

Original sponsor: Rules Committee by request
of the Governor

Offered: 5/4/71
Referred: Rules

1 IN THE HOUSE

BY THE LABOR AND MANAGEMENT COMMITTEE

2

SENATE CS FOR HOUSE BILL NO. 304

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to employment security; and providing
7 for an effective date."

8

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. AS 23.20.085 is repealed and re-enacted to read:

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Sec. 23.20.085. INTERSTATE BENEFIT PAYMENTS. (a) The department

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shall enter into reciprocal arrangements with appropriate and duly

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authorized agencies of other states or of the federal government, or

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both, so that potential rights to benefits under this chapter may

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constitute the basis for payment of claims by another state or by the

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federal government and potential rights to benefits accumulated under

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the law of another state or of the federal government may constitute

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the basis for the payment of claims by this state. These claims shall

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be paid under the provisions of this chapter or under the provisions of

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the law of the other state or of the federal government or under that

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combination of the provisions of both laws as is agreed upon as being

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fair and reasonable to all affected interests. No arrangement under

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this section shall be entered into unless it contains provision for

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reimbursement to the fund for those claims paid on the basis of wages

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and service subject to the law of another state or of the federal

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government, and provision for reimbursement from the fund for those

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claims paid by another state or by the federal government on the basis

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of wages and service subject to this chapter. Reimbursements paid from

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the fund under this section shall be considered to be benefits for

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the purposes of this chapter.

1 (b) The department shall participate in any arrangements for the
2 payment of benefits on the basis of combining an individual's wages and
3 employment covered under this chapter with his wages and employment
4 covered under the unemployment insurance laws of other states which are
5 approved by the United States Secretary of Labor in consultation with
6 the state employment security agencies as reasonably calculated to assure
7 the prompt and full payment of benefits in such situations and which
8 arrangements shall include provisions for

9 (1) applying the base period of a single state law to a claim
10 involving the combining of an individual's wages and employment covered
11 under two or more state unemployment insurance laws, and

12 (2) avoiding the duplicate use of wages and employment by
13 reason of the combining.

14 (c) for purposes of this section the terms "other state" and
15 "another state" shall be considered to include any state or territory
16 of the United States, the District of Columbia, the Commonwealth of
17 Puerto Rico and Canada and where applicable shall be considered to in-
18 clude the federal government.

19 * Sec. 2. AS 23.20.130(b) is amended by adding new paragraphs to read:

20 (9) reimbursement of benefits paid under secs. 277, 278 and
21 326 of this chapter; and

22 (10) recovery of benefits paid from the unemployment compen-
23 sation fund to individuals not entitled thereto as provided by sec. 390
24 of this chapter.

25 * Sec. 3. AS 23.20 is amended by adding a new section to read:

26 Sec. 23.20.276. FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT
27 ORGANIZATIONS, ELECTION. (a) Benefits paid to employees of nonprofit
28 organizations shall be financed in accordance with the provisions of
29 secs. 276 - 277 of this chapter. For the purposes of secs. 276 - 277 of

1 this chapter a nonprofit organization is an organization, or group of
2 organizations, described in sec. 501 (c) (3) of the U. S. Internal
3 Revenue Code and exempt from income tax under sec. 501 (a) of that code.

4 (b) Any nonprofit organization described in this section which,
5 pursuant to sec. 525(6) of this chapter, is, or becomes, subject to this
6 chapter on or after January 1, 1972 shall pay contributions under the
7 provisions of sec. 165 of this chapter, unless it elects, in accordance
8 with this section, to pay to the department for the unemployment compen-
9 sation fund an amount equal to the amount of regular benefits and of one-
10 half of the extended benefits paid, that is attributable to service in
11 the employ of the nonprofit organization, to individuals for weeks of
12 unemployment which begin during the effective period of the election.

13 (c) Any nonprofit organization which is, or becomes, subject to
14 this chapter on January 1, 1972 may elect to become liable for payments
15 in lieu of contributions for a period of not less than one taxable year
16 beginning with January 1, 1972 provided it files with the department a
17 written notice of its election within the 30-day period immediately
18 following January 1, 1972, or within a like period immediately following
19 the date of enactment of this subsection, whichever occurs later.

20 (d) Any nonprofit organization which becomes subject to this
21 chapter after January 1, 1972 may elect to become liable for payments in
22 lieu of contributions for a period of not less than 12 months beginning
23 with the date on which such subjectivity begins by filing a written
24 notice of its election with the department not later than 30 days
25 immediately following the date of the determination of the subjectivity.

26 (e) Any nonprofit organization which makes an election in accor-
27 dance with (c) or (d) of this section will continue to be liable for
28 payments in lieu of contributions until it files with the department a
29 written notice terminating its election. The notice must be filed not

1 later than 30 days prior to the beginning of the taxable year for which
2 the termination will first be effective.

3 (f) Any nonprofit organization which has been paying contributions
4 under this chapter for a period subsequent to January 1, 1972 may change
5 to a reimbursable basis by filing with the department not later than 30
6 days prior to the beginning of any taxable year a written notice of
7 election to become liable for payments in lieu of contributions. This
8 election shall not be terminable by the organization for that and the
9 next taxable year.

10 (g) The department may for good cause extend the period within
11 which a notice of election or a notice of termination must be filed and
12 may permit an election to be retroactive in effect but not any earlier
13 than with respect to benefits paid after December 31, 1971.

14 (h) The department, in accordance with such regulations as it may
15 prescribe, shall notify each nonprofit organization of any determination
16 which it may make of its status as an employer and of the effective date
17 of any election which it makes and of any termination of election. These
18 determinations shall be subject to reconsideration, appeal and review in
19 accordance with the provisions of secs. 410 - 470 of this chapter.

20 * Sec. 4. AS 23.20 is amended by adding a new section to read:

21 Sec. 23.20.277. REIMBURSEMENT PAYMENTS BY NONPROFIT ORGANIZATIONS.

22 (a) Payments in lieu of contributions by nonprofit organizations shall
23 be made in accordance with the provisions of this section including
24 either (b) or (c) of this section.

25 (b) At the end of each calendar quarter, or at the end of any other
26 period as determined by the department, the department shall bill each
27 nonprofit organization, or group of nonprofit organizations, which has
28 elected to make payments in lieu of contributions for an amount equal to
29 the full amount of regular benefits plus one-half of the amount of

1 extended benefits paid during the quarter or other prescribed period
2 that is attributable to service in the employ of the nonprofit
3 organization.

4 (c) Each nonprofit organization that has elected payments in lieu
5 of contributions may request permission to make payments as provided in
6 this subsection. This method of payment shall become effective upon
7 approval by the department. At the end of each calendar quarter or at
8 the end of any other period as determined by the department, the depart-
9 ment shall bill each nonprofit organization for an amount representing
10 one of the following:

11 (1) for 1972, .25 percent of its total payroll for 1971;

12 (2) for years after 1972, that percentage of its total payroll
13 for the immediately preceding calendar year as the department shall
14 determine. The determination shall be based each year on the average
15 benefit costs attributable to service in the employ of nonprofit organ-
16 izations during the preceding calendar year;

17 (3) for any organization which did not pay wages throughout
18 the four calendar quarters of the preceding calendar year, that percent-
19 age of its payroll during the year as the department shall determine.

20 (d) At the end of each taxable year, the department may modify the
21 quarterly percentage of payroll thereafter payable by the nonprofit
22 organization in order to minimize excess or insufficient payments.

23 (e) At the end of each taxable year, the department shall deter-
24 mine whether the total of payments for the year made by a nonprofit
25 organization is less than, or in excess of, the total amount of regular
26 benefits plus one-half of the amount of extended benefits paid to indivi-
27 duals during the taxable year based on wages attributable to service in
28 the employ of the nonprofit organization. Each nonprofit organization
29 whose total payments for the taxable year are less than the amount so

1 determined shall be liable for payment of the unpaid balance to the fund
2 in accordance with (f) of this section. If the total payments exceed the
3 amount so determined for the taxable year, all or a part of the excess
4 may, at the discretion of the department, be refunded from the fund or
5 retained in the fund as part of the payments which may be required for
6 the next taxable year.

7 (f) Payment of any bill rendered under (b) or (c) of this section
8 shall be made not later than 30 days after the bill was mailed to the
9 last known address of the nonprofit organization or was otherwise de-
10 livered to it, unless there has been an application for review and rede-
11 termination in accordance with (h) of this section.

12 (g) Payments made by any nonprofit organization under the pro-
13 visions of this section shall not be deducted or deductible, in whole or
14 in part, from the remuneration of individuals in the employ of the
15 organization; nor shall contributions be required of any employee on the
16 basis of wages paid to that employee for services performed by him in
17 employment for a nonprofit organization which makes an election to be-
18 come liable for payments in lieu of contributions pursuant to sec. 276
19 of this chapter, and the wages are paid during the period of election.

20 (h) The amount due specified in any bill from the department shall
21 be conclusive on the organization unless, not later than 15 days after
22 the bill was mailed to its last known address or otherwise delivered to
23 it, the organization files an application for redetermination by the
24 department, setting forth the grounds for the application. The depart-
25 ment shall promptly review and reconsider the amount due specified in
26 the bill and shall thereafter issue a redetermination in any case in
27 which an application for redetermination has been filed. Any redeter-
28 mination shall be conclusive on the organization unless, not later than
29 15 days after the redetermination was mailed to its last known address

1 or otherwise delivered to it, the organization files an appeal to the
2 commissioner, setting forth the grounds for the appeal. Proceedings on
3 appeal to the commissioner from the amount of a bill rendered under this
4 subsection or a redetermination of the amount shall be in accordance with
5 the provisions of secs. 410-455 of this chapter.

6 (i) Past due payments of amounts in lieu of contributions shall be
7 subject to the same interest and penalties that, pursuant to secs. 185 -
8 195 of this chapter, apply to past due contributions.

9 (j) At the discretion of the department any nonprofit organization
10 that elects to become liable for payments in lieu of contributions
11 pursuant to sec. 276 of this chapter shall be required within 30 days
12 after the effective date of its election, to execute and file with the
13 department a surety bond approved by the department or it may elect
14 instead to deposit with the department money or securities. The amount
15 of the bond or deposit shall be determined by the department in accor-
16 dance with regulations promulgated by the department.

17 (k) If any nonprofit organization is delinquent in making payments
18 in lieu of contributions as required under this section, the department
19 may terminate that organization's election to make payments in lieu of
20 contributions as of the beginning of the next taxable year, and the
21 termination shall be effective for that and the next taxable year.

22 (l) Each employer that is liable for payments in lieu of
23 contributions shall pay to the department for the fund the amount of
24 regular benefits plus the amount of one-half of extended benefits paid
25 that are attributable to service in the employ of such employer. If
26 benefits paid to an individual are based on wages paid by more than one
27 employer and one or more of such employers are liable for payments in
28 lieu of contributions, the amount payable to the fund by each employer
29 that is liable for payments shall be determined by the department in

1 accordance with regulations promulgated by the department.

2 * Sec. 5. AS 23.20 is amended by adding a new section to read:

3 Sec. 23.20.278. FINANCING BENEFITS PAID TO EMPLOYEES OF STATE
4 HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION. The state or any
5 instrumentality of the state subject to this chapter under sec. 525(4)
6 of this chapter shall pay contributions under the provisions of
7 sec. 165 of this chapter, unless it elects to reimburse the department
8 for the unemployment compensation fund according to the provisions
9 applicable to nonprofit organizations under sec. 277 of this chapter.

10 * Sec. 6. AS 23.20 is amended by adding a new section to read:

11 Sec. 23.20.326. ELECTIVE COVERAGE BY POLITICAL SUBDIVISIONS.

12 (a) A political subdivision of the state has the right to elect to
13 cover the service performed by employees of hospitals and institutions
14 of higher education operated by the political subdivision.

15 (b) A political subdivision of the state which elects to cover
16 the services of employees in an institution of higher education or
17 hospital operated by the political subdivision shall cover the
18 services of all employees in all institutions of higher education
19 and all hospitals operated by the political subdivision except for
20 the exclusions in sec. 526 of this chapter, and shall make payments
21 in lieu of contributions with respect to benefits attributable to
22 the employment as provided with respect to nonprofit organizations
23 in sec. 277 of this chapter.

24 (c) An election under this section may be terminated by filing
25 with the department written notice no later than 30 days preceding
26 the last day of the calendar year in which the termination is to be
27 effective. The termination becomes effective as of the first day of
28 the next ensuing calendar year with respect to services performed
29 after that date.

1 * Sec. 7. AS 23.20.350(b) is amended to read:

2 (b) Except as provided in (a) of this section an individual's
 3 weekly benefit amount shown in the table set out in this section in the
 4 applicable column opposite the amount shall be the amount of his total
 5 base period wages as shown in column A. Each individual who estab-
 6 lishes a benefit year is entitled to an augmented weekly benefit
 7 amount, as shown in the table set out in this section [, IF ON THE DATE
 8 HE ESTABLISHES HIS BENEFIT YEAR HE HAS DEPENDENTS WHO ARE IN THE STATE]
 9 The number of dependents shall be determined as of the date he estab-
 10 lishes his benefit year, and shall be fixed for the duration of the
 11 benefit year.

Total Base Period Wages Columns (A)	Basic Weekly Benefit Amount (B)	Augmented Weekly Benefit Amount with the Following Dependents					Benefit Duration Factor (H)
		One	Two	Three	Four	Five	
		(C)	(D)	(E)	(F)	(G)	
\$ 0- 749.99	\$00	\$00	\$00	\$00	\$00	\$00	\$00
750- 799.99	18	23	28	33	36	36	14
800- 899.99	19	24	29	34	38	38	16
900-1099.99	20	25	30	35	40	40	18
1100-1299.99	21	26	31	36	41	42	20
1300-1499.99	22	27	32	37	42	44	22
1500-1699.99	23	28	33	38	43	46	24
1700-1899.99	24	29	34	39	44	48	26
1900-2099.99	25	30	35	40	45	50	28
2100-2199.99	26	31	36	41	46	51	28
2200-2299.99	27	32	37	42	47	52	28
2300-2399.99	28	33	38	43	48	53	28
2400-2499.99	29	34	39	44	49	54	28

1	2500-2599.99	30	35	40	45	50	55	28
2	2600-2699.99	31	36	41	46	51	56	28
3	2700-2799.99	32	37	42	47	52	57	28
4	2800-2899.99	33	38	43	48	53	58	28
5	2900-2999.99	34	39	44	49	54	59	28
6	3000-3099.99	35	40	45	50	55	60	28
7	3100-3199.99	36	41	46	51	56	61	28
8	3200-3299.99	37	42	47	52	57	62	28
9	3300-3399.99	38	43	48	53	58	63	28
10	3400-3499.99	39	44	49	54	59	64	28
11	3500-3599.99	40	45	50	55	60	65	28
12	3600-3699.99	41	46	51	56	61	66	28
13	3700-3799.99	42	47	52	57	62	67	28
14	3800-3899.99	43	48	53	58	63	68	28
15	3900-3999.99	44	49	54	59	64	69	28
16	4000-4099.99	45	50	55	60	65	70	28
17	4100-4199.99	46	51	56	61	66	71	28
18	4200-4299.99	47	52	57	62	67	72	28
19	4300-4399.99	48	53	58	63	68	73	28
20	4400-4499.99	49	54	59	64	69	74	28
21	4500-4599.99	50	55	60	65	70	75	28
22	4600-4699.99	51	56	61	66	71	76	28
23	4700-4799.99	52	57	62	67	72	77	28
24	4800-4899.99	53	58	63	68	73	78	28
25	4900-4999.99	54	59	64	69	74	79	28
26	5000-5099.99	55	60	65	70	75	80	28
27	5100-5199.99	56	61	66	71	76	81	28
28	5200-5299.99	57	62	67	72	77	82	28
29	5300-5399.99	58	63	68	73	78	83	28

1	5400-5499.99	59	64	69	74	79	84	28
2	5500 and over	60	65	70	75	80	85	28

3 * Sec. 8. AS 23.20.355 is repealed.

4 * Sec. 9. AS 23.20.375 is amended by adding a new subsection to read:

5 (c) Benefits based on service in employment defined in secs. 525
6 (4), (5) and (6) of this chapter shall be payable in the same amount,
7 on the same terms and subject to the same conditions as compensation
8 payable on the basis of other service subject to this chapter; except
9 that benefits based on service in an instructional, research or
10 principal administrative capacity in an institution of higher education
11 as defined in sec. 520 of this chapter shall not be paid to an indi-
12 vidual for any week of unemployment which begins during the period
13 between two successive academic years, or during a similar period
14 between two regular terms, whether or not successive, or during a
15 period of paid sabbatical leave provided for in the individuals' con-
16 tract, if the individual has a contract or contracts to perform services
17 in any such capacity for any institution or institutions of higher
18 education for both the academic years or both terms.

19 * Sec. 10. AS 23.20.520(12) is amended to read:

20 (12) "employing unit" means an individual or type of organi-
21 zation, partnership, association, trust, estate, joint trust company,
22 insurance company or domestic or foreign corporation, or the receiver,
23 referee in bankruptcy, trustee, or successor of one of these, or the
24 legal representative of a deceased person, which has or subsequent to
25 January 1, 1937, had one or more individuals performing service for it
26 within the state; an individual performing services inside the state
27 for an employing unit which maintains two or more separate establish-
28 ments inside the state is considered as employed by a single employing
29 unit for the purposes of this chapter; notwithstanding any provision

1 in this chapter any employing unit which employs individuals whose
2 services must be covered by the unemployment insurance laws of this
3 state subsequent to December 31, 1971 as a condition of approval of the
4 unemployment insurance laws of this state under section 3304 (a) of
5 the U. S. Internal Revenue Code of 1954, as amended, will be considered
6 an employer as to those individuals and shall be subject to contribu-
7 tions on all wages paid subsequent to December 31, 1971, or reimburse-
8 ment payments to cover benefits paid based on services performed
9 subsequent to December 31, 1971, depending on the applicable law;

10 * Sec. 11. AS 23.20.520(17) is amended to read:

11 (17) "insured worker" means an individual who, with respect
12 to a base period, meets the wage and employment requirements of sec.
13 350 [SECS. 350 AND 355] of this chapter;

14 * Sec. 12. AS 23.20.520(19) is amended to read:

15 (19) "state" includes the states of the United States of
16 America, [AND] the District of Columbia and the Commonwealth of Puerto
17 Rico;

18 * Sec. 13. AS 23.20.520 is amended by adding new paragraphs to read:

19 (23) "hospital" means any institution primarily engaged in
20 the treatment of emotional or physical disability which provides, on a
21 regular basis, 24-hour per day bed care under the supervision of li-
22 censed medical personnel and those components, of other institutions,
23 which are primarily engaged in the treatment of emotional or physical
24 disability and which provide, on a regular basis, 24-hour per day bed
25 care under the supervision of licensed medical personnel;

26 (24) "institution of higher education" for the purposes of
27 this chapter, means an educational institution which

28 (A) admits as regular students only individuals having
29 a certificate of graduation from a high school, or the recognized

1 equivalent of a high school graduation certificate; and

2 (B) is legally authorized in this state to provide a
3 program of education beyond high school; and

4 (C) provides an educational program for which it awards
5 a bachelor's or higher degree, or provides a program which is
6 acceptable for full credit toward either degree, a program of post-
7 graduate or post-doctoral studies, or a program of training to
8 prepare students for gainful employment in a recognized occupation;
9 and

10 (D) is a public or other nonprofit institution;

11 (25) "contributions" and "payments in lieu of contributions"
12 when used in this chapter, whether singular or plural, means the money
13 payments to be made to the state unemployment compensation fund and are
14 considered to be taxes due to the State of Alaska.

15 * Sec. 14. AS 23.20.525 is repealed and re-enacted to read:

16 Sec. 23.20.525. EMPLOYMENT DEFINED. In this chapter, unless the
17 context otherwise requires, "employment" means

18 (1) service performed by an individual for wages or by an
19 officer of a corporation, including service in interstate commerce;

20 (2) service performed by an individual who under (1) of
21 this section has the status of an employee;

22 (3) service performed by an individual other than an indivi-
23 dual who is an employee under (1) or (2) of this section who performs
24 services for remuneration for any person

25 (A) as an agent-driver or commission-driver engaged in
26 distributing meat products, vegetable products, fruit products,
27 bakery products, beverages, or laundry or dry-cleaning services,
28 for his principal; or

29 (B) as a traveling or city salesman, other than as an

1 agent-driver or commission-driver, engaged upon a full-time basis
2 in the solicitation on behalf of, and the transmission to, his
3 principal of orders from wholesalers, retailers, contractors, or
4 operators of hotels, restaurants, or other similar establishments
5 for merchandise for resale or supplies for use in their business
6 operations; provided, that for all purposes of (3) of this section,
7 the term "employment" shall include services described in (A)
8 and (B) of this paragraph, performed after December 31, 1971, only
9 if

10 (i) the contract of service contemplates that sub-
11 stantially all of the services are to be performed personally
12 by the individual;

13 (ii) the individual does not have a substantial
14 investment in facilities used in connection with the perfor-
15 mance of the services (other than in facilities for trans-
16 portation); and

17 (iii) the services are not in the nature of a single
18 transaction that is not part of a continuing relationship
19 with the person for whom the services are performed;

20 (4) service performed after December 31, 1971 by an indi-
21 vidual in the employ of this state or any instrumentality of this state,
22 or in the employ of this state and one or more states or their instru-
23 mentalities, for a hospital or institution of higher education in this
24 state (except service described in sec. 526(16) of this chapter) if the
25 service is excluded from the term "employment" solely by reason of
26 sec. 3306(c)(7) of the Federal Unemployment Tax Act;

27 (5) service performed in the employ of any political sub-
28 division of this state or any wholly owned instrumentality of a politi-
29 cal subdivision of this state, if coverage is elected under sec. 325 or

1 sec. 326 of this chapter;

2 (6) service performed by an individual in a calendar quarter
3 after June 30, 1962 in the employ of an organization exempt from income
4 tax under sec. 501(a) of the U. S. Internal Revenue Code (other than an
5 organization described in sec. 401(a)) or under sec. 521 of the U. S.
6 Internal Revenue Code, if the remuneration for the service is \$250 or
7 more. Notwithstanding the provisions of this paragraph, services
8 performed after December 31, 1971 by an individual in the employ of a
9 religious, charitable, educational or other organization described in
10 sec. 501(c)(3) of the U. S. Internal Revenue Code which is exempt from
11 income tax under sec. 501(a) of that code, shall constitute employment
12 for the purposes of this chapter even though remuneration for the
13 services is less than \$250 in a calendar quarter, but only if the organ-
14 ization had four or more individuals in employment for some portion of
15 a day in each of 20 different weeks, whether or not the weeks were
16 consecutive, within either the current or preceding calendar year,
17 regardless of whether the individuals were employed at the same moment
18 of time;

19 (7) service of an individual who is a citizen of the United
20 States, performed outside the United States (except in Canada or the
21 Virgin Islands), after December 31, 1971 in the employ of an American
22 employer, or of this state or of any of its instrumentalities or any
23 of its political subdivisions, (other than service which is considered
24 "employment" under the provisions of (11) or (12) of this section or
25 the parallel provisions of the law of another state), if

26 (A) the employer's principal place of business in the
27 United States is located in this state; or

28 (B) the employer has no place of business in the United
29 States, but

1 (i) the employer is an individual who is a resi-
2 dent of this state; or

3 (ii) the employer is a corporation which is
4 organized under the laws of this state; or

5 (iii) the employer is a partnership or a trust and
6 the number of the partners or trustees who are residents of
7 this state is greater than the number who are residents of
8 any one other state; or

9 (C) none of the criteria in (A) and (B) of this para-
10 graph is met but the employer has elected coverage in this state
11 or, the employer having failed to elect coverage in any state,
12 the individual has filed a claim for benefits, based on service
13 described in this paragraph, under the law of this state;

14 (D) an "American employer", for purposes of this para-
15 graph means a person who is

16 (i) an individual who is a resident of the United
17 States; or

18 (ii) a partnership if two-thirds or more of the
19 partners are residents of the United States; or

20 (iii) a trust, if all of the trustees are residents
21 of the United States; or

22 (iv) a corporation organized under the laws of the
23 United States or of any state;

24 (8) notwithstanding the provisions of (11) of this section,
25 all service performed by an officer or member of the crew of an American
26 vessel or in connection with the vessel, if the operating office, from
27 which the operations of vessel operating on navigable waters inside,
28 or inside and outside the United States are ordinarily and regularly
29 supervised, managed, directed and controlled, is inside this state;

1 (9) notwithstanding any other provisions of this section,
2 service with respect to which tax is required to be paid under any
3 federal law imposing a tax against which credit may be taken for con-
4 tributions required to be paid into a state unemployment fund or which
5 as a condition for full tax credit against the tax imposed by the
6 Federal Unemployment Tax Act is required to be covered under this
7 chapter;

8 (10) service performed by an individual whether or not the
9 common-law relationship of master and servant exists, unless and until
10 it is shown to the satisfaction of the department that

11 (A) the individual has been and will continue to be free
12 from control and direction in connection with the performance of
13 the service, both under his contract for the performance of service
14 and in fact; and

15 (B) the service is performed either outside the usual
16 course of the business for which the service is performed or is
17 performed outside of all the places of business of the enterprise
18 for which the service is performed; and

19 (C) the individual is customarily engaged in an inde-
20 pendently established trade, occupation, profession, or business
21 of the same nature as that involved in the service performed;

22 (11) an individual's entire service, performed inside or both
23 inside and outside this state if the service is localized in this state;
24 service is considered to be localized inside a state or territory if

25 (A) the service is performed entirely inside the state
26 or territory; or

27 (B) the service is performed both inside and outside
28 the state or territory but the service performed outside the state
29 or territory is incidental to the individual's service inside the

1 state or territory; for example, where it is temporary or transi-
2 tory in nature or consists of isolated transactions;

3 (12) an individual's entire service performed inside, or
4 both inside and outside this state if the service is not localized in
5 a state or territory but some of the service is performed in this state
6 and

7 (A) the individual's base of operations is in this
8 state; or

9 (B) if there is no base of operations, then the place
10 from which the service is directed or controlled is in this state;
11 or

12 (C) the individual's base of operations or place from
13 which the service is directed or controlled is not in a state or
14 territory in which some part of the service is performed, but the
15 individual's residence is in this state; and

16 (13) service covered by an election under sec. 325 of this
17 chapter, and service covered by an election approved by the commissioner
18 in accordance with an arrangement under sec. 90(a) of this chapter
19 during the effective period of the election.

20 * Sec. 15. AS 23.20 is amended by adding a new section to read:

21 Sec. 23.20.526. EXCLUSIONS FROM DEFINITION OF EMPLOYMENT. In this
22 chapter, unless the context otherwise requires, "employment" does not
23 include

24 (1) domestic service in a private home;

25 (2) newsboys' services in selling or distributing newspapers
26 on the street or from house to house;

27 (3) service not in the course of the employing unit's trade
28 or business performed in a calendar quarter by an individual, unless
29 the cash remuneration paid for the service is \$50 or more and the

1 service is performed by an individual who is regularly employed by the
2 employing unit to perform the service; an individual is here considered
3 to be regularly employed to perform service not in the course of an
4 employing unit's trade or business during a calendar quarter only if
5 he performs the service for some portion of the day on each of some
6 24 days during the quarter or during the preceding calendar quarter;

7 (4) service performed by an individual in the employ of his
8 son, daughter, or spouse, and service performed by a child under the
9 age of 18 in the employ of his father or mother;

10 (5) service with respect to which unemployment insurance is
11 payable under an unemployment insurance program established by an Act
12 of Congress;

13 (6) service performed in the employ of a foreign government
14 (including service as a consular or other officer or employee or a
15 nondiplomatic representative);

16 (7) service performed in the employ of an instrumentality
17 wholly owned by a foreign government if

18 (A) the service is of a character similar to that
19 performed in foreign countries by employees of the United States
20 government or its instrumentalities; and

21 (B) the department finds that the United States
22 Secretary of State has certified to the United States Secretary
23 of the Treasury that the foreign government, with respect to whose
24 instrumentality exemption is claimed, grants an equivalent
25 exemption with respect to similar service performed in the foreign
26 country by employees of the United States government and its
27 instrumentalities;

28 (8) service performed by an insurance agent, insurance
29 solicitor, a real estate broker, a real estate salesman or a securities

1 salesman to the extent he is compensated by commission, unless such
2 service is required to be covered under the Federal Unemployment Tax
3 Act as amended;

4 (9) notwithstanding sec. 525(11) of this chapter, service
5 performed by an officer or member of the crew of an American vessel on
6 or in connection with the vessel, if the operating office, from which
7 the operations of the vessel operating on navigable waters inside, or
8 inside and outside the United States are ordinarily and regularly super-
9 vised, managed, directed and controlled, is outside this state;

10 (10) service performed on or in connection with a vessel not
11 an American vessel by an individual if he performed service on and in
12 connection with the vessel when outside the United States;

13 (11) service performed in the employ of the United States
14 government or an instrumentality of the United States exempt under the
15 Constitution of the United States from the contributions imposed by
16 this chapter, except that to the extent that the Congress of the United
17 States permits states to require an instrumentality of the United States
18 to make payments into an unemployment fund under a state employment
19 security law, all of the provisions of this chapter apply to the instru-
20 mentalities, and to service performed for the instrumentalities in the
21 same manner, to the same extent, and on the same terms as to all other
22 employers, employing units, individuals, and service; however, if this
23 state is not certified for any year by the Secretary of Labor under
24 sec. 3304(c) of the Federal Unemployment Tax Act, the payments required
25 of the instrumentalities with respect to the year shall be refunded by
26 the department from the fund in the same manner and within the same
27 period as is provided in sec. 225 of this chapter with respect to con-
28 tributions erroneously collected;

29 (12) service performed in the employ of another state, or

1 political subdivision of another state, or an instrumentality of another
2 state or political subdivision which is wholly owned by another state
3 or its political subdivision, or a service performed in the employ of
4 an instrumentality of another state or its political subdivisions to
5 the extent that the instrumentality is, with respect to the service,
6 exempt under the Constitution of the United States from the tax imposed
7 by sec. 3301 of the Federal Unemployment Tax Act;

8 (13) service performed in the employ of an international
9 organization;

10 (14) service covered by an election approved by the agency
11 charged with the administration of any other state or federal employment
12 security law, in accordance with an arrangement under sec. 90(a) of
13 this chapter during the effective period of the election;

14 (15) service performed by an individual in agricultural labor.
15 The term "agricultural labor" means remunerated service

16 (A) on a farm, in the employ of any person in connection
17 with cultivating the soil, or in connection with raising or har-
18 vesting any agricultural or horticultural commodity, including the
19 raising, shearing, feeding, caring for, training, and management
20 of livestock, bees, poultry, and fur-bearing animals and wildlife;

21 (B) in the employ of the owner or tenant or other
22 operator of a farm, in connection with the operation, management,
23 conservation, improvement, or maintenance of the farm and its
24 tools and equipment, or in salvaging timber or clearing land of
25 brush and other debris left by a hurricane, if the major part of
26 the service is performed on a farm;

27 (C) in connection with the production or harvesting of
28 any commodity defined as an agricultural commodity in section
29 15(g) of the Agricultural Marketing Act, as amended (46 Stat.

1 1550, sec. 3; 12 U.S.C. 1141j), or in connection with the opera-
2 tion or maintenance of ditches, canals, reservoirs, or waterways,
3 not owned or operated for profit, used exclusively for supplying
4 and storing water for farming purposes;

5 (D) in the employ of the operator of a farm in handling,
6 planting, drying, packing, packaging, processing, freezing,
7 grading, storing or delivering to storage or to market or to a
8 carrier for transportation to market, in its unmanufactured state,
9 any agricultural or horticultural commodity; but only if the
10 operator produced more than one-half of the commodity with respect
11 to which the service is performed except as stated in (F) of this
12 paragraph;

13 (E) in the employ of a group of operators of farms (or
14 a cooperative organization of which such operators are members) in
15 the performance of service described in (D) of this paragraph, but
16 only if the operators produced more than one-half of the commodity
17 with respect to which the service is performed;

18 (F) notwithstanding any other provision of this section,
19 the provisions of (D) and (E) of this paragraph shall not be con-
20 sidered to be applicable with respect to service performed in
21 connection with commercial canning or commercial freezing or in
22 connection with any agricultural or horticultural commodity after
23 its delivery to a terminal market for distribution for consumption;
24 or

25 (G) on a farm operated for profit if the service is not
26 in the course of the employer's trade or business or is domestic
27 service in a private home of the employer; and

28 (H) as used in (A) - (G) of this paragraph, the term
29 "farm" includes stock, dairy, poultry, fruit, fur-bearing animal,

1 and truck farms, plantations, ranches, nurseries, ranges, green-
2 houses or other similar structures used primarily for the raising
3 of agricultural or horticultural commodities, and orchards.

4 (16) for the purposes of sec. 525(4), (5) and (6) of this
5 chapter, the term "employment" does not apply to service performed

6 (A) by a duly ordained, commissioned, or licensed
7 minister of a church in the exercise of his ministry or by a
8 member of a religious order in the exercise of duties required by
9 the order;

10 (B) in a facility conducted for the purpose of carrying
11 out a program of rehabilitation for individuals whose earning
12 capacity is impaired by age or physical or mental deficiency or
13 injury or providing remunerative work for individuals who, because
14 of their impaired physical or mental capacity, cannot be readily
15 absorbed in the competitive labor market by an individual receiving
16 the rehabilitation or remunerative work;

17 (C) as part of an unemployment work-relief or work-
18 training program assisted or financed in whole or in part by any
19 federal agency or any agency of a state or political subdivision
20 thereof, by an individual receiving work relief or work training;

21 (D) for a state hospital by an inmate of a prison or
22 correctional institution;

23 (E) in the employ of a school, college, or university,
24 if the service is performed by a student who is enrolled and is
25 regularly attending classes at the school, college or university;

26 (F) by an individual under the age of 22 who is enrolled
27 at a nonprofit or public educational institution which normally
28 maintains a regular faculty and curriculum and normally has a
29 regularly organized body of students in attendance at the place

1 where its educational activities are carried on as a student in
2 a full-time program, taken for credit at the institution, which
3 combines academic instruction with work experience, if the service
4 is an integral part of the program, and the institution has so
5 certified to the employer, except that this subparagraph does
6 not apply to service performed in a program established for or
7 on behalf of an employer or group of employers;

8 (G) in the employ of a hospital, if the service is
9 performed by a patient of the hospital, as defined in sec. 520 of
10 this chapter;

11 (17) except as provided in sec. 525(4) of this chapter,
12 service performed in the employ of the state or a political subdivision
13 of the state unless coverage is elected under sec. 325 or sec. 326 of
14 this chapter;

15 (18) service performed after December 31, 1971, by nurses,
16 technicians, and other professional employees of hospitals no part of
17 the net earnings of which inures to the benefit of a private share-
18 holder or individual, unless the service is required to be covered
19 under the Federal Unemployment Tax Act; and

20 (19) service performed by employees of state-assisted agri-
21 cultural fairs.

22 * Sec. 16. AS 23.20.380(6), (7) and (8) are repealed.

23 * Sec. 17. This Act takes effect January 1, 1972
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