

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2245
(Senators Dever, Schneider, Triplett)
(Representatives N. Johnson, Maragos, S. Meyer)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

- k. Service performed for a private for-profit person or entity by an individual as a landman if substantially all remuneration, including payment on the basis of a daily rate, paid in cash or otherwise for the performance of the service is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual, and the services are performed under a written contract between the individual and the person for whom the services are performed which provides that the individual is to be treated as an independent contractor and not as an employee with respect to the services provided under the contract. For purposes of this subdivision, "landman" means a land professional who has been engaged primarily in:
- (1) Negotiating the acquisition or divestiture of mineral rights;
 - (2) Negotiating business agreements that provide for the exploration for or development of minerals;
 - (3) Determining ownership of minerals through research of public and private records;
 - (4) Reviewing the status of title, curing title defects, and otherwise reducing title risk associated with ownership of minerals;
 - (5) Managing rights or obligations derived from ownership of interests and minerals; or
 - (6) Activities to secure the unitization or pooling of interests in minerals.

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

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

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

1.
 - a. For the week in which the individual has left the individual's most recent employment voluntarily without good cause attributable to the employer, and thereafter until such time as the individual:
 - a- (1) Can demonstrate that the individual has earned remuneration for personal services in employment from and after the date of the unemployment compensation claim filing, equivalent to at least eight times the individual's weekly benefit amount as determined under section 52-06-04; and
 - b- (2) Has not left the individual's most recent employment under disqualifying circumstances.
 - b. A temporary employee of a temporary help firm is deemed to have left employment voluntarily if the employee does not contact the temporary help firm for reassignment before filing for benefits. Failure to contact the temporary help firm is not deemed a voluntary leaving of employment unless the claimant was 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 employee" means an employee assigned to work for a client of a temporary help firm; and "temporary help firm" means a firm that hires that firm's own employees and assigns these employees to a client to support or supplement the client's workforce in a work situation such as employee absence, temporary skill shortage, seasonal workload, a special assignment, and a special project.
 - c. This subsection does not apply if job service North Dakota determines that the individual in an active claim filing status accepted work which the individual could have refused with good cause under section 52-06-36 and terminated such employment with the same good cause and within the first ten weeks after starting work.
 - d. This subsection does not apply if the individual left employment or remains away from employment following illness or injury upon a physician's written notice or order; no benefits may be paid under this exception unless the employee has notified the employer of the physician's requirement and has offered service for suitable work to the employer upon the individual's capability of returning to employment. This exception does not apply unless the individual's capability of 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, other than a reimbursing employer, from whom the individual became separated as a result of the illness or injury. Job service North Dakota 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.
 - e. 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.
 - f. 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.
 - g. 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.

- h. 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.
- i. 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.
- j. (1) This subsection does not apply if the reason for separation from the individual's employment is directly attributable to domestic violence or sexual assault that is verified by documentation submitted to job service North Dakota which substantiates the individual's reason for separation from the most recent employment and such continued employment would jeopardize the safety of the individual or of the individual's spouse, parent, or minor child. After receiving a claim for unemployment insurance benefits for which the individual identifies domestic violence or sexual assault as the reason for separation, job service North Dakota shall notify the most recent employer of the reason for separation provided by the individual.

(2) For purposes of this subdivision, documentation includes:

 - (a) A court order, protection order, restraining order, or other record filed with a court;
 - (b) A police or law enforcement record;
 - (c) A medical record indicating domestic violence or sexual assault; or
 - (d) A written affidavit provided by an individual who has assisted the claimant in dealing with the domestic violence or sexual assault and who is a:

 - [1] Licensed counselor;
 - [2] Licensed social worker;
 - [3] Member of the clergy;
 - [4] Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - [5] Licensed attorney.

(3) Documentation must be received by job service North Dakota within fourteen calendar days from the date the individual files a claim for unemployment insurance benefits after separating from employment for reasons directly attributable to domestic violence or sexual assault.

(4) A false statement of domestic violence or sexual assault in a claim for unemployment insurance benefits is subject to subsection 8 and section 52-06-40.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2245 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 92 Nays 0 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State