

1 IN THE HOUSE

BY MR. KAY, *Present*

2 HOUSE BILL NO. 185 *Fagerstrom + Duffield*

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing temporary benefits to
7 individuals during periods of unemploy-
8 ment caused by disability, by adding to
9 the Alaska Employment Security Law
10 Sections 51-5-21 to 51-5-32 inclusive,
11 ACLA 1949; and fixing an effective date."

12 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

13 Section 1. This Act shall be referred to as Part II of the
14 Alaska Employment Security Law.

15 Section 2. DECLARATION OF TERRITORIAL PUBLIC POLICY. As a
16 guide to the interpretation and application of this part, the
17 public policy of this Territory is declared to be as follows:
18 Protection against loss of earnings caused by temporary dis-
19 ability is not furnished by the unemployment insurance provisions
20 of this Act heretofore in effect and only limited protection is
21 furnished by the Alaska Workmen's Compensation Act. The pre-
22 valence and incidence of nonoccupational sickness and accident
23 among workers is greatest among the lower-income groups, who are
24 least able to provide out of their own resources against the
25 hazard of earnings loss caused by nonoccupational sickness and
26 accident. The legislature therefore declares that in its con-
27 sidered judgment the public good and the general welfare of the
28 citizens of this Territory require the enactment of this measure,
29 under the police power of the Territory, to provide temporary

1 disability benefits to eligible individuals suffering non-
2 occupational sickness or accident which is not compensable under
3 the Alaska Workmen's Compensation Act.

4 Section 3. There is hereby adopted the following new
5 section of the Alaska Code:

6 Sec. 51-5-21. SHORT TITLE AND RULE OF STATUTORY
7 CONSTRUCTION. This part shall be known and may be cited as
8 the Temporary Disability Provisions of the Alaska Employ-
9 ment Security Law. This part shall be liberally construed
10 to accomplish its purpose to promote social security by
11 providing temporary disability benefits to individuals
12 suffering wage loss due to nonoccupational sickness or
13 accident. It is the desire of the Territory to take
14 advantage of any Federal legislation providing assistance
15 to States for the payment of temporary disability benefits,
16 such as grants for administration or benefits; all doubts
17 as to the proper construction of any provision of this part
18 shall be resolved in favor of conformity with the require-
19 ments of any such Federal legislation.

20 Section 4. There is hereby adopted the following new
21 section of the Alaska Code:

22 Sec. 51-5-22. APPLICABILITY OF UNEMPLOYMENT INSURANCE
23 PROVISIONS:

24 (a) Provisions Applicable. Except as otherwise
25 provided, the provisions and definitions of Sections
26 51-5-1 to 51-5-20, inclusive, of this Act shall apply
27 to this part. In case of any conflict between the
28 provisions of Sections 51-5-1 to 51-5-20, inclusive,
29 and the provisions of this part, the provisions of this

1 part shall prevail with respect to disability benefits.

2 (b) Provisions Inapplicable. Sections 51-5-3,
3 51-5-4, 51-5-5, 51-5-7 (a) and (b), 51-5-9, 51-5-13
4 and 51-5-20 shall not apply to this part.

5 Section 5. There is hereby adopted the following new
6 section of the Alaska Code:

7 Sec. 51-5-23. DEFINITIONS: As used in this part,
8 unless the context clearly requires otherwise,

9 (a) "Benefits" means the money payments payable to
10 an insured worker as provided in this part with respect
11 to his disability.

12 (b) "Contributions" means the money payments re-
13 quired by this part to be made into the disability
14 fund by employers and employees.

15 (c) "Disability" means any physical or mental
16 condition which renders an individual incapable of
17 performing his regular or customary work. In no case
18 shall the term "disability" include any injury or
19 illness caused by or arising in connection with preg-
20 nancy up to the termination of such pregnancy and for
21 a period of four weeks thereafter.

22 (d) "Employee" means an insured worker who has
23 had earnings for employment by an employer during the
24 base period.

25 (e) "Fund" means the Disability Fund established
26 by this part.

27 (f) "Physician" means a medical practitioner,
28 surgeon, dentist, osteopath, chiropractor, or a
29 medical officer of the U. S. Government, including the

1 armed forces thereof, or of the Territory of Alaska,
2 provided, however, that the Commission may by regu-
3 lation include others under the definition of physician
4 in those communities where a physician as defined above
5 is not available.

6 (g) "Week of Disability" means such period of
7 seven consecutive days as the Commission may by re-
8 gulation prescribe.

9 Section 6. There is hereby adopted the following new
10 section of the Alaska Code:

11 Sec. 51-5-24. BENEFITS:

12 (a) Weekly Benefit Amount. An insured worker's
13 weekly benefit amount for disability shall be as pro-
14 vided in Section 51-5-2 for unemployment benefits plus
15 dependency allowances, if any.

16 (b) Qualifying Wages. To qualify as an insured
17 worker, an individual must meet the requirements of
18 Section 51-5-3 (e).

19 (c) Maximum Potential Benefits. An insured
20 worker's maximum potential disability benefits shall
21 be as provided in Section 51-5-2. Benefits paid under
22 one part of this Act shall not reduce the maximum
23 amount payable under the other.

24 (d) Benefits for a Week or Part Week of Disabil-
25 ity. An insured worker who is disabled for a week as
26 defined in Section 51-5-23 (g) and who meets the con-
27 ditions of eligibility for benefits under Section
28 51-5-25 shall be paid with respect to such week an
29 amount equal to his augmented weekly benefit amount if

1 he has dependents, or his basic weekly benefit amount
2 if he has no dependents. Benefits for periods of less
3 than a full week following a full week of compensable
4 disability shall be computed at the rate of one-
5 seventh (1/7) of his weekly benefit amount combined
6 with dependency allowance, if any, for each full day
7 during which claimant is disabled. The benefit for any
8 week or part week, if not a multiple of one dollar,
9 shall be computed to the next higher multiple of one
10 dollar.

11 Section 7. There is hereby adopted the following new
12 section of the Alaska Code:

13 Sec. 51-5-25. CONDITIONS FOR RECEIPT OF BENEFITS:

14 (a) Eligibility for Benefits. An insured worker
15 shall be eligible to receive benefits with respect to
16 any week only if the Commission finds that:

17 (1) He is disabled as defined in Section 51-5-23
18 (c); and

19 (2) He has performed no services for an employing
20 unit and has not engaged in self-employment; and

21 (3) He has been continuously disabled for a wait-
22 ing period of seven consecutive days during each
23 period of disability: Provided, however, That a wait-
24 ing period shall not be required for a second period of
25 disability due to the same or related cause or causes
26 commencing not later than three weeks subsequent to
27 the termination of a prior disability compensated pur-
28 suant to the provisions of this Act: And provided
29 further, When unemployment immediately precedes an

1 individual's period of disability, which disability
2 exists for a period of not less than seven days, he
3 may apply consecutive days of such unemployment toward
4 his disability waiting period credit if such days of
5 unemployment occurred during a period in which he
6 would have been eligible for waiting period credit or
7 benefits pursuant to the Employment Security Act ex-
8 cept for his disability.

9 (4) In accordance with regulations prescribed by
10 the Commission, has certified for waiting-week credit
11 or filed a claim for benefits and has submitted a
12 physician's certificate, and, if directed to do so by
13 the Commission, has submitted to a physical examina-
14 tion for the purpose of determining his disability.

15 (5) Has not withdrawn from the labor force for
16 any reason other than disability, as determined in
17 accordance with regulations prescribed by the Com-
18 mission.

19 (b) Non-duplication of Benefits. An insured
20 worker shall not receive credit for a waiting-week or
21 benefits for any week or part week of disability with
22 respect to which the Commission finds that:

23 (1) He has received or is seeking unemployment
24 benefits under this or any other employment security
25 law, but if the appropriate agency finally determines
26 that he is not entitled to benefits under such law,
27 this paragraph shall not apply:

28 (2) He has received or is seeking disability
29 benefits under the law of another State or of the

1 Federal Government, but if the appropriate agency
2 finally determines that he is not entitled to such
3 benefits, this paragraph shall not apply; or

4 (3) He has received or is receiving compensation
5 for the same disability under a workmen's compensation
6 or employer's liability law of this Territory or any
7 State or of the Federal Government.

8 When an insured worker, who is otherwise entitled
9 to disability benefits under this Act, has a right to
10 seek compensation for the same disability under such
11 State or Federal law, benefits shall be paid him sub-
12 ject to recoupment to the extent of any amounts paid
13 under this part. The Commission shall be subrogated
14 to any rights of an insured worker for compensation
15 for the same disability under any workmen's compen-
16 sation or employer's liability law and, by virtue of
17 such subrogation, if such worker does not file and
18 prosecute a claim for such compensation, the Commis-
19 sion shall file and prosecute such claim.

20 Amounts repayable to the Fund may be recovered
21 in accordance with such regulations as the Commission
22 shall prescribe.

23 (c) Disqualifications. An insured worker shall
24 be disqualified for benefits if the Commission finds
25 that:

26 (1) He has made a false statement or representa-
27 tion of a material fact, knowing it to be false or
28 knowingly failed to disclose a material fact, with
29 intent to defraud by obtaining any benefits not due

1 under this Act within the twenty-four calendar months
2 immediately preceding such week and such disqualifi-
3 cation shall continue for the twenty-six weeks immed-
4 iately following the week in which such determination
5 was made.

6 (2) He is suffering from a wilful and intentional
7 self-inflicted disability, or

8 (3) He is suffering from a disability occasioned
9 while perpetrating a misdemeanor or a felony.

10 (d) Religious Exemption. Any individual who
11 adheres to the faith or teachings of any church, sect,
12 or denomination and in accordance with its creed,
13 tenets, or principles, depends for healing upon
14 prayer or spiritual means in the practice of religion
15 shall be exempt from the provisions of this Act and
16 excluded therefrom upon the filing with the Employment
17 Security Department and with his or her employer,
18 affidavits, in duplicate, stating such adherence and
19 dependence, and disclaiming any and all benefits under
20 this Act, and stating therein the name of the employer
21 of such individual, which affidavits shall contain
22 certifications by an officer of the individual's church,
23 or certifications of any ^{practitioner} ~~Secretary of~~ ^{State of}
24 ~~Washington~~ ^{Alaska} who is authorized to practice healing based
25 upon prayer or spiritual means, stating such adherence
26 and dependence of such individual. Thereafter said
27 individual and his employer shall be exempt from
28 liability for contributions with respect to said in-
29 dividual provided for under this Act, and the employer

1 shall be entitled to rely upon the affidavit filed with
2 it unless and until it shall receive notice from the
3 Commissioner that the provisions hereof have not been
4 complied with or that such affidavit is not in proper
5 form. In case such individual, after the filing of
6 such affidavit, obtains new employment he must file
7 new affidavits in order to be exempt from the pro-
8 visions of this Act.

9 (e) Non-liability of Territory for Disability
10 Benefits. Disability benefits shall be deemed to be
11 due and payable under this Act only to the extent pro-
12 vided and to the extent that moneys are available
13 therefor to the credit of the Disability Fund, and
14 neither the Territory nor the Commission shall be
15 liable for any amount in excess of such sums.

16 Section 8. There is hereby adopted the following new
17 section of the Alaska Code:

18 Sec. 51-5-26. DETERMINATIONS AND NOTICES.

19 (a) Determinations. When an individual files an
20 application for initial determination, the Commission
21 shall, if no determination of the individual's insured
22 status has been made with respect to a current benefit
23 year, promptly determine such individual's insured
24 status. The Commission shall also promptly make a
25 determination as to entitlement for each week with
26 respect to which the claimant certifies for waiting-
27 week credit or files a claim for benefits.

28 (b) Written Notice of Determination.

29 (1) If the Commission determines that a

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1 claimant is not eligible to receive credit for a
2 waiting-week or benefits for a week or part week, it
3 shall promptly furnish to such claimant written
4 notice of such determination together with a statement
5 that he has 10 days from the date of such determina-
6 tion or mailing thereof, in which to file an appeal.

7 (2) Any employing unit which, in accordance
8 with regulations of the Commission, furnished infor-
9 mation respecting an insured worker's right to dis-
10 ability benefits, shall be entitled to receive notice
11 of any determination based in whole or in part on the
12 information so furnished; but no employing unit shall
13 have a right to appeal or to apply for a reconsider-
14 ation, except with respect to determination of in-
15 sured status.

16 Section 9. There is hereby adopted the following new
17 section of the Alaska Code:

18 Sec. 51-5-27. APPEALS: The provisions of Section
19 51-5-7 (c) to (i) inclusive, shall apply to this part
20 with the following variations:

21 (a) Medical Testimony. When hearing a disabil-
22 ity benefit appeal, an appeal tribunal or the Com-
23 mission may call as an expert witness any medical ad-
24 viser appointed by the Commission or any physician as
25 defined in Section 51-5-23 (e) or may accept a de-
26 position from same. A medical expert, not a Terri-
27 torial employee, shall receive a reasonable fee, plus
28 necessary expenses for personal appearance, as deter-
29 mined by the Commission.

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1 (b) Closed Hearings. In proceedings under this
2 part, the claimant may request a closed hearing, which
3 shall be granted upon a showing of good cause. The
4 appeal tribunal or Commission hearing an appeal may
5 also order a closed hearing upon its own motion.

6 Section 10. There is hereby adopted the following new
7 section of the Alaska Code:

8 Sec. 51-5-28. CONTRIBUTIONS.

9 (a) Employer Contributions. Each employer shall
10 contribute to the disability fund $\frac{1}{2}$ of 1 percent of
11 wages payable which accrue on or after January 1, 1954.
12 Such contributions shall become due and be paid by
13 each employer to the Commission for the fund in accord-
14 ance with such regulations as the Commission may pres-
15 cribe, and shall not be deducted, in whole or in part,
16 from the wages of individuals in employment for such
17 employer. Contributions due under this Section may
18 not be offset by experienced rating credits.

19 (b) Employee Contributions.

20 (1) Each employee shall contribute to the dis-
21 ability fund $\frac{1}{2}$ of 1 percent of his wages payable by an
22 employer with respect to his employment which occurs
23 on and after January 1, 1954. Each employer shall be
24 liable for the payment of his employee's contributions
25 and may pay such contributions on behalf of his em-
26 ployees, or, notwithstanding any provisions of law in
27 this Territory to the contrary, may withhold in trust
28 for the fund the amount of his employee's contribu-
29 tions from their wages at the time such wages are paid,

1 provided he shows such deduction on his payroll re-
2 cords and furnishes each employee with a statement in
3 writing showing the amount which has been deducted, in
4 such form and at such times as may be prescribed by
5 the Commission. Each employer shall transmit all such
6 contributions to the fund, in addition to his own con-
7 tributions, pursuant to such regulations as the Com-
8 mission shall prescribe.

9 (2) The amounts withheld by an employer as con-
10 tributions by his employees shall be exempt from
11 garnishment, attachment, execution or any other remedy
12 for the collection of debts, and in the event of the
13 insolvency or bankruptcy of the employer, such con-
14 tributions shall not be considered any part of the
15 assets of the employer and shall be paid to the Com-
16 mission prior to the payment of any other claim
17 against such employer.

18 (c) Special Refunds. If, by reason of an em-
19 ployee's having wages payable by more than one em-
20 ployer during a calendar year, and such wages payable
21 to him exceed the amount which would have been taxable
22 if all his wages had been payable by a single employer,
23 the employee upon application shall be entitled to a
24 refund with respect to any such excess contribution.
25 The limitations of Section 51-5-14 (f) shall apply to
26 applications for such refunds.

27 Section 11. There is hereby adopted the following new sec-
28 tion of the Alaska Code:

29 Sec. 51-5-29. COLLECTION OF DELINQUENT AND CONTESTED

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CONTRIBUTIONS:

The provisions of Section 51-5-14 shall apply to the collection of contributions with the following variations:

(a) Interest on Past-due Contributions. Interest and penalties collected on disability contributions shall be paid into the disability fund.

(b) Refunds. No refund or credit shall be given to an employer for overpayment of employees' contributions unless he presents evidence satisfying the Commission that he has made reimbursement to the employees involved, or has secured the written consent of such employees to allowance of the refund or credit.

Section 12. There is hereby adopted the following new section of the Alaska Code:

Sec. 51-5130. DISABILITY FUND:

(a) Establishment and Control. There is hereby established as a special fund, separate and apart from all public money or funds of this Territory, a Disability Fund, which shall be administered by the Commission exclusively for the purposes of this part. This fund shall consist of (1) all contributions collected pursuant to this part, together with any interest thereon collected pursuant to Section 51-5-29; (2) all interest and penalties collected with respect to the disability program; (3) all interest earned upon any money in the fund; (4) All property or securities acquired in lieu of contributions; (5) all earnings of

1 such property or securities; (6) all money received
2 for the fund from any other source. All money in the
3 fund shall be commingled and undivided.

4 (b) Accounts and Deposit.

5 (1) The Territorial Treasurer shall be ex-
6 officio the Treasurer and Custodian of the fund and
7 shall administer such fund in accordance with the
8 direction of the Commission and shall issue warrants
9 or checks upon it in accordance with such regulations
10 as the Commission may prescribe. He shall maintain
11 within the fund two separate accounts:

12 (A) A Disability Clearing Account, and

13 (B) A Disability Fund Account.

14 All moneys payable to the fund upon receipt there-
15 of by the Commission shall be forwarded to the Treas-
16 urer who shall immediately deposit them in the Dis-
17 ability Clearing Account. Refund pursuant to Sections
18 28 (c) and 29 (b) of this Act may be paid from the Dis-
19 ability Clearing Account upon warrants or checks
20 issued by the Treasurer under direction of the Com-
21 mission. After clearance, money payable to the Dis-
22 ability Fund shall be deposited in the Disability Fund
23 Account.

24 (2) Money in the Disability Fund may be deposited
25 in any depository bank in which general funds of the
26 Territory may be deposited, but no public deposit in-
27 surance charge or premium shall be paid out of the
28 fund. Money in the Disability Fund Account shall not
29 be commingled with other Territorial funds, but shall

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be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository in which it is held to the same extent and in the same manner as required by the general depository law of this Territory, and collateral pledged for this purpose shall be maintained in a separate custody account. Money in the Disability Fund not needed for current expenditure may be invested in interest-bearing obligations of the United States or of this Territory. The Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the fund. All sums recovered for losses sustained by the fund shall be deposited therein.

(c) Expenditures from the Disability Fund. Money in the Disability Fund shall be used exclusively for the payment of benefits as provided by this part, for refunds pursuant to Section 51-5-29, and for administrative expenses to the extent provided by Section 51-5-30 (d). Expenditures of money in the Disability Fund Account and in the Disability Clearing Account shall not be subject to any provisions of law requiring specific appropriations or other formal release by Territorial officers of money in their custody. All checks or warrants issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the counter-signature of the Commission or its duly authorized agent for that purpose.

(d) Administrative Expenses. Such amounts as may be determined by the Commission, but not exceeding

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1 in any calendar year 10 percent of current contribu-
2 tions deposited in the Disability Clearing Account,
3 may be withdrawn from the Disability Fund Account to
4 be deposited in the Disability Administration Fund for
5 the payment of the expenses of administering this part;
6 Provided, That such amount shall be available for the
7 payment of expenses of administration only to the
8 extent that money received from the United States of
9 America or any agency thereof is not available for such
10 purpose.

11 Section 13. There is hereby adopted the following new
12 Section of the Alaska Code:

13 Sec. 51-5-31. DISABILITY ADMINISTRATION FUND:

14 (a) Establishment. There is hereby created in
15 the Territorial Treasury a special fund to be known as
16 the Disability Administration Fund. All money deposit-
17 ed or paid into this fund shall be continuously avail-
18 able to the Commission for expenditure in accordance
19 with the provisions of this part, and shall not lapse
20 at any time or be transferred to any other fund. The
21 fund shall consist of all money withdrawn from the
22 Disability Fund as provided in Section 51-5-30 (d); all
23 money appropriated by this Territory; all money re-
24 ceived from the United States of America, or any agency
25 thereof, and all money received from any other source
26 for the administration of this part; all money receiv-
27 ed from any agency of the United States or any other
28 State as compensation for services or facilities
29 supplied to such agency; all amounts received pursuant

1 to any surety bond or insurance policy or from other
2 sources for losses sustained by the Disability Ad-
3 ministration Fund or by reason of damage to property,
4 equipment, or supplies purchased from money in such
5 fund; and all proceeds realized from the sale or dis-
6 position of any such property, equipment, or supplies
7 which may no longer be necessary for the proper ad-
8 ministration of this part.

9 (b) Protection Against Loss. Such money shall
10 be secured by the depository in which it is held to
11 the same extent and in the same manner as required by
12 the general depository law of this Territory and
13 collateral pledged shall be maintained in a separate
14 custody account. The Territorial Treasurer shall be
15 liable on his official bond for the faithful perfor-
16 mance of his duties in connection with the Disability
17 Administration Fund provided under this part. Such
18 liability shall be effective immediately upon the
19 enactment of this provision, and shall exist in addi-
20 tion to any liability upon any separate bond existent
21 on the effective date of this provision, or which may
22 be given in the future.

23 (c) Deposit and Disbursement. All money in the
24 Disability Administration Fund shall be deposited, ad-
25 ministered, and disbursed in the same manner and under
26 the same conditions and requirements as is provided by
27 law for other special funds in the Territorial Treasury,
28 except that money in this fund shall not be commingled
29 with other Territorial funds, but shall be maintained
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1 in a separate account on the books of a depository
2 bank. All money in this fund received from the
3 Federal Government or any agency thereof shall be ex-
4 pended in accordance with the terms of such grant.

5 Section 14. There is hereby adopted the following new Sec-
6 tion of the Alaska Code:

7 Sec. 51-5-32. EFFECT OF ENACTMENT OF FEDERAL
8 TEMPORARY DISABILITY BENEFIT LAW: If the Congress of
9 the United States enacts a law providing for the pay-
10 ment of temporary disability benefits on substantially
11 the same terms and conditions as provided in this part
12 and none of the contributions required under this part
13 may be credited against the tax imposed by said law,
14 then no contributions shall be required under this part
15 for any period after contributions are required under
16 the Federal Act and no benefits shall be payable under
17 this part for any period after benefits are payable
18 under the Federal Act. Any unexpended portion of the
19 Disability Fund and Disability Administration Fund
20 shall, after payment of administrative expenses and
21 disability claims already incurred as of such date, be
22 promptly transferred to the Treasurer of the Territory
23 to be held by him in trust, separate and apart from any
24 other moneys or funds of the Territory, subject to such
25 disposition as the next ensuing legislature of the
26 Territory shall prescribe. The Commission, with the
27 approval of the Governor, is hereby authorized to enter
28 into agreements and to cooperate with the Federal
29 agency charged with the administration of such Federal

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law upon terms which are fair and reasonable to this Territory.

Section 15. EFFECTIVE DATE: This part shall take effect upon passage and approval, but benefits shall not be payable thereunder until the second benefit year after the date on which contributions first become payable.

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