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LaCosta Rickford — Operator's Signature

10/2/03 — Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1098

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1098

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/20/03

Tape Number	Side A	Side B	Meter #
1		x	20.6-36.7

Committee Clerk Signature Kaitlin Hamme

Minutes:**CHAIRMAN KEISER** opened the hearing on HB 1098.

JOHN GRAHAM (JOB SERVICE NORTH DAKOTA): (See attached testimony)

REP. EKSTROM: Would this sidestep Supreme Court decision if they reopened in the future?

JOHN GRAHAM: Yes, we are attempting to moderate the impact the Supreme Court opinion as long as they are not deciding constitutional issues, we can do that by changing the statutes.

REP. SEVERSON: Doesn't HB 1096 cover this type of issue?

JOHN GRAHAM: No.

CHAIR KEISER: Closed hearing on HB 1098

ACTION:

REP EKSTROM moved do pass.

REP KLEIN seconded the motion.

Motion passed unanimously. 14-0-0. Rep. Ekstrom will carry the bill.

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Yolanda Rickford 10/2/03
Operator's Signature Date

Date: 1/20/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1098

House **Industry, Business & Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Eckstrm Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep.Severson, Vice-Chair	✓		Rep.Ekstrom	✓	
Rep.Dosch	✓		Rep.Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep.Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓				
Rep.Tieman	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Ekstrom.

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

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Yolanda Rickford 10/2/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 21, 2003 1:39 p.m.

Module No: HR-11-0850
Carrier: Ekstrom
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1098: Industry, Business and Labor Committee (Rep. Keiser, Chairman) *recommends* **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1098 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

HR-11-0850

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Operator's Signature

10/2/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1098

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Natosha Rickford 10/2/03
Operator's Signature Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1098**

Senate Industry, Business, and Labor

☐ Conference Committee

Hearing Date 03/04/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-2390

Committee Clerk Signature Lisa VanBerkom

Minutes:

Senator Duane Mutch opens HB 1098. All senators present.

John Graham, Job Service North Dakota, introduces bill and explains (written testimony)

Senator Heitkamp: Isn't this taking away a lot of rights?

Graham: Needs to be a finality to decision

Senator Mutch: This is a case of who you would charge

Graham: No, base period employer

Senator Klein: The employ worked for Stutsman county and went on the another job and now she is filing for compensation?

Graham: She left Stutsman County she left another employer then, got another job and earned requalifying wages and then was laid off. An then filed for benefits.

Senator Klein: And then what we are doing is we are trying to make this all more clear.

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LaCosta Rickford
Operator's Signature

10/2/03
Date

Graham: The problem with Westereng is we have a provision in the law that allows contributory employees to raise the question of being charged to their account. The law does not allow that right to reimburse those employees.There was a challenge and the county appealed. They felt they should know how the employee has been in the future.

Senator Nething: Under this law, what point does Stutsman County get a hearing?

Graham: We are trying to increase rights of the base period employer.

Marin Daley: Job Service North Dakota

I do not dispute what the Supreme Court did in this matter as far as giving the reimbursing employer the information on the wages and requalification. But with other types of court cases they get stretch beyond the limits Here is an example of what really offended me. Going over the case here when the person finally got laid off that employer state they should be eligible for benefits and then the previous employer came back in and calling back the claimant and called them a liar, because they didn't want to pay benefits.

Senator Krebsbach: In this case the employer agreed to pay the claim, were they aware of the liability to Stutsman County?

Grahom: I'm not sure. But they didn't come back.

Senator Nething: When you have a reimbursing employer that has little incentive to try and keep that employee because someone else is going to pay the bill.

Graham: In either case .... (tape kind of fuzzy and can't quite make out some of testimony)

My tax rates will go up and that should be the incentive to not get rid of that employee.

Senator Mutch: The employer that fired that party, had that party been an employee of the 90 fire, before he could tap on to that

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Yolanda Rickford 10/2/03
Operator's Signature Date

Graham:

No opposition

Closed HB 1098

Senator Nething motions for a Do Pass

Senator Klein 2nd

7 Yes 0 No

carrier : Senator Nething

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Operator's Signature

10/2/03
Date

Date: 3-4-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1098 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DO PASS

Motion Made By Nething Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espegard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Nething

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

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LaCosta Rickford 10/2/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 4, 2003 1:08 p.m.

Module No: SR-38-3841
Carrier: Nething
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1098: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1098 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

SR-38-3841

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2003 TESTIMONY

HB 1098

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Valeta Rickford 10/2/03

Operator's Signature Date

Committee on Industry, Business, and Labor

Testimony on House Bill No. 1098

Presented by John Graham, Job Service North Dakota

January 20, 2003

Chairman Keiser, members of the House Industry, Business, and Labor Committee, I am John Graham, the Director of the Unemployment Insurance (UI) program for Job Service North Dakota. Thank you for the opportunity to testify in support of House Bill No. 1098 which Job Service caused to be prefiled.

On June 8, 2001, the North Dakota Supreme Court issued a decision in the case of **Stutsman County v. Westereng**. That case arose out of an action by Job Service to charge Stutsman County, a reimbursing base period employer, with benefits paid to a claimant. The Supreme Court in its decision said:

"The district court found the record Job Service used to decide the appeal did not contain information on Westereng's employment after she left the employ of Stutsman County, the wages she earned, and the circumstances of her departure. Without that information, the district court determined Stutsman County was unable to properly challenge the award of benefits and was not afforded a fair hearing. The district court remanded to the agency to gather and obtain the facts at a hearing to allow inquiry by Stutsman County into those areas necessary for the proper presentation of claims and defenses, including presentation of testimony by Westereng."

The Supreme Court then went on to say:

"We affirm the district court's remand to Job Service to gather and obtain the facts at a hearing, and to allow inquiry by Stutsman County into those areas necessary for the proper presentation of claims and defenses."

This Bill, which amends NDCC Section 52-06-21, is intended to moderate the impact of Westereng. Our concern is that, following the Westereng decision, several appeals from charging of reimbursing employers' accounts have argued that the claimant and the discharging employer should be required to be present at the hearing on the charging decision in order that the base period employer might argue with the decision to grant benefits. Job Service believes that it is detrimental to the claimant, the separating employer, and the administrative decisionmaking process to allow reargument of a final decision.

The Bill reiterates the current law's provision that base period employers cannot collaterally attack such decisions. But, in recognition of the point made in Westereng, the Bill also provides that a base period employer which is challenging the charging of benefits to its account is entitled "to receive data and information" from Job Service "concerning the monetary basis for the claimant's right to the benefits at issue." The Bill specifically provides that Job Service does not need to call the claimant or the claimant's separating employer to a hearing on the issue of charging the appealing base period employer's account.

Mr. Chairman, I respectfully request that the Committee give the bill a "do pass" recommendation. I would be happy to answer any questions the Committee might have.

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Yolanda Rickford 10/2/03
Operator's Signature Date

Committee on Industry, Business, and Labor

Testimony on House Bill No. 1098

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