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**DEPARTMENT OF EMPLOYMENT, TRAINING & REHABILITATION**  
**A.B. 185 TESTIMONY**

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March 18, 2003  
Prepared

Hearing Date: March 19, 2003; 2:00 p.m.  
Committee: Assembly Committee on Commerce and Labor  
Room 4100

All state unemployment insurance programs are federal/state partnerships, which require that state law must be consistent with federal law.

I am here to advise the Committee that Assembly Bill 185, as introduced, raises an issue of conformity with the Federal Unemployment Tax Act (FUTA). According to the U.S. Department of Labor (DOL), the specific exclusion of sports officials from the state's unemployment compensation law would create an issue of conformity with certain requirements of Section 3304, of FUTA. This section of the federal law requires, as a condition for employers in a state to receive a credit against the Federal unemployment tax, that state law provide unemployment benefits be payable based on services performed for state and local governmental entities and certain nonprofit organizations in the same amount as benefits payable on other covered services. A copy of the federal correspondence documenting this concern was provided to your staff last week. I also provided a copy to the secretary for the record.

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.

There is a provision in NRS 612.070(2), which is referred to as the recapture clause. The clause is intended to ensure that any service required to be covered as a condition for receiving full credit against FUTA, is covered under state law, regardless of any other provisions. Since AB 185 creates an exception for sports officials at certain publicly sponsored events it contradicts the recapture clause and would result in a conformity issue for Nevada.

The division provided similar testimony when this issue was raised during the 1999 Session in Assembly Bill 63.

ASSEMBLY COMMERCE & LABOR  
DATE: 3/19/03 ROOM: 4100 EXHIBIT J  
SUBMITTED BY: Birgit Baker