

HOUSE BILL NO. 1302

Introduced by

Representatives Sandvig, Delmore, Zaiser

Senators Fairfield, Heitkamp, Krauter

1 A BILL for an Act to amend and reenact subsection 2 of section 52-04-07, subsection 3 of
2 section 52-06-01, subsection 1 of section 52-06-02, and section 52-06-36 of the North Dakota
3 Century Code, relating to domestic violence victim eligibility for unemployment compensation
4 benefits.

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

6 **SECTION 1. AMENDMENT.** Subsection 2 of section 52-04-07 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. Notwithstanding subsection 1, an employer's account may not be charged for any
9 of the following:

10 a. With benefits paid to an individual for unemployment that is directly caused by
11 a major natural disaster declared by the president pursuant to section 102(2)
12 of the Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143; 42 U.S.C.
13 5122(2)], if the individual would have been eligible for disaster unemployment
14 assistance with respect to that unemployment but for the individual's receipt of
15 unemployment insurance benefits.

16 b. With benefits paid to an individual who, during the base period, either:

17 (1) Left the employment of a base-period employer voluntarily without good
18 cause or with good cause not involving fault on the part of the
19 base-period employer; or

20 (2) Who was discharged from employment by the base-period employer for
21 misconduct.

22 c. As provided under section 52-06-29.

23 d. With benefits paid to an individual who is in training with the approval of the
24 bureau.

- 1 e. With benefits paid to an individual who is subsequently determined not
2 entitled to receive the benefits.
- 3 f. With benefits paid to an individual who is currently employed part time with
4 that employer when the hiring agreement between the individual and the
5 employer has not changed since the individual commenced work for that
6 employer. This subdivision does not apply to an employee of a temporary
7 help firm.
- 8 g. With benefits paid to an individual who left employment due to domestic
9 violence circumstances.

10 **SECTION 2. AMENDMENT.** Subsection 3 of section 52-06-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 3. The individual is able to work and is available for suitable work and actively
13 seeking work; provided:
- 14 a. That notwithstanding any other provisions in this section, no otherwise eligible
15 individual may be denied benefits for any week because the individual is in
16 training with the approval of the bureau by reason of the application of
17 provisions of this subsection relating to availability for work and to active
18 search for work, or the provisions of subsection 3 of section 52-06-02 relating
19 to disqualification for benefits for failure to apply for, or a refusal to accept,
20 suitable work; ~~and~~
- 21 b. That no claimant may be considered ineligible in any week of unemployment
22 for failure to comply with this subsection, if the failure is due to an illness or
23 disability not covered by workforce safety and insurance and which occurred
24 after the claimant has registered for work and no work has been offered the
25 claimant which is suitable; and
- 26 c. That a claimant who was determined eligible due to domestic violence
27 circumstances may not be considered ineligible in any week of unemployment
28 for failure to comply with this subsection if the failure is due to circumstances
29 directly resulting from domestic violence;

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

- 1 1. For the week in which the individual has left the individual's most recent
- 2 employment voluntarily without good cause attributable to the employer, and
- 3 thereafter until such time as the individual:
- 4 a. Can demonstrate that the individual has earned remuneration for personal
- 5 services in employment equivalent to at least eight times the individual's
- 6 weekly benefit amount as determined under section 52-06-04; and
- 7 b. Has not left the individual's most recent employment under disqualifying
- 8 circumstances.

9 A temporary employee of a temporary help firm is deemed to have left
10 employment voluntarily if the employee does not contact the temporary help firm
11 for reassignment before filing for benefits. Failure to contact the temporary help
12 firm is not deemed a voluntary leaving of employment unless the claimant was
13 advised of the obligation to contact the temporary help firm upon completion of an
14 assignment and advised that unemployment benefits may be denied for failure to
15 contact the temporary help firm. As used in this subsection, "temporary employee"
16 means an employee assigned to work for a client of a temporary help firm; and
17 "temporary help firm" means a firm that hires that firm's own employees and
18 assigns these employees to a client to support or supplement the client's workforce
19 in a work situation such as employee absence, temporary skill shortage, seasonal
20 workload, a special assignment, and a special project.

21 This subsection does not apply if the bureau determines that the individual in
22 an active claim filing status accepted work which the individual could have refused
23 with good cause under section 52-06-36 and terminated such employment with the
24 same good cause and within the first ten weeks after starting work.

25 This subsection does not apply if the individual left employment or remains
26 away from employment following illness or injury upon a physician's written notice
27 or order; no benefits may be paid under this exception unless the employee has
28 notified the employer of the physician's requirement and has offered service for
29 suitable work to the employer upon the individual's capability of returning to
30 employment. This exception does not apply unless the individual's capability of
31 returning to employment and offer of service for suitable work to the employer

occurs within sixty days of the last day of work. However, the cost of any benefits paid under this exception may not be charged against the account of the employer from whom the individual became separated as a result of the illness or injury. The bureau may request and designate a licensed physician to provide a second opinion regarding the claimant's qualification; however, no individual may be charged fees of any kind for the cost of such second opinion.

This subsection does not apply if the individual left the most recent employment because of an injury or illness caused or aggravated by the employment; no benefits may be paid under this exception unless the individual leaves employment upon a physician's written notice or order, the individual has notified the employer of the physician's requirement, and there is no reasonable alternative but to leave employment.

This subsection does not apply if the individual left the most recent employment because of circumstances directly resulting from domestic violence, as defined under section 14-07.1-01, and the individual reasonably feared future domestic violence at or en route to or from the individual's place of employment; wished to relocate to another geographic area to avoid future violence against the individual, the individual's family, or the individual's coworkers; reasonably believed that leaving work was necessary for the future safety of the individual, the individual's family, or the individual's coworkers; was required to leave employment as a condition of receiving services or shelter from an agency that provides support services or shelter to victims of domestic violence or sexual assault; or reasonably believed for any reason related to domestic violence that termination of employment was necessary for the future safety of the individual, the individual's family, or the individual's coworkers.

For the purpose of this subsection, an individual who left the most recent employment in anticipation of discharge or layoff must be deemed to have left employment voluntarily and without good cause attributable to the employer.

For the purpose of this subsection, "most recent employment" means employment with any employer for whom the claimant last worked and voluntarily quit without good cause attributable to the employer or with any employer, in

insured work, for whom the claimant last worked and earned wages equal to or exceeding eight times the individual's weekly benefit amount.

This subsection does not apply if the individual leaves work which is two hundred road miles [321.87 kilometers] or more, as measured on a one-way basis, from the individual's home to accept work which is less than two hundred road miles [321.87 kilometers] from the individual's home provided the work is a bona fide job offer with a reasonable expectation of continued employment.

This subsection does not apply if the individual voluntarily leaves most recent employment to accept a bona fide job offer with a base period employer who laid off the individual and with whom the individual has a demonstrated job attachment. For the purposes of this exception, "demonstrated job attachment" requires earnings in each of six months during the five calendar quarters before the calendar quarter in which the individual files the claim for benefits.

SECTION 4. AMENDMENT. Section 52-06-36 of the North Dakota Century Code is amended and reenacted as follows:

52-06-36. Factors considered in determining suitability of work and good cause for voluntary leaving. In determining whether or not any work is suitable for an individual and in determining the existence of good cause for voluntarily leaving the individual's work under subsections 1 and 3 of section 52-06-02, there must be considered among other factors, and in addition to those enumerated in this section, the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the length of the individual's unemployment, the individual's prospects for obtaining work in the individual's customary occupation, the distance of available work from the individual's residence, and the prospects for obtaining local work. There is good cause for an individual voluntarily leaving the individual's work if the individual left the employment because of circumstances directly resulting from domestic violence, as defined under section 14-07.1-01, and the individual reasonably feared future domestic violence at or en route to or from the individual's place of employment; wished to relocate to another geographic area to avoid future violence against the individual, the individual's family, or the individual's coworkers; reasonably believed that leaving work was necessary for the future safety of the individual, the individual's family, or the individual's coworkers; was required to

- 1 leave employment as a condition of receiving services or shelter from an agency that provides
2 support services or shelter to victims of domestic violence or sexual assault; or reasonably
3 believed for any reason related to domestic violence that termination of employment was
4 necessary for the future safety of the individual, the individual's family, or the individual's
5 coworkers. However, any work paying wages equal to the maximum weekly benefit amount
6 must be determined suitable for an individual who has filed for and received benefit payments
7 for eighteen consecutive weeks; provided, that consideration must be given to the degree of
8 risk involved to the individual's health, safety, morals, the individual's physical fitness, and the
9 distance of the work from the individual's residence. No work may be deemed suitable and
10 benefits may not be denied under the North Dakota Unemployment Compensation Law to any
11 otherwise eligible individual for refusing to accept new work under any of the following
12 conditions:
- 13 1. If the position offered is vacant due directly to a strike, lockout, or other labor
14 dispute.
 - 15 2. If the wages, hours, or other conditions of work offered are substantially less
16 favorable to the individual than those prevailing for similar work in the locality.
 - 17 3. If, as a condition of being employed, the individual would be required to join a
18 company union or to resign from or refrain from joining any bona fide labor
19 organization.