estimated Saw Like benefits as a % of PWP	66%	(1) Based on Reserve Analysis
Estimated annual PWP costs at 2025 levels	1,430,000	(2)
Estimated Liability for Unpaid PWP benefits at 9/30/23	5,804,000	(3)
Estimated annual SAW-like PWP costs at 2025 levels	944,000	(4) = (1) x (3)
Estimated Liability for Unpaid SAW-like PWP benefits at 9/30/23	3,831,000	(5) = (1) x (4)

**Scenario 1:
(New Caps but no change in participant behavior)**

Net % impact on annual claim costs	2.9%	(6) Based on Stay at Work analysis
Net \$ impact on annual claim costs	27,000	(7) = (4) x (6)
Net impact on liabilities for unpaid costs	111,000	(8) = (5) x (6)

**Scenario 2:
(New Caps, 2.1 day additional increase in average duration, and 5% increase in participation)**

Net % impact on annual claim costs	8.2%	(9) Based on Stay at Work analysis
Net \$ impact on annual claim costs	77,000	(10) = (4) x (9)
Net impact on liabilities for unpaid costs	314,000	(11) = (5) x (9)

**Scenario 3:
(New Caps, 10% increase in participation, 4.2 day additional increase in average duration)**

Net % impact on annual claim costs	13.8%	(12) Based on Stay at Work analysis
Net \$ impact on annual claim costs	130,000	(13) = (4) x (12)
Net impact on liabilities for unpaid costs	529,000	(14) = (5) x (12)

Increase in Durable Employment Incentive

In injury years 2019-2021 there were eight claims with durable employment incentive payments at or near the current \$10,000 cap. We assume those payments would increase by an average of \$5,000 if the caps were increased to \$25,000, for a total of \$40,000 (=8 x \$5,000). We estimate the incurred costs for enhanced Preferred Worker Program (PWP) benefits were approximately \$4,620,000 for injury years 2019-2021, so this would be equivalent to an increase of approximately 0.9% (= \$40,000 / \$4,620,000).

We estimate that the annual incurred costs for the enhanced PWP benefits will be \$1,430,000 at 2025 cost levels, and the liability for unpaid enhanced PWP benefits is \$5,804,000 as of 9/30/2023. So an increase of 0.9% is equivalent to an increase of approximately **\$13,000** (=0.9% x \$1,430,000) in annual costs and an increase of **\$52,000** (=0.9% x \$5,804,000) in the liability for unpaid benefits.

Increased caps on Durable Employment Incentive

Number of claims at or near cap in Injury Years 19-21	8	(1)	
Assumed Average Increase due to increased cap	5,000	(2)	
Assumed increase in Injury Year 19-21 costs	40,000	(3)	= (1) x (2)
Estimated Injury Year 19-21 Incurred PWP benefits	4,620,000	(4)	
% Increase in costs	0.9%	(5)	= (3) / (4)
Anticipated FAY 2025 Incurred enhanced PWP costs	1,430,000	(6)	
Liability for unpaid enhanced PWP benefits as of 9/30/23	5,804,000	(7)	
Increase in annual incurred claim costs	13,000	(8)	= (5) x (6)
Increase in liabilities for unpaid claim costs	52,000	(9)	= (5) x (7)

Vocational Rehabilitation Basic Skills

In Fiscal Year 2023 the maximum vocational retraining amount was \$19,800. The proposed training benefit would be limited to 25% of that amount, or \$4,950 ($=\$19,800 \times 25\%$), and we assume the average claimant who participated in this training would use 50% of that maximum, or \$2,475 ($=\$4,950 \times 50\%$).

We estimate that 7,300 claimants in FAY 2023 will ultimately receive a referral for vocational recovery services or an ability to work assessment. We assume the number of claimants who would participate in the basic skills training would be equivalent to approximately 4% of that total or 292 ($=7,300 \times 4\%$). The proposed training is intended to help claimants successfully return to work, however it is unknown on the impact to time-loss duration for claimants who participate, so no estimate is included. This benefit would have increased incurred FAY 2023 costs by approximately \$722,700 ($=\$2,475 \times 292$).

For reference the Miscellaneous Accident Fund costs includes many vocational retraining costs, therefore the estimates are used to illustrate impact.

The State Fund incurred approximately \$5,330,000 in Miscellaneous Accident Fund costs, which include retraining costs, in FAY 2023 so this would represent an increase of approximately 13.6% ($=\$722,700 / \$5,330,000$) in those costs.

The State Fund liability for unpaid Miscellaneous Accident Fund benefits was \$31,146,000 as of 9/30/2023. So the proposed training benefit would increase the liability for unpaid benefits by approximately \$4,236,000 ($=\$31,146,000 \times 13.6\%$).

We estimate that we will incur approximately \$5,665,000 in Miscellaneous Accident Fund benefits for injuries and illnesses occurring in 2025. So the proposed training benefit would increase annual incurred claim costs by approximately \$770,000 ($=\$5,665,000 \times 13.6\%$) starting in 2025.

Note that the additional basic skills training may result in more employment opportunities, and so there could be some offsetting reductions in time-loss costs, but have not included those potential savings in the estimate above.

Vocational Rehabilitation Basic Skills

19,800	FY 2023 Maximum for vocational retraining defined in RCW 51.32.096(3)(d).	(1)
4,950	Maximum Amount for proposed training benefit (25% of retraining maximum) at FY 23 level	(2) = 25% x (1)
2,475	Estimated Average Cost, 50% of the maximum proposed benefit at FY 23 level	(3) = 50% x (2)
7,300	Estimated number of FAY 2023 claims receiving Vocational Recovery or AWA referrals	(4)
4%	Assumed % that would receive the proposed training	(5)
292	Number of claimants who would receive the proposed training	(6) = (4) x (5)
722,700	Estimated increase in incurred FAY 2023 claim costs	(7) = (3) x (6)
5,330,000	Incurred Miscellaneous Accident Fund costs for FAY 2023	(8)
13.6%	% increase in Incurred Costs	(9) = (7) / (8)
31,146,000	Miscellaneous AF Reserve as of 9/30/23	(10)
4,236,000	Estimated increase in Incurred Costs for existing claims on 12/31/2024	(11) = (9) x (10)
5,665,000	Estimated Annual Incurred Misc AF for Fiscal Injury Year 2025	(12)
770,000	Estimated increase in Annual Incurred Costs for new claims in Fiscal Injury Year 2025	(13) = (9) x (12)

Job Modification and Pre Job Modifications

Many vocational retraining and pre-job modification costs are classified as Miscellaneous Accident Fund benefits, so we assume that job modification benefits, pre-job modification benefits, and Miscellaneous Accident Fund benefits have a similar relationship between annual incurred benefits and the liability for unpaid benefits. In FAYs 2017-2019 the average annual Miscellaneous Accident Fund incurred costs were \$5,822,000. So the increases in annual job and pre-job modification costs are equivalent to 0.21% (= \$12,000 / \$5,822,000) and 0.23% (= \$13,500 / \$5,822,000) of the annual Miscellaneous Accident Fund benefits, respectively. As of 9/30/2023 the liability for unpaid Miscellaneous Accident Fund benefits was approximately \$31,146,000. So the job modification and pre-job modification liabilities for unpaid losses would be expected to increase by 0.21% and 0.23% of Miscellaneous Accident Fund liabilities, or **\$65,000** (=0.21% x \$31,146,000) and **\$72,000** (=0.23% x \$31,146,000) for job modification and pre-job modification benefits, respectively.

Job Mod	Pre Job Mod		
130	170	Estimated annual claims receiving job modification benefits	(1) Estimated Average for Fiscal Accident Years 2017-2019
6%	5%	Proportion of claims at or near the current cap	(2) Estimated Average for Fiscal Accident Years 2017-2019
8	9	Number of claims that may be currently limited	(3) = (1) x (2)
1,500	1,500	Assumed increase in cost per claim for claims at or near the current cap	(4) Assume 50% of the \$3,000 increase
12,000	13,500	Estimated Increase in annual Incurred Costs	(5) = (3) x (4)
5,822,000	5,822,000	Average Annual Incurred Miscellaneous Accident Fund (Misc AF) Benefits	(6) Estimated Average for Fiscal Accident Years 2017-2019
0.21%	0.23%	Increase in Incurred Costs as a % of Misc.AF Incurred Costs	(7) = (5) / (6)
31,146,000	31,146,000	Liability for Unpaid Misc AF benefits at 9/30/23	(8)
65,000	72,000	Implied Increase in Liability for Unpaid Benefits at 12/31/24	(9) = (7) x (8)

Appropriated – Operating Costs

This bill would have minimal fiscal impact related to rulemaking, printing, and technology updates. L&I can undertake implementation within existing resources.

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

This legislation would result in rule changes to:

- WACs 296-16-130, 140, 145, 150, 160, and 180.
- WAC 296-16A-030.
- WACs 296-19A-050, 065, 190, and 192.