

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2184

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2184

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2184

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 24, 2001

Tape Number	Side A	Side B	Meter #
1	x		0 to 21.8
2		x	18.3 to 33.2
Committee Clerk Signature <i>Doris E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB2184 relating to the transfer of unemployment compensation experience record, reserve balance, and benefit experience.

SENATOR RANDY SCHOBINGER In favor of this bill. The only intention is the reserve balance transfer. Reserve account should move with the previous owner and be taken into a new business. Written testimony attached.

RAY GUDAJTES, Job Service ND, opposing this bill. Written testimony attached. Reserve transfer allowance is already in the law. This bill would open window for artificial transfers to reduce rates. We would collect less, then have to raise rates and the cost would be shared by all employers.

M. DAY, JSND, Executive Director, Oppose this bill. Most business transfers can be accommodated with proper planning under current law.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2184

Hearing Date January 24, 2001.

Concluded hearing.

Committee reconvened (tape 2 side b meter: 18.3 to 33.2) Discussion held.

SENATOR D. MATHERN: This bill would be detrimental to Job Service.

SENATOR KLEIN: Motion : Do Pass SENATOR TOLLEFSON: Seconded.

Roll call vote: yes 2; no 5. Motion failed.

SENATOR D. MATHERN: Motion: Do not pass. SENATOR EVERY: Seconded.

Roll call vote: 7 yes; 0 no; 0 absent. Carrier: SENATOR D. MATHERN.

FISCAL NOTE
 Requested by Legislative Council
 01/15/2001

Bill/Resolution No.: SB 2184

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will eliminate mandatory succession of unemployment insurance tax accounts. Negative balance accounts will be able to reorganize into another entity to eliminate their negative balance reserve, negative balance unemployment insurance tax rates, and also to avoid additional costs of benefit charges to that account. Data does not exist to provide specific amounts.

The bill also opens avenues for new businesses to buy unemployment insurance tax rate histories of unrelated businesses to avoid new employer tax rates. New businesses have a greater risk to the Unemployment Insurance Trust Fund. This too can increase the cost to the Trust Fund and to other employers. Data does not exist to provide specific amounts.

The bill also proposes the transfer of only the accounts reserve, rather than the history of the account. This has potential for additional costs to the Trust Fund for benefits charges to the predecessor, which will be applied to other employers.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Wayne Kindem	Agency:	Job Service North Dakota
Phone Number:	328-3033	Date Prepared:	01/19/2001

Date: 1/24/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2184

Senate Industry, Business and Labor Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass failed

Motion Made By S. Klein Seconded By S. Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman		✓	Senator Every		✓
Senator Klein - Vice Chairman	✓		Senator Mathern		✓
Senator Espegard		✓			
Senator Krebsbach		✓			
Senator Tollefson	✓				

Total (Yes) 2 No 5

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1/24/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2184

Senate Senate Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT Pass

Motion Made By S D Mathern Seconded By S Every

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. D. Mathern

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 25, 2001 9:01 a.m.

Module No: SR-13-1577
Carrier: D. Mathern
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2184: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2184 was placed on the Eleventh order on the calendar.

2001 TESTIMONY

SB 2184

SENATE BILL 2184

**Testimony Before the Senate Committee On
Industry, Business and Labor
Senator Duane Mutch, Chairperson
January 24, 2001**

Mr. Chairman and members of the committee, I am Ray Gudajtes of Job Service North Dakota. Senate Bill 2184 eliminates a number of protections for the Unemployment Insurance Trust Fund and opens opportunities for manipulation of the tax rating process by employers. Job Service is in opposition to this legislation.

This bill removes the protection of mandatory succession to the history of an unemployment insurance employer tax account when the acquisition of all or part of the organization, business, trade or assets of an employer is made by another entity that is controlled by the same interests. Currently, the transfer of all or the appropriate part of the predecessor's experience record must be made to the new entity. This serves as a protection to the Unemployment Insurance Trust Fund in that it prevents manipulation by an employer to get out of paying a higher tax rate when the predecessor account has a negative balance simply by reorganizing the business structure.

Currently, employers with a negative experience rating account are stopped from reorganizing for the purpose of escaping the resulting higher UI tax rate. The enactment of this bill would prevent Job Service from making this transfer except "at the request of the successor employer" and/or if the predecessor and successor agree to transfer the history. It is doubtful anyone would request the negative experience.

This bill also would allow anyone to buy the account of any other unrelated business simply by manipulation of ownership of the transferring business. This too will allow manipulation of the tax rating system.

An example: A person owns a jewelry store, is ready to retire, can't or doesn't want to attempt to sell the business which has a \$20,000 unemployment insurance experience record "reserve" built up as the result of 30 years of being in business. He/she could go to a company with a negative experience or a person initiating a new business and offer "for XXX dollars you make me a 0.01% owner in your business or I will make you one in mine and I will transfer my experience to you." This would result in the other company getting a lower tax rate than they should. This would be harmful to the Unemployment Insurance Trust Fund as well as

resulting in an unfair advantage to this employer over his competitors. This same employer (jeweler) could actually advertise the experience history for sale.

The other area of concern is in regard to the allowance of a successor to choose to only succeed to the reserve of the account. The entire history of the account reflects the employer's risk to the unemployment insurance trust fund. This data is used in the determination of an employer's tax rate. The reserve is only a calculation of the contribution and benefit charge history of an employer which is used to determine which tax schedule will apply and where within the tax schedule the employer will be assigned a tax rate. This is not an item reflecting any available funds, since contributions lose their identity as soon as they are collected for the Unemployment Insurance Trust Fund and are paid for the benefit of the insurance coverage. Not transferring the history will create artificial histories, artificial data used in calculation of tax rates of all employers, and manipulation of the tax rating process.

In addition, benefits can be charged to an employer for up to 30 months following separation from employment. An employer that had anticipated benefit charges could then take the reserve of the account prior to the charges, leave the predecessor account responsible for the charges and avoid responsibility for those costs.

It is our conclusion that the effect of SB 2184 will be:

- Allowance for manipulation of tax rates
- Many artificial transfers of experience accounts
- Creation of artificial unemployment insurance histories
- Creation of artificial data for determination of rates of all employers
- Allowance for the avoidance of higher tax rates
- Allowance for avoidance of charges for benefits paid to an employer's former employees
- Creation of potential competitive advantage for employers
- Transferring one employer's costs to the Unemployment Insurance Trust Fund to the other employers in the state.

These are the issues of concern we wanted to point out to the committee for consideration when you make your decision.

Mr. Chairman, this concludes my testimony. Thank you.

