

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

January 8, 1987

The first meeting of the Labor and Employment Relations Committee was called to order by Chairman John "J.D." Lynch on January 8, 1987 at 1:00 p.m. in Room 413/415 of the State Capitol.

GENERAL INFORMATION: Senator Lynch introduced committee members, reviewed uniform voting procedures, discussed voting with an excused absence, discussed 4/4 tie vote (4/4 tie vote would preclude a bill from going further. It would take a motion on the Senate floor from any member who would care to make a motion to bring the bill out of committee.), introduced and welcomed Ms. Peg Hartman from the Department of Labor and collected money for the coffee fund.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 34: Sen. Ethel Harding, Senate District No. 25, sponsor of the bill, presented two changes for SB 34: delete "or by an officer of a corporation," line 14, page 1 and add "service performed for a corporation by one of its salaried officers or directors or service performed for a partnership, association, or sole proprietorship by a salaried owner or officer," lines 17-20, page 9. Sen. Harding's original purpose for this bill was to allow corporate officers to opt out unemployment benefits. SB 34, as introduced, gives the corporate officer the privilege of opting back in, though it isn't mandatory. Sen. Harding was not satisfied with this fiscal note (Exhibit #1) presented with this bill. It was based on an estimation of three corporate officers and legislation exempts corporate officers from coverage but allows them to opt for unemployment benefits if they desire. Sen. Harding believes that if it isn't going to cost the corporate officer anything then he/she will join. However, the corporate officers who will not join are the ones who will save money by not joining.

PROPONENTS: Rep. Raymond J. Brandewie, House District No. 49, voiced his support of SB 34. He owns a small business and pays unemployment taxes on himself and other employees who draw a salary, but when his wife filed for unemployment benefits she was turned down because her husband owned a small business. Rep. Brandewie challenged this decision and later won. Rep. Brandewie states that small business owners

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pay unemployment taxes but if they file for unemployment benefits, due to slow production because of a seasonal business, the state has turned down their requests for aid. He suggests that this tax be redefined and called a corporate officers' tax. Rep. Brandewie doesn't believe this tax benefits anyone.

Mr. Tim Bartz, CPA, representing Anderson, ZurMuehlen and Company presented an unemployment tax schedule that will show the effect of this bill (Exhibit #2). Whatever isn't paid to the state in the form of an unemployment tax would increase Federal unemployment taxes. Mr. Bartz said that it isn't right that small corporations are taxed by their form of operating entity. If this corporation changed to sole proprietorship it would not be subjected to unemployment taxes. A corporation that incorporates for liability reasons is paying a significant tax rate because of the style of business. Mr. Bartz also believes that you should only be taxed if you are eligible to receive the benefits you have paid for. Self-employed business owners are not likely to draw from this unemployment fund, so they are paying unfair shares. In closing, Mr. Bartz feels this bill would help small businesses, and it would provide some business incentive for those people trying to provide jobs.

OPPONENTS: None present.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 34:

Sen. Gage asked if a family business with each member having a corporate title, would each member be exempt from receiving unemployment benefits? Sen. Harding directed this question to Mr. Bartz. Mr. Bartz said he isn't a lawyer, but he understands this to mean that the exempt employees would be the state-registered officers, (Pres., Vice Pres., Sec., and Treasurer).

Sen. Gage asked Mr. Tom Gomez, staff researcher, if we need to define the exempt members of a family corporation? Mr. Gomez stated that the Department of Labor would determine a bonafide officer as opposed to one who is said to be an officer for tax exclusion purposes. The Department of Labor would determine the outcome upon facts in a given case.

Sen. Gage would like it clearly stated that the exempt officers are the President, Vice President, Secretary, and Treasurer of the corporation or other entity referred to.

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Sen. Keating asked if we will need a Statement of Intent for this bill? Mr. Gomez responded that the Legislative History Act was changed so a Statement of Intent is not necessary but if it would be useful it can be drawn up and attached to the bill.

Sen. Blaylock asked Ms. Peg Hartman if all of the officers of corporations who applied for unemployment benefits were turned down. Ms. Hartman stated that the Department of Labor believes that this is an incorrect statement because 7% of the corporate officers do draw benefits, as shown on the fiscal note (Exhibit 3 & 4). Ms. Hartman also stated that not all business Federal taxes would rise but most would rise if this bill passed, unless they are already a deficit business who is already drawing out of the trust fund more than they are paying in. The only business that will be helped with this bill are those with a deficit. This bill will have a significant drain on the fund.

Sen. Keating asked Ms. Hartman if it is correct that corporate officers are paying in three times as much as being drawn out. Ms. Hartman agreed with this statement.

Sen. Keating declared himself personally involved because he is a sole officer of a corporation and he pays unemployment taxes on himself and he is unable to draw unemployment benefits.

Sen. Keating asked Mr. Bartz, how do you change a corporation into a sole proprietorship? Mr. Bartz said that you must liquidate the corporation and dissolve it with the State and then you would become self-employed and a sole proprietor. Then, the employed members of the family are also exempt from unemployment taxable wages. If in a corporation, all of these people are subjected to taxes.

Sen. Haffey asked Ms. Hartman if we examined any group of 10,000 workers for whom unemployment benefits exist and a group of these workers were unemployed and collecting benefits and if we removed this group would the money going into the fund be reduced by the entire 10,000 employees and would this rate work for any group with exemptions? Ms. Hartman replied that any group that is solvent, more money being paid in then being drawn out, otherwise the company would be insolvent and cost the employer.

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Sen. Lynch asked Sen. Harding, are the ones who will benefit from this bill the deficit employers and it took three sessions to get the unemployment fund out of the "red" and by passing this bill would the unemployment fund go back into the "red"? Sen. Harding responded, that this bill will benefit all employers on the tax schedule (see Exhibit #2). If this bill passes then we will have a totally insolvent fund once again.

Sen. Lynch asked if Sen. Harding wishes to see another insolvent fund? Sen. Harding believes that there is discrimination concerning this bill because corporations are taxed but sole proprietorships aren't taxed on themselves or family members. She believes we are penalizing a corporation for these tax purposes.

Sen. Lynch asked Ms. Hartman if it is true that no corporation officers are receiving unemployment benefits. Ms. Hartman responded that 7% are using the unemployment benefits.

Sen. Thayer asked if any sole supporters or owners of a business are receiving benefits? Ms. Hartman said that these people are eligible but the Department of Labor determines this through the eligibility laws.

Sen. Lynch asked if these people who apply for unemployment benefits have to be actively seeking employment like other applicants even though they are seasonal employees? Ms. Hartman said that many use it yearly because they are seasonal employees.

Sen. Manning asked that if this bill only exempts small corporations? Ms. Hartman stated that this bill includes all corporations.

Sen. Harding, in her closing statement, said that this bill would help small businesses stay solvent, it would help all businesses except the one that hires himself, then he pays more to the Federal Government. You wouldn't have to use this unless it is advantageous to the individual business. This bill would allow sole proprietors, small corporations, and partnerships to be treated equally. She urged all to vote to pass the bill.

ADJOURNMENT: There being no further business to come before this committee, the hearing was adjourned at 1:56 p.m.


Committee Chairman

NAME: Tim BARTZ DATE: 1/8/87

ADDRESS: Box 1147 HELENA, MT 59601

PHONE: 443-0467, 442-3540

REPRESENTING WHOM? ANDERSON ZURMUEHLEN'S CO. P.P.

APPEARING ON WHICH PROPOSAL: S.B. #34

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

#/

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB034, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

Amending Section 39-51-203, MCA and Section 39-51-204, MCA. To exclude corporation officers, sole proprietors, and working partners from the definition of "Employment" in the Unemployment Insurance Law.

ASSUMPTIONS:

1. Unemployment Insurance Contribution receipts previously projected by the Department will be \$59,200,000 in FY88 and \$60,250,000 in FY89. Unemployment Insurance Benefit payments previously projected by the Department will be \$55,500,000 in FY88 and \$58,000,000 in FY89.
2. Estimate that 9500 corporations are covered employers for Unemployment Insurance.
3. Estimate an average of 3 corporation officers' wages would be affected by the proposed law.
4. The average taxable wage base is estimated to be \$12,500 in FY88 and \$12,700 in FY89.
5. The average tax rate will be 2.7% in FY88 and 2.7% in FY89. (.1% Administrative Tax is included)
6. Estimate that 7% of all corporate officers covered by Unemployment Insurance will draw some benefits each year.
7. Estimate the Average Weekly Benefit Amount to be \$136 in FY88 and \$139 in FY89, and the Average Duration of Unemployment to be 14 weeks.

FISCAL IMPACT:

Expenditures:

Current Law Benefits

FY88

\$55,500,000
\$51,700,000
(\$ 3,800,000)

FY89

\$58,000,000
\$54,100,000
(\$ 3,900,000)

Proposed Law

Net Reduction

Revenue:

Current Law

Contributions

\$59,200,000
\$49,580,000
(\$ 9,620,000)

\$60,250,000
\$50,475,000
(\$ 9,775,000)

Net Effect on Expendable Trust Fund (\$ 5,820,000) (\$ 5,875,000)

The legislation exempts corporate officers from coverage, but allows them to opt for unemployment insurance if they desire. Therefore, the fiscal impact will be reduced to the extent that corporate officers choose to opt for coverage.

David L. Hunter DATE 1/8/82

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

ETHEL M. HARDING, PRIMARY SPONSOR

Fiscal Note for SB034, as introduced.

NOT FOR DISTRIBUTION

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 1/8/82
BILL NO. SB 34

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. Net loss to Trust Fund on an annual basis.
2. Experienced Employers rates will eventually increase.
3. Average federal tax costs for corporate officers will increase by \$40.50/year for each officer over the current combined state and federal contribution, if they do not pay into the state Unemployment Insurance Trust Fund.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:
N/A

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 4/8/87
BILL NO. SB 34

EXHIBIT NO. _____
DATE _____
BILL NO. _____

SCHEDULE OF UNEMPLOYMENT TAX FEDERAL & STATE

Date	Prepared By	Work Paper No.
	Reviewed By	

		OPTION A STATE EXP. RATE 1%	OPTION B STATE EXP. RATE 2.7%	OPTION C STATE EXP. RATE 6%
1	ASSUMPTIONS:			
2	3 OFFICERS EACH WITH SALARY OF \$12,200			
3	4 EMPLOYEES EACH WITH SALARY OF \$12,200			
4				
5				
6				
7	ALT 1: OFFICERS ARE COVERED BY STATE UNEMPLOYMENT			
8				
9				
10	FEDERAL TAX (49,000 X .008) (SEE PART II, LINE 3 OF FORM 940)	392	392	392
11	STATE UNEMPLOYMENT (85,400 X EXP RATE)	854	2306	5124
12		<hr/>	<hr/>	<hr/>
13	TOTAL UNEMPLOYMENT TAX	1246	2698	5516
14		<hr/>	<hr/>	<hr/>
15				
16				
17				
18				
19				
20	ALT 2: OFFICERS ARE NOT COVERED BY STATE UNEMPLOYMENT			
21				
22				
23	FEDERAL TAX (SEE PART III LINE 6 OF FORM 940)	403	403	392
24	STATE UNEMPLOYMENT (48,800 X EXP RATE)	488	1318	2928
25		<hr/>	<hr/>	<hr/>
26	TOTAL UNEMPLOYMENT TAX	891	1721	3320
27		<hr/>	<hr/>	<hr/>
28				
29				
30				
31	EMPLOYER SAVINGS UNDER ALT B (LINE 15 - LINE 29)			
32		355	977	2196
33		<hr/>	<hr/>	<hr/>
34				
35				
36				
37				
38				
39				
40				

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 2

DATE 1/8/87

BILL NO. SB 321

PART V Computation of Tentative Credit (Complete if You Checked the "No" Box in Either Question A or B on Page 1—See Instructions)

Name of state 1	State reporting number(s) as shown on employer's state contribution returns 2	Taxable payroll (as defined in state act) 3	State experience rate period 4		State experience rate 5	Contributions if rate had been 5.4% (col. 3 x .054) 6	Contributions payable at experience rate (col. 3 x col. 5) 7	Additional credit (col. 6 minus col. 7) if 0 or less, enter 0. 8	Contributions actually paid to state 9
			From—	To—					
MT		48,800			.01	2635	488	2147	488
10 Totals								2147	488
11 Total tentative credit (add line 10, columns 8 and 9—see instructions for limitations)								2635	-

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Changes You Should Note for 1985.—The FUTA tax rate is now 6.2% charged on the \$7,000 wage base. The maximum credit allowable against the tax for contributions to state (including Puerto Rico and the Virgin Islands) unemployment funds is now 5.4% of taxable FUTA wages. Noncash fringe benefits you provide may now be taxable. See Circular E, Publication 15, Employer's Tax Guide, for details.

The Service Center filing location for your state may have changed. See **Where To File**.

General Instructions

Purpose of Form.—Use this form for your annual FUTA tax report. **Only the employer pays this tax.** The gross tax rate is 6.2% (.062), charged on the first \$7,000 of wages paid to each employee during 1985.

Who Must File

Household Employers.—You do not have to file this form unless you paid cash wages of \$1,000 or more in any calendar quarter in 1984 or 1985 for household work in a private home, local college club, or a local chapter of a college fraternity or sorority. **Note: See Publication 503, Child and Dependent Care Credit, and Employment Taxes for Household Employers, for more information.**

In General.—You must file this form if you were other than a household or agricultural employer during 1984 or 1985 and you (a) paid wages of \$1,500 or more in any calendar quarter or (b) had one or more employees for some part of a day in any 20 different weeks. Count all regular, temporary, and part-time employees. A partnership should not count its partners. If there is a change in ownership or other transfer of business during the year, each employer who meets test (a) or (b) above must file. Neither should report wages paid by the other.

Organizations described in section 501(c)(3) of the Internal Revenue Code do not have to file.

Agricultural Employers.—You must file Form 940 if either of the following applies to you:

(1) You paid cash wages of \$20,000 or more to farmworkers during any calendar quarter in 1984 or 1985.

(2) You employed 10 or more farmworkers during some part of a day (whether or not at the same time) for at least one day during any 20 different weeks in 1984 or 1985. Count aliens admitted to the United States on a temporary basis to perform farmwork to determine if you meet either of the above tests. However, wages paid to these aliens are not subject to FUTA tax before 1986.

Completing Form 940

Employers Who Are Not Required To Deposit FUTA Tax.—If your total FUTA tax for 1985 is not more than \$100, you do not have to deposit the tax. Make your FUTA tax payment when you

file Form 940. If you do not have to deposit FUTA tax and you:

- (a) made all required payments to your state unemployment fund by the due date of Form 940,
- (b) are required to make payments to the unemployment fund of only one state, and
- (c) paid wages subject to Federal unemployment tax that are also subject to state unemployment tax,

complete Parts I and II. Otherwise, complete Parts I, III, and V.

Employers Who Are Required To Deposit FUTA Tax.—If you meet tests (a), (b), and (c) above, complete Parts I, II, and IV. Otherwise, complete Parts I, III, IV, and V.

If You Are Not Liable for FUTA Tax.—If you receive Form 940 and are not liable for FUTA tax for 1985, write "Not Liable" across the front and return it to IRS. If you will not have to file returns after this, write "Final" on the line above the signature line and sign the return.

Due Date.—Form 940 for 1985 is due by January 31, 1986. However, if you made timely deposits in full payment of the tax due, your due date is February 10, 1986.

Where To File.—

If your principal business, office or agency is located in:	File with the Internal Revenue Service Center at:
Alabama, Florida, Georgia, Mississippi, South Carolina	Atlanta, GA 31101
New Jersey, New York City and county of Nassau, Rockland, Suffolk, and Westchester	Holtsville, NY 00501
New York (all other counties), Connecticut, Delaware, District of Columbia, Maine, Massachusetts, Minnesota, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Illinois, Iowa, Missouri, Wisconsin	Kansas City, MO 64999
Delaware, Pennsylvania, Puerto Rico, Virgin Islands	Philadelphia, PA 19255
Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, Louisiana, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Arkansas, Indiana, North Carolina, Tennessee, Virginia	Memphis, TN 37501

If you have no legal residence or principal place of business in any IRS district, file with the Internal Revenue Service Center, Philadelphia, PA 19255.

Employer's Name, Address, and Identification Number.—Use the preaddressed Form 940 mailed to you. If you must use a nonpreaddressed form, type or print your name, trade name, address, and employer identification number on it.

See **Publication 583, Information for Business Taxpayers**, for details on how to make tax deposits, file a return, etc., if these are due before you receive your number.

Penalties and Interest.—Avoid penalties and interest by making tax deposits when due and filing a correct return and paying the proper amount of tax when due. The law provides penalties for late deposits and late filing unless you show reasonable cause for the delay. If you file late, attach an explanation to the return. The law also provides a penalty of 25% of the overstatement if, without reasonable cause, you overstate the amount you deposited.

There are also penalties for willful failure to pay tax, keep records, make returns, and for filing false or fraudulent returns.

Credit for Contributions Paid Into State Funds.—You can claim credit for amounts you pay into a certified state (including Puerto Rico and the Virgin Islands) unemployment fund by the due date of Form 940.

"Contributions" are payments that state law requires you to make to an unemployment fund because you are an employer. These payments are "contributions" only to the extent that they are not deducted or deductible from the employees' pay.

You may not take credit for voluntary payments or for penalties or interest payments a state. Nor may you take credit for any special assessment, surtax, surcharge, etc. by the state for paying interest on unrepaid Title XII loans from the Federal Government.

If you have been granted an experience rate lower than 5.4% (.054) by a state for the whole or part of the year, you are entitled to an additional credit. This credit is equal to the difference between actual payments and the amount you would have been required to pay at 5.4%.

The total credit allowable may not be more than 5.4% of taxable FUTA wages.

Special Credit for Successor Employers.—If you are claiming special credit as a successor employer, see Code section 3302(e) or Circular E, for the conditions you must meet.

Amended Returns.—If you are amending a previously filed return, complete a new Form 940 using the amounts that should have been used on the original return, and sign the return. Attach a statement explaining why you are filing an amended return. Be sure to use a Form 940 for the year you are amending. Write "AMENDED RETURN" at the top of the form and file it with the Internal Revenue Service Center where you filed the original return.

Specific Instructions

All filers must complete Questions A, B, and Part I and must sign the return.

Use Part II if you paid contributions to only one state unemployment fund, you made all state payments by the due date of Form 940, and all the FUTA wages are subject to the state's unemployment fund taxes. Otherwise, skip Part II and complete Parts III and V.

Complete Part IV if your total tax for the year is more than \$100.

OPTION B

Form 940

Department of the Treasury Internal Revenue Service

Employer's Annual Federal Unemployment (FUTA) Tax Return

For Paperwork Reduction Act Notice, see page 2.

OMB No. 1545-0028

1985

Name (as distinguished from trade name), Calendar Year, Trade name, if any, Address and ZIP code, 1985, Employer identification number

Table with columns T, FF, FD, FP, I, T

If incorrect, make any necessary change.

- A Did you pay all required contributions to your state unemployment fund... B Are you required to pay contributions to only one state?

Part I Computation of Taxable Wages and Credit Reduction (To Be Completed by All Taxpayers)

Table with 7 rows for wage computation and credit reduction, including handwritten values like 85,400 and 36,400.

Part II Tax Due or Refund (Complete if You Checked the "Yes" Boxes in Both Questions A and B Above)

Table with 6 rows for FUTA tax calculation, including handwritten value 392.

Part III Tax Due or Refund (Complete if You Checked the "No" Box in Either Question A or B Above. Also complete Part V)

Table with 9 rows for credit reduction calculation, including handwritten values 3038 and 2635.

Part IV Record of Quarterly Federal Tax Liability for Unemployment Tax (Do not include state liability)

Table with 6 columns: Quarter, First, Second, Third, Fourth, Total for Year

If you will not have to file returns in the future, write "Final" here... Under penalties of perjury, I declare that I have examined this return...

Signature, Title (Owner, etc.), SENATE LABOR & EMPLOYMENT

EXHIBIT NO 2, DATE 1/8/87, BILL NO. SB 34, Form 940 (1985)

OPTION C

**Employer's Annual Federal
Unemployment (FUTA) Tax Return**
► For Paperwork Reduction Act Notice, see page 2.

1985

Calendar Year

1985

Employer identification number

**EMPLOYER'S
COPY**

- A** Did you pay all required contributions to your state unemployment fund by the due date of Form 940? (If none required, check "No.") Yes No
If you checked the "Yes" box, enter amount of contributions paid to your state unemployment fund. ► \$ _____
- B** Are you required to pay contributions to only one state? Yes No
If you checked the "Yes" box, (1) Enter the name of the state where you are required to pay contributions ► _____
(2) Enter your state reporting number(s) as shown on state unemployment tax return ► _____

Part I Computation of Taxable Wages and Credit Reduction (To Be Completed by All Taxpayers)

1	Total payments (including exempt payments) during the calendar year for services of employees	1	85 400
2	Exempt payments. (Explain each exemption shown, attaching additional sheets if necessary) ►	2	
3	Payments for services of more than \$7,000. Enter only the excess over the first \$7,000 paid to individual employees not including exempt amounts shown on line 2. Do not use the state wage limitation	3	36 400
4	Total exempt payments (add lines 2 and 3)	4	36 400
5	Total taxable wages (subtract line 4 from line 1). (If any part is exempt from state contributions, see instructions) ►	5	49 000
6	Credit reduction for unrepaid advances to the states listed (by 2-letter Postal Service abbreviations). Enter the wages included on line 5 above for each state and multiply by the rate shown. (See the instructions.)		
	(a) CT x .007	(e) OH x .008	Outside the United States
	(b) IL x .009	(f) PA x .009	(i) PR x .006
	(c) LA x .006	(g) VT x .006	(j) VI x .012
	(d) MN x .011	(h) WV x .008	
7	Total credit reduction (add lines 6(a) through 6(j) and enter in Part II, line 2 or Part III, line 4)	7	

Part II Tax Due or Refund (Complete if You Checked the "Yes" Boxes in Both Questions A and B Above)

1	FUTA tax. Multiply the wages in Part I, line 5, by .008 and enter here	1	392
2	Enter amount from Part I, line 7	2	
3	Total FUTA tax (add lines 1 and 2)	3	392
4	Less: Total FUTA tax deposited for the year, including any overpayment applied from a prior year (from your records).	4	
5	Balance due (subtract line 4 from line 3—if over \$100, see Part IV instructions). Pay to IRS	5	
6	Overpayment (subtract line 3 from line 4). Check if it is to be: <input type="checkbox"/> Applied to next return, or <input type="checkbox"/> Refunded	6	

Part III Tax Due or Refund (Complete if You Checked the "No" Box in Either Question A or B Above. Also complete Part V)

1	Gross FUTA tax. Multiply the wages in Part I, line 5, by .062	1	3038
2	Maximum credit. Multiply the wages in Part I, line 5, by .054	2	2646
3	Enter the smaller of the amount in Part V, line 11, or Part III, line 2	3	2646
4	Enter amount from Part I, line 7	4	-
5	Credit allowable (subtract line 4 from line 3) (If zero or less, enter 0.)	5	2646
6	Total FUTA tax (subtract line 5 from line 1).	6	392
7	Less: Total FUTA tax deposited for the year, including any overpayment applied from a prior year (from your records).	7	
8	Balance due (subtract line 7 from line 6—if over \$100, see Part IV instructions). Pay to IRS	8	
9	Overpayment (subtract line 6 from line 7). Check if it is to be: <input type="checkbox"/> Applied to next return, or <input type="checkbox"/> Refunded	9	

Part IV Record of Quarterly Federal Tax Liability for Unemployment Tax (Do not include state liability)

Quarter	First	Second	Third	Fourth	Total for Year
Liability for quarter					

If you will not have to file returns in the future, write "Final" here (see general instruction "Who Must File") and sign the return . . . ►

Keep This Copy for Your Records—You must keep this copy and a copy of each related schedule or statement for a period of 4 years after the date the tax is due or paid, whichever is later. These copies must be available for inspection by the Internal Revenue Service.

For More Information—See Circular E and Publication 539, Employment Taxes, for more information. Household employers should see Publication 503.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 1/8/87
BILL NO. SB 34

ATTACHMENT TO FISCAL NOTE FOR SENATE BILL 34

January 6, 1987

Example of effect on Corporations: (FY 88)

Present Law:

Montana Contributions Maximum Tax Base - \$12,500
Average Tax Rate - 2.7%
\$12,500 X 2.7% = \$337.50

F.U.T.A. Taxes - \$7000 Base X 0.6% tax rate
\$7000 X 0.6% = \$42.00

Total Tax Liability per Corporate Officer
\$337.50 + \$42.00 = \$379.50

Proposed Law:

Montana Contributions - \$0.00 per Corporate Officer

F.U.T.A. Taxes - \$7000 Base X 6.0% tax rate
\$7000 X 6.0% = \$420.00

Total Tax Liability per Corporate Officer
\$0.00 + \$420.00 = \$420.00

Average Additional Tax Liability per Corporate Officer:

\$420.00 - \$379.50 = \$40.50

Estimate 9500 corporations are subject to Montana Unemployment Law.
Estimate 3 officers of each corporation will be affected.
Estimate an average additional tax liability of \$40.50 per individual.

9500 X 3 X \$40.50 = \$1,154,250 potential additional tax liability
of Montana Corporations in Fiscal Year 1988. The additional taxes
will be paid to the F.U.T.A. fund, not the Montana Unemployment
Trust Fund.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

DATE 1/8/87

BILL NO. SB 34

DEPARTMENT OF LABOR AND INDUSTRY
COMMISSIONER'S OFFICE



TED SCHWINDEN, GOVERNOR

P.O. BOX 1728

STATE OF MONTANA

(406) 444-3661

HELENA, MONTANA 59624

January 29, 1987

TO: Senator Delwyn Gage
FROM: Peg Hartman, Acting Commissioner
Department of Labor and Industry
RE: Additional Information on SB 34

If SB 34 passes, you asked what the potential impact would be on the unemployment insurance taxes of other businesses not included in the bill.

Assuming that this bill would have reduced the trust fund \$10 million, the trust fund balance for 1986 may have been \$18.7 million and not the current level of \$28.7 million. The trust fund balance as of December 31 each year is used to establish the schedule of contribution rates for employers for the next year.

Since the trust fund had a balance of \$28.7 million in December, 1986, the contribution rate was changed from the schedule 10 level in 1986 to the schedule 7 level for 1987. This reduces the tax rate to the employer from 3.2% to 2.6% or a drop of approximately 20%. If the trust fund balance was \$18.7 million, the contribution rate would have only dropped from schedule 10 (3.2%) to schedule 9, or to 3.0%. This would have been a drop of 6% not of the 20% we actually experienced.

The example listed below illustrate this.

	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Current Average Tax Rate	3.2	3.2	2.6	2.6
HB 34	3.2	3.2	3.0	3.2

I would be happy to provide further information if needed.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

DATE 1/28/87

BILL NO. SB 34

DEPARTMENT OF LABOR & INDUSTRY

UNEMPLOYMENT INSURANCE DIVISION



TED SCHWINDEN, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

P.O. Box 1728
1327 Lockey
Helena, MT 59624

Benefits (406) 444-3783
Contributions (406) 444-3834

M E M O R A N D U M

TO: Senator J. D. Lynch, Chairman
Labor and Employment Relations Committee

FROM: Peg Hartman, Acting Commissioner
Department of Labor and Industry. *PH*

DATE: January 12, 1987

SUBJECT: Unemployment Benefits for Corporate Officers

During the Labor Committee's hearing on Senate Bill 34, you requested the Department to provide examples of corporate officers who received unemployment benefits. The attached list is a small sample of corporate officers who have drawn benefits in the past year. In fact, a majority of the cases listed are active claims, and these officers are receiving benefits currently.

As you know, we cannot reveal specific information about the identity or location of these claimants. Feel free to contact me however, if you have any questions about the sample.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 1/21/87
BILL NO. SB 34
"AN EQUAL OPPORTUNITY EMPLOYER"

CORPORATE OFFICERS: Benefit Payments

<u>OFFICER'S TITLE</u>	<u>WBA</u>	<u>POTENTIAL DURATION</u>	<u>TOTAL POSSIBLE</u>	<u>NO. WKS PAID TO DATE</u>	<u>AMOUNT PAID TO DATE</u>
President	\$171.00	22	\$3,762.00	5	\$ 855.00
President	171.00	26	4,446.00	24	4,104.00
President	94.00	18	1,692.00	4	376.00
President	55.00	24	1,320.00	16	880.00
President	171.00	26	4,446.00	3	513.00
Pres/V. Pres	164.00	12	1,968.00	3	492.00
President	171.00	26	4,446.00	1	171.00
V. President	171.00	22	3,762.00	8	1,368.00
President	171.00	26	4,446.00	1	171.00
Secretary	155.00	26	4,030.00	25	3,875.00
V. President	171.00	26	4,446.00	10	1,710.00
V. President	171.00	26	4,446.00	11	1,881.00
V. President	171.00	26	4,446.00	17	2,907.00

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 3

DATE 1/8/27

BILL NO. 56 30

4

CORPORATE OFFICER EXCLUSION

State Rate	State Tax @ \$12,500 WB	FUTA @ \$7000 WB	Total Taxes State & FUTA	FUTA Alone	Difference
1.2	\$150	42	\$192	\$420	-228
1.4	175	42	217	420	-203
1.6	200	42	242	420	-178
1.8	225	42	267	420	-153
2.0	250	42	292	420	-128
2.2	275	42	317	420	-103
2.4	300	42	342	420	- 78
2.6	325	42	367	420	- 53
2.8	350	42	392	420	- 28
3.0	375	42	417	420	- 3
3.3	412	42	454	420	34
4.5	562	42	604	420	184
4.7	587	42	629	420	209
4.9	612	42	654	420	234
5.1	637	42	687	420	267
5.3	662	42	704	420	284
5.5	689	42	731	420	311
5.7	712	42	754	420	334
5.9	737	42	779	420	359
6.1	762	42	804	420	384
6.5	812	42	854	420	434

MAXIMUM POSSIBLE EFFECT ON TAX COLLECTIONS

3675 (corporations) X 3 (officers) X 12500 (wage base) X 4.0% (avg. tax rate) = \$5,500,000 (reduction in collections FY 1988)

3675 (corporations) X 3 (officers) X 12700 (wage base) X 4.0% (avg. tax rate) = \$5,600,000 (reduction in collections FY 1989)

There would be no effect on tax schedules during projected biennium but would have at least one tax schedule effect during 1990-1991 biennium.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 1/8/87

BILL NO. SR 24

CORPORATE OFFICER EXCLUSION: CLOSELY HELD CORPORATIONS

State Rate	State Tax A \$12,500 WB	FUTA @ \$7000 WB	Total Taxes State & FUTA	FUTA Alone	Difference
1.2	\$150	42	\$192	\$420	-228
1.4	175	42	217	420	-203
1.6	200	42	242	420	-178
1.8	225	42	267	420	-153
2.0	250	42	292	420	-128
2.2	275	42	317	420	-103
2.4	300	42	342	420	- 78
2.6	325	42	367	420	- 53
2.8	350	42	392	420	- 28
3.0	375	42	417	420	- 3
3.3	412	42	454	420	34
4.5	562	42	604	420	184
4.7	587	42	629	420	209
4.9	612	42	654	420	234
5.1	637	42	687	420	267
5.3	662	42	704	420	284
5.5	689	42	731	420	311
5.7	712	42	754	420	334
5.9	737	42	779	420	359
6.1	762	42	804	420	384
6.5	812	42	854	420	434

MAXIMUM POSSIBLE EFFECT ON TAX COLLECTIONS

ASSUMPTION A: 100% Ownership

1950 (corporations) X 3 (officers) X 12500 (wage base) X 4.0% (avg. tax rate) = \$2,925,000 (reduction in collections FY 1988).

1950 (corporations) X 3 (officers) X 12700 (wage base) X 4.0% (avg. tax rate) = \$2,975,000 (reduction in collections FY 1989).

ASSUMPTION B: 75% Ownership

2680 (corporations) X 3 (officers) X 12500 (wage base) X 4.0% (avg. tax rate) = \$4,020,000 (reduction in collections FY 1988).

2680 (corporations) X 3 (officers) X 12700 (wage base) X 4.0% (avg. tax rate) = \$4,084,320 (reduction in collections FY 1989).

There would be no effect on tax schedules during projected biennium but either option would have at least one tax schedule effect during 1990-1991 biennium.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 4
DATE 1/2/87
FILE NO. 5B 301

AMENDMENT TO SENATE BILL NO. 34

1. Title, line 5.

Following: "LAW"

Insert: "CERTAIN"

2. Title, line 6.

Following: "CORPORATIONS AND"

Insert: "CERTAIN"

3. Page 1, line 14.

Following: "~~corporation~~"

Insert: "or by an officer of a corporation owning
less than 10% of the voting stock"

4. Page 9, lines 17 through 20.

Following: line 16

Strike: subsection (m) in its entirety

Insert: "(m) service performed for a corporation
by a salaried officer or director who owns
10% or more of the voting stock of the
corporation;

(n) service performed as a salaried owner
or officer of a partnership, association, or
sole proprietorship if the individual
performing such service owns at least a 10%
interest in the assets of the firm or
business."

PROPOSED AMENDMENT TO SENATE BILL 34

Page 9. Delete lines 17-20 in their entirety.

Add new section (m).

(m) service performed by the corporate officers of a corporation with four or fewer family members as the only officers, who must also own at least 75% of the corporation. Corporate officers excluded under this subsection may elect voluntary coverage.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. _____

DATE 1/8/87

BY NO. 52 311