

Introduced by

Senators Dever, Schneider, Triplett

Representatives N. Johnson, Maragos, S. Meyer

1 A BILL for an Act to amend and reenact subdivision k of subsection 18 of section 52-01-01,
2 subdivision b of subsection 2 of section 52-04-07, and subsection 1 of section 52-06-02 of the
3 North Dakota Century Code, relating to ineligibility and eligibility for unemployment
4 compensation benefits; and to declare an emergency.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Subdivision k of subsection 18 of section 52-01-01 of the North
7 Dakota Century Code is amended and reenacted as follows:

8 k. Service performed for a private for-profit person or entity by an individual as a
9 landman if substantially all remuneration, including payment on the basis of a
10 daily rate, paid in cash or otherwise for the performance of the service is directly
11 related to the completion by the individual of the specific tasks contracted for
12 rather than to the number of hours worked by the individual, and the services are
13 performed under a written contract between the individual and the person for
14 whom the services are performed which provides that the individual is to be
15 treated as an independent contractor and not as an employee with respect to the
16 services provided under the contract. For purposes of this subdivision, "landman"
17 means a land professional who has been engaged primarily in:

- 18 (1) Negotiating the acquisition or divestiture of mineral rights;
19 (2) Negotiating business agreements that provide for the exploration for or
20 development of minerals;
21 (3) Determining ownership of minerals through research of public and private
22 records;
23 (4) Reviewing the status of title, curing title defects, and otherwise reducing title
24 risk associated with ownership of minerals;

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- 3 (5) Managing rights or obligations derived from ownership of interests and
4 minerals; or
5 (6) Activities to secure the unitization or pooling of interests in minerals.

6 **SECTION 2. AMENDMENT.** Subdivision b of subsection 2 of section 52-04-07 of the North
7 Dakota Century Code is amended and reenacted as follows:

- 8 b. With benefits paid to an individual who either:
9 (1) Left the employment of the base-period employer voluntarily without good
10 cause or with good cause not involving fault on the part of the base-period
11 employer; or
12 (2) ~~Who was~~Was discharged from employment by the base-period employer for
13 misconduct; or
14 (3) Was separated from employment with the most recent employer for reasons
15 directly attributable to domestic violence or sexual assault.

16 **SECTION 3. AMENDMENT.** Subsection 1 of section 52-06-02 of the North Dakota Century
17 Code is amended and reenacted as follows:

- 18 1. a. For the week in which the individual has left the individual's most recent
19 employment voluntarily without good cause attributable to the employer, and
20 thereafter until such time as the individual:
21 a. (1) Can demonstrate that the individual has earned remuneration for personal
22 services in employment from and after the date of the unemployment
23 compensation claim filing, equivalent to at least eight times the individual's
24 weekly benefit amount as determined under section 52-06-04; and
25 b. (2) Has not left the individual's most recent employment under disqualifying
26 circumstances.
27 b. A temporary employee of a temporary help firm is deemed to have left
28 employment voluntarily if the employee does not contact the temporary help firm
29 for reassignment before filing for benefits. Failure to contact the temporary help
30 firm is not deemed a voluntary leaving of employment unless the claimant was
31 advised of the obligation to contact the temporary help firm upon completion of
 an assignment and advised that unemployment benefits may be denied for failure
 to contact the temporary help firm. As used in this subsection, "temporary"

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1 "employee" means an employee assigned to work for a client of a temporary help
2 firm; and "temporary help firm" means a firm that hires that firm's own employees
3 and assigns these employees to a client to support or supplement the client's
4 workforce in a work situation such as employee absence, temporary skill
5 shortage, seasonal workload, a special assignment, and a special project.

- 6 c. This subsection does not apply if job service North Dakota determines that the
7 individual in an active claim filing status accepted work which the individual could
8 have refused with good cause under section 52-06-36 and terminated such
9 employment with the same good cause and within the first ten weeks after
10 starting work.
- 11 d. This subsection does not apply if the individual left employment or remains away
12 from employment following illness or injury upon a physician's written notice or
13 order; no benefits may be paid under this exception unless the employee has
14 notified the employer of the physician's requirement and has offered service for
15 suitable work to the employer upon the individual's capability of returning to
16 employment. This exception does not apply unless the individual's capability of
17 returning to employment and offer of service for suitable work to the employer
18 occurs within sixty days of the last day of work. However, the cost of any benefits
19 paid under this exception may not be charged against the account of the
20 employer, other than a reimbursing employer, from whom the individual became
21 separated as a result of the illness or injury. Job service North Dakota may
22 request and designate a licensed physician to provide a second opinion
23 regarding the claimant's qualification; however, no individual may be charged
24 fees of any kind for the cost of such second opinion.
- 25 e. This subsection does not apply if the individual left the most recent employment
26 because of an injury or illness caused or aggravated by the employment; no
27 benefits may be paid under this exception unless the individual leaves
28 employment upon a physician's written notice or order, the individual has notified
29 the employer of the physician's requirement, and there is no reasonable
30 alternative but to leave employment.

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- 1 f. For the purpose of this subsection, an individual who left the most recent
2 employment in anticipation of discharge or layoff must be deemed to have left
3 employment voluntarily and without good cause attributable to the employer.
- 4 g. For the purpose of this subsection, "most recent employment" means
5 employment with any employer for whom the claimant last worked and voluntarily
6 quit without good cause attributable to the employer or with any employer, in
7 insured work, for whom the claimant last worked and earned wages equal to or
8 exceeding eight times the individual's weekly benefit amount.
- 9 h. This subsection does not apply if the individual leaves work which is two hundred
10 road miles [321.87 kilometers] or more, as measured on a one-way basis, from
11 the individual's home to accept work which is less than two hundred road miles
12 [321.87 kilometers] from the individual's home provided the work is a bona fide
13 job offer with a reasonable expectation of continued employment.
- 14 i. This subsection does not apply if the individual voluntarily leaves most recent
15 employment to accept a bona fide job offer with a base-period employer who laid
16 off the individual and with whom the individual has a demonstrated job
17 attachment. For the purposes of this exception, "demonstrated job attachment"
18 requires earnings in each of six months during the five calendar quarters before
19 the calendar quarter in which the individual files the claim for benefits.
- 20 j. (1) This subsection does not apply if the reason for separation from the
21 individual's employment is directly attributable to domestic violence or
22 sexual assault that is verified by documentation submitted to job service
23 North Dakota which substantiates the individual's reason for separation from
24 the most recent employment and such continued employment would
25 jeopardize the safety of the individual or of the individual's spouse, parent,
26 or minor child. After receiving a claim for unemployment insurance benefits
27 for which the individual identifies domestic violence or sexual assault as the
28 reason for separation, job service North Dakota shall notify the most recent
29 employer of the reason for separation provided by the individual.
- 30 (2) For purposes of this subdivision, documentation includes:

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- 1 (a) A court order, protection order, restraining order, or other record filed
2 with a court;
- 3 (b) A police or law enforcement record;
- 4 (c) A medical record indicating domestic violence or sexual assault; or
- 5 (d) A written affidavit provided by an individual who has assisted the
6 claimant in dealing with the domestic violence or sexual assault and
7 who is a:
 - 8 [1] Licensed counselor;
 - 9 [2] Licensed social worker;
 - 10 [3] Member of the clergy;
 - 11 [4] Director or domestic violence advocate at a domestic violence
12 sexual assault organization as defined in section 14-07.1-01; or
 - 13 [5] Licensed attorney.
- 14 (3) Documentation must be received by job service North Dakota within
15 fourteen calendar days from the date the individual files a claim for
16 unemployment insurance benefits after separating from employment for
17 reasons directly attributable to domestic violence or sexual assault.
- 18 (4) A false statement of domestic violence or sexual assault in a claim for
19 unemployment insurance benefits is subject to subsection 8 and section
20 52-06-40.

21 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.