

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Schmidt, Delmore

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 either:

17 (1) Left the employment of the base-period employer voluntarily without  
18 good 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 job  
24 service North Dakota.

- 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 job service North Dakota determines that the  
22          individual in an active claim filing status accepted work which the individual could  
23          have refused with good cause under section 52-06-36 and terminated such  
24          employment with the same good cause and within the first ten weeks after starting  
25          work.

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

1 returning to employment and offer of service for suitable work to the employer  
2 occurs within sixty days of the last day of work. However, the cost of any benefits  
3 paid under this exception may not be charged against the account of the employer,  
4 other than a reimbursing employer, from whom the individual became separated as  
5 a result of the illness or injury. Job service North Dakota may request and  
6 designate a licensed physician to provide a second opinion regarding the  
7 claimant's qualification; however, no individual may be charged fees of any kind for  
8 the cost of such second opinion.

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

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

28 For the purpose of this subsection, an individual who left the most recent  
29 employment in anticipation of discharge or layoff must be deemed to have left  
30 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

1 geographic area to avoid future violence against the individual, the individual's family, or the  
2 individual's coworkers; reasonably believed that leaving work was necessary for the future  
3 safety of the individual, the individual's family, or the individual's coworkers; was required to  
4 leave employment as a condition of receiving services or shelter from an agency that provides  
5 support services or shelter to victims of domestic violence or sexual assault; or reasonably  
6 believed for any reason related to domestic violence that termination of employment was  
7 necessary for the future safety and the individual, the individual's family, or the individual's  
8 coworkers. However, any work paying wages equal to the maximum weekly benefit amount  
9 must be determined suitable for an individual who has filed for and received benefit payments  
10 for eighteen consecutive weeks; provided, that consideration must be given to the degree of  
11 risk involved to the individual's health, safety, morals, the individual's physical fitness, and the  
12 distance of the work from the individual's residence. No work may be deemed suitable and  
13 benefits may not be denied under the North Dakota unemployment compensation law to any  
14 otherwise eligible individual for refusing to accept new work under any of the following  
15 conditions:

- 16 1. If the position offered is vacant due directly to a strike, lockout, or other labor  
17 dispute.
- 18 2. If the wages, hours, or other conditions of work offered are substantially less  
19 favorable to the individual than those prevailing for similar work in the locality.
- 20 3. If, as a condition of being employed, the individual would be required to join a  
21 company union or to resign from or refrain from joining any bona fide labor  
22 organization.