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February 9, 2010

To: The Honorable Marcus R. Oshiro, Chair
and Members of the House Committee on Finance

Date: February 9, 2010
Time: 1:30 p.m.
Place: Conference Room 308, State Capitol

From: Darwin L.D. Ching, Director
Department of Labor and Industrial Relations

H.B. 2169 H.D. 1- Relating to Employment Security

SUPPLEMENTAL TESTIMONY TO HB 2169 HD1

HB 2169 proposes major changes to existing definitions that determine employer contribution rates and the adequate reserve fund. Specifically, the implementation of semi-annual computations beginning 2012, which presumably were intended to moderate the effects of tax increases on employers as well as to make the trust fund balance more responsive to changes in the local economic conditions.

In analyzing the proposed amendments contained in HB 2169, HD1, the department finds that this measure has the opposite effect of what was intended. The major issues are as indicated below:

1) The trust fund balance will be reduced substantially because the modified definition of "adequate reserve fund" results in lower trust fund reserves. Therefore, additional Title XII advances may be necessary to pay UI benefits and higher interest may result if the loan balances are not repaid in a timely manner. Further, income to the trust fund will also be reduced because of lower employer contributions as described in #2.

2) The employer UI tax rates, as a result of the revised definitions that affect experience rating calculations, will be extremely favorable to positive rated employers and unfavorable to negative rated employers. The "average semi-annual payroll" definition distorts rates to the extent that employer rates will be polarized at extremely low tax rates or the maximum 5.4% rate. This may raise a federal experience rating conformity issue with the USDOL that could result in the loss of the FUTA additional offset credit permitted to employers. The additional FUTA offset credit consists of the difference between the 5.4% FUTA tax and the employers' state tax rate.

Additionally, administrative problems and additional costs for the department and employers will result:

1) Approximately $17,340 in computer programming costs to implement the semi-annual taxable wage calculation and an additional $14,000 in mailing costs to send out B-6 forms twice a year.

2) Approximately $23 million to develop a tax system that can perform mid-year experience ratings as proposed in this measure. Additionally, the implementation of the redesigned tax system will probably not be in operation as early as 2012.

3) As expressed by ProService, employers will have difficulty doing semi-annual tax computations and will incur additional costs to modify their existing computer systems or for their accounting services in order to calculate their UI taxes.