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**DEPARTMENT OF EMPLOYMENT, TRAINING & REHABILITATION**

**A.B. 160 TESTIMONY**

Contact: Birgit Baker  
Name  
Administrator, Employment Security Division  
Title  
(775) 684-3909  
Phone

March 19, 2003  
Prepared

Hearing Date: March 20, 2003; 3:30 p.m.  
Committee: Assembly Committee on Judiciary  
Room 3138

All state unemployment insurance programs are federal/state partnerships, which require that state law must be consistent with federal law as a condition of employers receiving credit against the Federal unemployment tax. I am here to advise the Committee that according to the U.S. Department of Labor (DOL), Assembly Bill 160, as introduced, raises an issue of conformity with the "withdrawal standards" of the Federal Unemployment Tax Act (FUTA) and the Social Security Act (SSA).

AB 160 provides for the assignment of income to satisfy a court order under Section 33.030 of NRS, and includes unemployment compensation in the definition of income and money that may be withheld. Section 3304(a)(4), FUTA, and Section 303(a)(5), SSA, limit the withdrawal of funds from the unemployment fund to the payment of unemployment benefits. These provisions are in place to protect unemployment benefits from liens, levies or attachments unless FUTA or SSA specifically permit such withholding.

Section 303 of SSA, lists the exceptions to the withdrawal standard, which include food stamp overissuances; federal, state and local income tax; health insurance premiums; short-time compensation; self-employment assistance; and certain child support obligations. State agencies are mandated to withhold child support obligations where a child support enforcement agency is enforcing a voluntary agreement, a court order or an administrative order.

AB 160 would allow a withdrawal from the unemployment fund to pay rent, mortgage or support to "an applicant" as well as a minor child. It appears that an applicant can be a spouse, blood relative or otherwise the victim of domestic violence. Since there is no specific exemption in FUTA or SSA to allow a withdrawal from the unemployment fund (intercept of the adverse party's unemployment check) for the rent, mortgage, or support of the applicant, AB 160 would raise an issue with the Federal withdrawal standards. A copy of the correspondence from DOL documenting this concern has been provided to your staff.

If Nevada is determined to be out of conformity with federal law, DOL may deny offset credits to all Nevada employers. Currently, the Federal unemployment tax is 6.2% of the first \$7,000 of each employee's wages. As long as state law conforms with Federal law, 5.4% of that tax is forgiven (offset), so employers actually pay only .8% of the tax. If DOL denies that credit, all Nevada employers would be required to pay the full 6.2%, resulting in an estimated cost of \$348 million per year. In addition, Nevada receives approximately \$24 million per year from DOL for the administration of our unemployment insurance program. Additional sanctions including reduction of the administrative grant could also be enforced.

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ASSEMBLY JUDICIARY SUBCOMMITTEE  
DATE: 3/20/03 EXHIBIT E  
SUBMITTED BY: Birgit Baker

U.S. Department of Labor



Employment and Training Administration  
Region 6 The Pacific-Western Region

71 Stevenson Street, Suite 830  
San Francisco, California 94105-2920

1111 Third Avenue, Suite 815  
Seattle, Washington 98101-3212

March 18, 2003

Ms. Myla Florence  
Director  
Department of Employment, Training  
and Rehabilitation  
500 east Third Street  
Carson City, NV 89713

Dear Ms. Florence:

We have reviewed Assembly Bill (AB) 160 recently introduced in the Nevada state legislature. We believe this bill raises a potential conformity issue with the "withdrawal standards" of the Federal Unemployment Tax Act (FUTA) and the Social Security Act (SSA).

AB 160 amends Chapter 33, Nevada Revised Statute (NRS) and provides a mechanism for the assignment of income to satisfy a court order under Section 33.030 (2) (b) (2), NRS. AB 160 includes unemployment compensation in the definition of income and money that may be withheld.

Currently, Section 33.030 (2), NRS, states, in part, that the court may

*"(b) Order the adverse party to: (2) Pay rent or make payments on a mortgage on the applicant's place of residence or pay for the support of the applicant or minor child if he is found to have a duty to support the applicant or minor child;"*

Unemployment compensation is paid from the unemployment fund. Section 3304(a)(4), FUTA, and Section 303(a)(5), SSA, limit the withdrawal of funds from the unemployment fund solely for the payment of unemployment compensation. These provisions have been interpreted to protect unemployment compensation benefits from liens, levies or attachments unless FUTA or the SSA specifically permits such withholding. Section 303, SSA, lists the exceptions to the withdrawal standard which include food stamp overissuances; federal, state and local income tax; health insurance premiums; short-time compensation; self-employment assistance; and certain child support obligations. State agencies are in fact mandated to withhold child support obligations where a child support enforcement agency is enforcing a voluntary agreement, a court order or an administrative order. Unemployment Insurance Program Letter 45-89, Permissible Deductions from Payments of Unemployment Compensation, provides detailed guidance on exceptions to the withdrawal standards.



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The provisions, found at 303(e)(2), SSA, for child support intercept, do not provide an exception from the withdrawal standard for spousal support obligations. Further if the child support obligation is not enforced through a State or local child support agency, the UI agency may not intercept child support from UI.

AB 160 appears to allow a withdrawal from the unemployment fund to pay rent, mortgage or support to "an applicant" as well as a minor child. It appears that an applicant can be a spouse, blood relative or otherwise the victim of domestic violence. As there is no specified exemption in FUTA or SSA to allow a withdrawal from the unemployment fund (intercept of the adverse party's UC check) for the rent, mortgage, or support of the applicant, AB 160 would raise an issue with the withdrawal standards.

Please keep us informed as to the progress of this bill. Questions may be directed to Jamie Bachinski via e-mail at [jbachinski@doleta.gov](mailto:jbachinski@doleta.gov) or by telephone at 415-975-4625.

Sincerely,



Armando Quiroz  
Regional Administrator

cc: Birgit Baker, Administrator, Employment Security Division, DETR, by Fax to 775-684-3910  
John McGucken, ETA, OWS, OIS, Rm C-4512, FPB Washington, DC

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