

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2184

Introduced by

Senators Schobinger, Espegard, Mutch

Representative Nicholas

1 A BILL for an Act to amend and reenact section 52-04-08 of the North Dakota Century Code,
2 relating to transfer of unemployment compensation experience record, reserve balance, and
3 benefit experience.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 52-04-08 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **52-04-08. Succession to predecessor's experience record, reserve balance, and**
8 **benefit experience.** ~~An~~

9 1. Upon request of the employing unit, an employing unit that in any manner acquires
10 all or part of the organization, business, trade, or assets of another employer and
11 continues essentially the same business activity of the whole or part transferred;
12 must ~~upon request~~ be transferred in accordance with such regulations as the
13 bureau may prescribe, the whole or appropriate part of the experience record,
14 reserve balance, and benefit experience of the preceding employer. Provided that
15 if the predecessor files a written protest against such transfer within fifteen days of
16 being notified of the successor's application, the transfer will not be made without
17 opportunity for a hearing.

18 2. ~~When~~ If an employing unit in any manner initiates a new business or acquires all or
19 any part of the organization, business, trade, or assets of another employer,
20 regardless of the type of business activity being pursued or the legal organizational
21 form of the business entity, the bureau shall transfer, at the request of the
22 successor employer, all or the appropriate part of the experience record;₁ reserve
23 balance, whether positive or negative;₁ and benefit experience of such predecessor
24 to the successor if ~~it~~ the bureau finds that ~~(a) the~~:

1 a. The predecessor was owned or controlled by or owned or controlled the
2 successor directly or indirectly, by legally enforceable means or otherwise ~~or~~
3 ~~(b) both;~~

4 b. Both the predecessor and successor were owned or controlled either directly
5 or indirectly, by legally enforceable means or otherwise, by the same
6 interests; or

7 c. At least one of the owning or controlling interests of the predecessor is an
8 owning or controlling interest of the successor and the owning or controlling
9 interests in the predecessor consent in writing to transfer of all or part of the
10 experience record, reserve balance, and benefit experience of the preceding
11 employer.

12 3. ~~When a part of an~~ The portion of the predecessor employer's experience record
13 reserve account and benefit if applicable, the predecessor employer's experience
14 is record to be transferred to a successor under this section, subsection 1 or 2 is
15 determined by agreement of the predecessor and successor. If a predecessor and
16 successor do not reach an agreement under this subsection, the portion of the
17 experience record and reserve account transferred must be in the same ratio to the
18 total experience record and reserve account as the average annual payroll of the
19 transferred organization, trade, business, or assets is to the total average annual
20 payroll of the predecessor.