Individual State Agency Fiscal Note

Bill Number: 2648 S HB	Title: Unemployment insurance rates	Agency: 540-Employment Security Department

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

ACCOUNT	FY 2010	FY 2011	2009-11	2011-13	2013-15
Administrative Contingency Account-State 120-1				620,928	1,350,000
Unemployment Compensation Account-Non-Appropriated 620-6		(3,567,326)	(3,567,326)	(23,015,010)	(23,015,010)
Total $		(3,567,326)	(3,567,326)	(22,394,082)	(21,665,010)

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.0	2.8	1.4	0.6	0.6
Account					
Unemployment Compensation Administration Account-Federal 119-2	0	444,000	444,000	116,000	116,000
Total $	0	444,000	444,000	116,000	116,000

Estimated Capital Budget Impact:

	2009-11		2011-13		2013-15	
	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Acquisition	0	0	0	0	0	0
Construction	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total $	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

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

Check applicable boxes and follow corresponding instructions:

- [X] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- [ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- [ ] Capital budget impact, complete Part IV.
- [X] Requires new rule making, complete Part V.

Legislative Contact:	Rebecca Jones	Phone: 360-786-5793	Date: 01/23/2010
Agency Preparation:	Joy Adams	Phone: 360-902-9303	Date: 01/28/2010
Agency Approval:	Randi Warick	Phone: 360-902-9423	Date: 01/28/2010
OFM Review:	Sandi Triggs	Phone: (360) 902-0553	Date: 01/29/2010

Part II: Narrative Explanation

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

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

See Attachment.

II. B - Cash receipts Impact

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

See Attachment.

II. C - Expenditures

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

See Attachment

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years		2.8	1.4	0.6	0.6
A-Salaries and Wages		199,000	199,000	76,000	76,000
B-Employee Benefits		59,000	59,000	22,000	22,000
C-Personal Service Contracts		150,000	150,000		
E-Goods and Services		36,000	36,000	18,000	18,000
G-Travel					
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:	$0	$444,000	$444,000	$116,000	$116,000

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

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
Auditor 4	53,148		0.1	0.1	0.3	0.3
ESPC3	58,656		0.6	0.3	0.0	0.0
ITS4	71,496		0.5	0.3		
ITS5	78,900		0.5	0.3		
ITS6	87,096		0.3	0.2		
OA3	33,468		0.2	0.1	0.1	0.1
WMS2	75,000		0.3	0.2	0.1	0.1
WMS3	100,000		0.3	0.2	0.1	0.1
Total FTE's	557,764		2.8	1.4	0.6	0.6

Part IV: Capital Budget Impact

This bill does not impact the capital budget.

Part V: New Rule Making Required

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

See Attachment.

Individual State Agency Fiscal Note

Bill Number: S HB 2648	Title: Relating to unemployment insurance penalties and contribution rates for employers who are not "qualified employers".	Agency: Employment Security Department

Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

FUND	FY 2010	FY 2011	2009-11	2011-13	2013-15
Unemployment Compensation Account-Non-Appropriated 620-6	$0	($3,567,326)	($3,567,326)	($23,015,010)	($23,015,010)
Administrative Contingency Account 120	$0	$0	$0	$620,928	$1,350,000
Total $	**$0**	**($3,567,326)**	**($3,567,326)**	**($22,394,082)**	**($21,665,010)**

Estimated Expenditures from:

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years	0.0	2.8	1.4	.6	.6
Fund					
Unemployment Compensation Administration Account-Federal 119-2	$0	$444,000	$444,000	$116,000	$116,000
Total $	**$0**	**$444,000**	**$444,000**	**$116,000**	**$116,000**

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: Rebecca Jones	Phone: 360-786-5793	Date: 1/23/2010
Agency Preparation: Joy Adams	Phone: 360-902-9764	Date: 1/27/2010
Agency Approval: Randi Warick	Phone: 360-902-9423	Date: 1/27/2010
OFM Review:	Phone:	Date:

Part II: Narrative Explanation

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

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

Section 1, beginning in rate year 2011, the experience rated tax rate for employers delinquent on taxes will be the rate the employer would otherwise have paid plus 1% for an employer who is delinquent for the first time. For most employers, the rate would be significantly lower than the current delinquent tax rate of 5.6%. However, for employers who would otherwise be at rate classes 35-40 (tax rates of 4.75% and above), the change would create rates higher than the current delinquent tax rate.

If an employer is delinquent for a second consecutive year, the tax rate will be the rate the employer would otherwise have paid plus 2%.

Employers are given an incentive to set up a deferred payment contract (DPC) within 30 days after the delinquent tax rate is assigned. If they do so, 0.5% will be deducted from the delinquent tax rate (so the tax rate will be the rate the employer would otherwise have paid plus 0.5% in the first year or plus 1.5% in a second or more consecutive year). The bill would not change current provisions allowing employers to avoid the delinquent tax rate completely if they agree to and follow a deferred payment contract by September 30.

The substitute bill reorganizes Section 1 into subsections for greater clarity and modifies to add that a failure to comply with a deferred payment contract will restore the application of the delinquent tax rate.

Sections 2 and 5 provide that effective January 1, 2011, employers that knowingly fail to register with Employment Security Department (ESD) are subject to additional penalties per quarter of up to $1,000 or double the taxes due, whichever is higher. The penalty is in addition to other penalties and higher rates if applicable. The penalty does not apply if the employer had good cause to believe that it did not have to register for unemployment tax purposes.

Sections 3 and 4 provide federal and state severability clauses.

This proposal does not change current social tax rates or the special state tax rates.

II. B - Cash receipts Impact

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

The substitute bill has no additional impact on cash receipts.

Section 1 – Delinquent Tax Rate

The Employment Security Department (ESD) has approximately 200,000 active taxable employers in any given year, of which approximately 160,000 employers are eligible to sign up for a deferred payment contract (DPC) should they become delinquent. Each year approximately 2,000 active employers are considered delinquent.

Currently, when an active employer becomes delinquent, it is moved from the current rate class (between rate class 1 and rate class 40) to the delinquency rate of 5.6% (this excludes the social and state taxes). For those near rate class 1, it is a bigger jump than for those near rate class 40.

If the bill passes, the first time an active employer becomes delinquent, it would get a 1.0% increase from the rate class absent the delinquency. For recurrent delinquencies the employer would get a 2.0% increase from the rate class absent the delinquency. In both scenarios, if they establish DPCs the increase in their rate would be dropped by 0.5%.

To estimate the tax rate the delinquent employer would have received, ESD uses the average tax rate for all employers which is currently 1.0%. The actual tax rates range from 0.0% to 5.4%.

Variable Delinquency Rates	Current Average Tax Rate	Variable Delinquency Rates + Current Average Tax Rate	
0.5%	1.0%	1.5%	First time reduced rate for those in a DPC
1.0%	1.0%	2.0%	First time delinquents
1.5%	1.0%	2.5%	Repeat delinquent reduced rate for those in a DPC
2.0%	1.0%	3.0%	Repeat delinquent

In Calendar Year 2008, ESD collected approximately $15 million in revenue, for the unemployment insurance trust fund, from delinquent employers. This revenue was calculated at 5.6% delinquency rate. The bill reduces the delinquency rate to a variable rate of 0.5%, 1.0%, 1.5%, or 2.0% on top of their current, therefore reducing tax revenue.

For this fiscal note it is assumed that 50% of delinquent employers are delinquent for the first time, therefore would initially have their rates set at 1.0% higher than their current rate, (for this purposes, ESD will be using an average tax rate of 1.0%). The other 50% are assumed to be repeat delinquencies and would receive a 2.0% increase above their current tax rate. ESD assumes 50% of all delinquent employers will qualify for and establish a DPC to reduce the increased rate by 0.5%. Therefore, 25% of the total delinquent employers will be assigned to each of the four variable delinquency rates.

For the purpose of this fiscal note. ESD are assuming the number of delinquent employers will increase approximately 25% due to the current economy (2,000 *1.25= 2,500).

- (2,500 x 50%) x 50% = 625 employers with a delinquency rate of 0.5% + the average tax rate of 1.0% = 1.5%
- (2,500 * 50%) * 50% = 625 employers with a delinquency rate of 1% + the average tax rate of 1.0% = 2.0%
- (2,500 * 50%) * 50% = 625 employers with a delinquency rate of 1.5% + the average tax rate of 1.0% = 2.5%
- (2,500 * 50%) * 50% = 625 employers with a delinquency rate of 2% + the average tax rate of 1.0% = 3.0%

The total taxable wages for delinquent employers each year is approximately $340 million, and the projected revenue is approximately $19 million per year.

CURRENT 5.6% Delinquency Rate				
% of employers	# of Employers	5.6% Delinquency Rates	Est. Total Taxable Wages for Delinquent Employers	Est. Revenue Collected from Delinquent Employers Using 5.6%
100%	2,500	5.6%	$340,458,750	$19,065,690

Assuming $340 million in taxable wages for 2,500 delinquent employers with a 1.0% average experience tax rate and 25% of the employers receiving each of the four delinquency rates, ESD projects the revenue to be approximately $7.5 million.

Proposed Variable Delinquency Rate					
% of employers	# of Employers	Variable Delinquency Rates	Current Avg Tax Rate	Est. Total Taxable Wages for Delinquent Employers	Est. Revenue Collected from Delinquent Employers Using Variable Rate
25%	625	0.5%	1.0%	$85,114,687.50	$1,251,186
25%	625	1.0%	1.0%	$85,114,687.50	$1,676,759
25%	625	1.5%	1.0%	$85,114,687.50	$2,102,333
25%	625	2.0%	1.0%	$85,114,687.50	$2,527,906
	2,500			**$340,458,750.00**	**$7,558,184**

If this bill passes, ESD anticipates the amount of revenue collected to be reduced by $11.5 million per year ($19,065,690 - $7,558,184 = $11,507,506). Since the tax rates are effective based on calendar years, this new delinquent tax rate would be effective January 1, 2011. Employment Security taxes are not collected evenly for each quarter. First quarter taxes are not due until Second quarter of 2011. Therefore, this proposal affects only one quarter of revenue in Fiscal Year 2011. A greater percentage of tax dollars are received for the first two quarters of the year, with fewer taxes received for the third and fourth quarters because workers have already been paid the maximum taxable wages ($36,800) for the year. Historically, the percent of annual taxes paid per quarter are as follows:

REVENUE ESTIMATES		
Tax Due	**Tax Received**	**% of Annual Taxes Paid**
1st Qtr	2nd Qtr	31%
2nd Qtr	3rd Qtr	27%
3rd Qtr	4th Qtr	24%
4th Qtr	1st Qtr	18%
		100%

The estimated revenue impact for Fiscal Year 2011 would only be 31% of the annual $11.5 million reduction ($11,507,505.75 * 31% = $3,567,326.78).

Section 2 –Penalty for Failing to Register
In Fiscal Year 2009, ESD audited 85 accounts of unregistered employers (this is approximately 21 per quarter). ESD is planning to expand the effort to catch unregistered employers beginning the fall of 2009. ESD anticipate the number of unregistered employers found will increase 1.5 times, resulting in an annual projection of 128 unregistered employers (approximately 32 per quarter). Our unregistered audits look at 12 quarters on average (however, they can range anywhere from 1 quarter to 6 years in length). This penalty would be effective January 1, 2011 and not be applicable retroactively. The first time this penalty would be assessed is in May 1st on audits of 1st quarter 2011. The audits most likely would not be completed until the end of the month and it may take a month to receive payment from the employer. Therefore, there will not be any revenue impact until Fiscal Year 2012.

In fiscal year 2009, ESD assessed approximately $300,000 in back taxes. Approximately 75% of the audits were on unregistered contractors; therefore, the assumption is 75% of the back taxes represent the amount of taxes that were due from unregistered employers ($300,000 * 75% = $225,000). In order to estimate the amount of taxes due per quarter, ESD divides $225,000 by 12 quarters (assuming an average unregistered audit is 12 quarters). Approximately $18,750 per quarter in back taxes would be assessed for all unregistered audits ($225,000/12 = $18,750). Since there were approximately 21 unregistered employers per quarter in fiscal year 2009, ESD divides $18,750 by 21 employers to get an estimated $882 in back taxes per unregistered employer per quarter. The penalty is the greater of $1000 or two times the amount of taxes due per quarter. Therefore, the penalty would be estimated at $1,764 per quarter per employer ($882 * 2 = 1,764).

The bill provides that the penalty shall not apply if the employers can prove that they had good causes to believe it did not need to register. ESD estimate that 75% of the employers audited would fall under this criterion. Only 25% of the 32 unregistered employers found in the audit each quarter would be assessed the penalty resulting in approximately eight penalties assessed per quarter (32 * 25% = 8). The total amount of penalties assessed in a quarter is estimated to be $14,112 on quarters audited after July 2010 (8 * $1,764 = $14,112).

In Fiscal Year 2014, the penalty can be assessed to all 12 quarters of an unregistered audit. Until then, each quarter the penalties assessed will increase.

Estimated Penalty Revenue	
FY2011	$0.00
FY2012	$197,568.00
FY2013	$423,360.00
FY2014	$675,000.00
FY2015	$675,000.00
FY2016	$675,000.00

II. C - Expenditures

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

The substitute bill has no additional impact on expenditures.

Section 1 – Delinquent Tax Rate

<u>One-time start up costs:</u>

Implementation efforts include minor rulemaking (WAC 192-320-035); updates to manuals, and staff training estimated at a total of 905 hours (approximately 0.5 FTE) of work at varying staff levels (OA3, ESPC3, WMS2, and WMS3) in Fiscal Year 2011.

These changes will require reprogramming of the automated systems, Tax Information System (TAXIS) and Next Generation Tax System (our new tax system, also referred to as NGTS), to calculate the delinquent tax rate differently. It will take an estimated 1,212 hours (or a total of 0.58 FTE) at varying staff levels (ITAS6, ITS5 and ITS4) to design, program, and test these changes to our current systems. Since implementation of this bill will happen after NGTS has determined coding requirements, a change request would be required as well as additional costs to modify business rules and redevelop some of the NGTS programming. The contractor cost for making necessary changes to NGTS is estimated at $75,000 in Fiscal Year 2011.

<u>On-going costs:</u>

There would be an increase in experience rating telephone calls and additional time to set up, write, review and approve deferred payment contracts (DPCs). In addition, the DPCs will need to be scanned in to the imaging system. This work is estimated to be approximately 449 hours (0.25 FTE) of work at varying staff levels (OA3, ESPC3, Auditor 4, and WMS2) per year.

If this bill passes, some employers will still appeal their delinquency tax rates even though the rates are lower than the current delinquency rate. However, the overall number is indeterminate; therefore, there are no costs or savings included in this fiscal note for appeals as a result of changing the delinquency rate.

Section 2 – Penalty for Failing to Register

One-time start up costs:

Implementation efforts would include updates to manuals, forms, and publications. We also have to training staff. These costs are estimated at a total of 874 hours (approximately 0.5 FTE) of work at varying staff levels (OA3, ESPC3, Auditor 4, WMS2, and WMS3) in Fiscal Year 2011. Also included is a one-time cost of $100 to set up a live training session.

These changes will require reprogramming automated systems, Tax Information System (TAXIS) and Next Generation Tax System (NGTS), to calculate and bill the penalty for unregistered employers. It will take an estimated 1212 hours (0.58 FTE) at varying staff levels (ITAS6, ITS5 and ITS4) to design, program, and test these changes to our current systems. Since implementation of this bill will happen after NGTS has determined coding requirements, a change request would be required as well as additional costs to modify business rules and redevelop some of the NGTS programming. The contractor cost for making necessary changes to NGTS is estimated at $75,000 in Fiscal Year 2011.

On-going costs:

There would be an increase in audits in which the new unregistered penalty would need to be considered and applied. Each of these audits would require additional time researching to determine if the employer was unregistered and if it had good cause to believe it did not need to register. The audits need to be reviewed and approved. Penalties would need to be entered into our systems. This additional work is estimated at a total of 576 hours (approximately 0.32 FTE) of work at varying staff levels (ESPC3, Auditor 4, and WMS2) per year. Since this penalty would be effective January 1, 2011 and not be applicable retroactively, the first time this penalty would be used would be May 1, 2011 for audit of 1st quarter 2011. Much of the above work would only apply to the last three months of Fiscal Year 2011. Therefore the total hours for Fiscal Year 2011 have been reduced to 144 (approximately 0.08 FTE).

Under current law, a penalty is assessed in each quarter(s) for the employers that can not prove they had good cause to believe they did not need to register. ESD assumes 20% appeal rate in cases where the unregistered penalty is assessed, resulting in an estimated increase of six audit appeals per year. This additional work is estimated at a total of 24 hours per year at an Auditor 4 staff level. Since this penalty would be effective January 1, 2011 and not be applicable retroactively, the first time the penalty can be assessed is in May 1st on audits of 1st quarter 2011. However, the audit most likely would not be completed until the end of the month, and the employer has a month to appeal. Therefore, the appeals would not be filed until Fiscal Year 2012. The interagency agreement pays the Office of Administrative Hearings an estimated $258 per hearing, resulting in an estimated $1,548 per fiscal year beginning in Fiscal Year 2012 ($258 * 6 = $1,548).

In addition to the direct costs estimated, ESD assesses an indirect rate to cover agency-wide administrative costs. The U.S. Department of Labor (DOL) is designated by the Office of Management and Budget to negotiate and maintain indirect cost rates and cost-allocation plans for organizations that receive a preponderance of funds from DOL, which includes Washington State's Employment Security Department.

Indirect Administrative Costs

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Indirect cost (in thousands)	$38	$7	$7	$7	$7

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2010	FY 2011	2009-11	2011-13	2013-15
FTE Staff Years		2.8	1.4	.6	.6
A-Salaries and Wages		199,000	199,000	76,000	76,000
B-Employee Benefits		59,000	59,000	22,000	22,000
C-Personal Service Contracts		150,000	150,000		
E-Goods and Services		36,000	36,000	18,000	18,000
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
Total:	**$0**	**$444,000**	**$116,000**	**$116,000**	**$116,000**

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

Job Classification	Salary	FY 2010	FY 2011	2009-11	2011-13	2013-15
Auditor 4	53,148		0.1	0.1	0.3	0.3
ESPC 3	58,656		0.6	0.3		
ITS 4	71,496		0.5	0.3		
ITS 5	78,900		0.5	0.3		
ITS 6	87,096		0.3	0.2		
OA 3	33,468		0.2	0.1	0.1	0.1
WMS 2	75,000		0.3	0.2	0.1	0.1
WMS 3	100,000		0.3	0.2	0.1	0.1
Total FTE's	**$557,764**		**2.8**	**1.4**	**0.6**	**0.6**

Part IV: Capital Budget Impact

This bill does not impact the capital budget.

Part V: New Rule Making Required

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

Section 1 would require minor rulemaking efforts to amend WAC 192-320-035.

The substitute bill has no additional impact on rulemaking.