

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. The sum of \$106,000 is hereby appropriated from the Highway Fund to the Division of Highways, Department of Public Works, for the fiscal year ending June 30, 1960, to be used for the pur-

chase of highway construction equipment.

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved March 29, 1960

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CHAPTER 59

AN ACT

**Appropriating \$15,413 from the general fund to the Department of Health and Welfare for the fiscal year ending June 30, 1960; and providing for an effective date.**

(S.B. 210)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. The sum of \$15,413 is hereby appropriated from the general fund of the state for the fiscal year ending June 30, 1960, to the Department of Health and Welfare, division of special services, for

contractual services (care and treatment funds for rehabilitation of juvenile delinquents).

Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved March 29, 1960

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CHAPTER 60

AN ACT

**Relating to Employment Security; amending Articles II, III, V, and VII of the Alaska Employment Security Act (Ch. 5, ESLA 1955, as amended by Chapters 62, 75 and 169, SLA 1957 and by Ch. 46, SLA 1959); adding a new Article V (a) establishing variable tax rates; repealing and re-enacting Sec. 1013 of Article X of Ch. 5, ESLA 1955, as amended by Ch. 169, SLA 1957; and providing for an effective date.**

(H.C.S.S.B. 149)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. Sec. 217 of Art. II, Ch. 5, ESLA 1955 is hereby amended to read as follows:

Sec. 217. The term "employment" shall include service covered by an election pursuant to Section 604, and service covered by an election duly approved by the Commissioner in accordance with an arrangement pursuant to Section 325.1 (a) of this Act during the effective period of such election.

Sec. 2. Art. II, Ch. 5, ESLA 1955, as

amended by Ch. 169, SLA 1957 and Ch. 46, SLA 1959 is hereby amended by adding a new section to read as follows:

Sec. 234.2. The term "employment" shall not include service covered by an election duly approved by the agency charged with the administration of any other State or Federal employment security law, in accordance with an arrangement pursuant to Section 325.1 (a) of this Act during the effective period of such election.

Sec. 3. Art. II, Ch. 5, ESLA 1955, as amended by Ch. 169, SLA 1957 and Ch.

46, SLA 1959 is hereby amended by adding a new section to read as follows:

Sec. 249.1. Notwithstanding the provisions of Sections 240 and 242, neither the term "remuneration" nor the term "wages" shall include the amount of any payment (including any amount paid by an employer into a fund to provide for any such payment) made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally, or for a class or group of his employees, for the purpose of supplementing unemployment benefits.

Sec. 4. Sec. 306 of Art. III, Ch. 5, ESLA 1955 is hereby amended to read as follows:

Sec. 306. **Duties and Powers of the Commissioner.** Subject to the provisions of Section 311 of this Article, the Commissioner shall appoint a Director whose duty it shall be to administer the provisions of this Act under such authority of the Commissioner as may be delegated to him by the Commissioner, with the exception that the Commissioner may not delegate the power to adopt, amend or rescind rules and regulations. The Commissioner shall prescribe the divisions, subdivisions and units of the organization to be directed by the Director to carry out the purposes of this Act. He may require bond of any person handling money or signing checks. He shall have an official seal which shall be judicially noticed. Not later than the first day of January of each year, the Commissioner shall submit to the Governor a report covering the administration and operation of this Act during the preceding fiscal year ended June 30 and shall make such recommendations for amendments to this Act as the Commissioner deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits. Whenever the Commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the Governor and the Legislature, and

make recommendations with respect thereto.

Sec. 5. Sec. 325 of Art. III, Ch. 5, ESLA 1955 is hereby amended to read as follows:

Sec. 325. **Interstate Arrangements.** The Commissioner is authorized to enter into arrangements whereby the facilities and services provided under this Act, and the facilities and services provided under the employment security law of any other state may be utilized for the making of claims and the payment of benefits under this Act or under the employment security act of such state.

Sec. 6. Art. III, Ch. 5, ESLA 1955, as amended by Ch. 75 and Ch. 169, SLA 1957 is hereby amended by adding a new section to read as follows:

Sec. 325.1 (a) **Reciprocal Coverage.** The Commissioner is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the Federal Government, or both, whereby, notwithstanding the provisions of Section 761:

(1) Service performed by an individual for a single employing unit for which service is customarily performed by such individual in more than one state shall be deemed to be service performed entirely within any one of the states in which (A) any part of such individual's service is performed, or (B) such individual has his residence, or (C) the employing unit maintains a place of business: Provided, that there is in effect, as to such service, an approved election by an employing unit with the acquiescence of such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state; and

(2) Service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such em-

ploying unit maintains the headquarters of its business: Provided, that there is in effect, as to such service, an approved election by an employing unit with the affirmative consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state.

(b) **Cooperation With Agencies of Foreign Governments.** To the extent permissible under the laws and Constitution of the United States, the Commissioner is authorized to enter into arrangements of the character provided in this section with the agency of a foreign government administering an employment security law.

Sec. 7. Subsec. (b) of Sec. 501, Art. V, Ch. 5, ESLA 1955 as amended by Ch. 169, SLA 1957 is hereby amended to read as follows:

(b) Contributions with respect to wages paid on or after January 1, 1955 for employment shall accrue and become payable by each individual who performs service in employment for each calendar year in which such services are subject to this Act.

The contributions required from each such individual, in accordance with regulations prescribed by the Commissioner, shall become payable, be deducted from his wages by his employer, and be held in trust by the employer for the Commissioner until such time as such employee contributions are required by regulation to be deposited with the Commissioner. Such funds shall not be subject to garnishment or attachment in any fashion, and in the event of lien, judgment or bankruptcy proceedings shall not be considered as assets of the employer. Any employer who shall fail to make such deductions from the wages of his employees shall himself be liable to the Commissioner for the payment of such required contributions, which shall be collected from him in the same manner as is provided for the collection of employer contributions.

If any employer shall convert to his own use or otherwise misappropriate any funds so held in trust, he shall be

required to pay to the Commissioner for deposit in the Clearing Account the amount so converted or misappropriated, together with a penalty equal to five times that amount but not less than \$25.00. In addition, if such conversion of misappropriation is willful, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200.00, or imprisoned for not more than 60 days, or both.

Each employer shall maintain a record of the amount so deducted from the wages of each of his employees, and shall furnish a statement of such deductions to each employee at such times and in such manner as the Commissioner shall prescribe by regulation.

Sec. 8. Sec. 502 of Art. V, Ch. 5, ESLA 1955 as amended by Ch. 169, SLA 1957 is hereby amended to read as follows:

Sec. 502. **Rate of Contributions.** Each employer shall pay contributions equal to 2.9 percent of wages paid by him with respect to employment during the period January 1, 1960 through September 30, 1960 except as otherwise provided in Section 503. Each individual performing services in employment for such employer during such period shall pay contributions equal to six-tenths of one percent of wages paid to him with respect to employment.

Beginning October 1, 1960, each employer shall pay contributions equal to 2.9 percent and his employees shall pay contributions equal to .6 percent of wages paid by him and received by them with respect to employment except as otherwise provided in Section 503 and Article V (a).

Sec. 9. Sec. 503 of Art. V, Ch. 5, ESLA 1955 as amended by Ch. 169, SLA 1957 is hereby amended to read as follows:

Sec. 503. **Base of Contributions.** For the purposes of Sections 501 and 502 of this Article subsequent to December 31, 1959, wages shall not include that part of remuneration which, after remuneration equal to \$7,200.00 has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment, is paid to such individual by such employer during such

calendar year unless that part of the remuneration is subject to a tax under a Federal law imposing a tax against which credit may be taken for contributions required to be paid into a State unemployment fund. For the purposes of this section, the term "employment" shall include service constituting employment under any employment security law of another State or of the Federal Government.

Sec. 10. Art. V, Ch. 5, ESLA 1955, as amended by Ch. 169, SLA 1957 is hereby amended by adding a new section to read as follows:

**Sec. 528. Service of Process.** Process for assessment and collection of contributions may be served both within and without this State, and in addition to any other method of service provided for in this Act, service may be made by certified or registered mail.

Sec. 11. Ch. 5, ESLA 1955 is hereby amended by adding a new article to read as follows:

#### **Article V (a)**

##### **Experience Rating**

Sec. 551. As used in this Article, the following terms have the meaning ascribed to them.

Sec. 552. For the purpose of computing rates for the period October 1, 1960 through December 31, 1960 "computation date" means March 31, 1960. Effective June 30, 1960 "computation date" means June 30 of the year immediately preceding the calendar year for which the contribution rates are effective.

Sec. 553. (a) "Payroll" means all wages paid by an employer to individuals in his employ for service in employment as defined in this Act.

(b) "Quarterly payroll" means all wages paid by such employer during a calendar quarter.

(c) For the purpose of computing rates for the periods October 1, 1960 through December 31, 1960 and calendar year 1961, "ratable payroll" means an employer's total payroll for four consecutive quarters ending with the computation date; thereafter, "rat-

able payroll" means so much of an employer's payroll for the four consecutive calendar quarters ending on the computation date as is subject to payment of contributions. For the purpose of determining the rate for a newly subject employer and his employees under this Article the definition of employment in force at the time that the employer becomes subject to the Act shall apply to service performed for him prior to the date on which he becomes subject.

Sec. 554. "Qualifying period" means the three-year period of twelve consecutive calendar quarters ending on the computation date. Provided that, for any employer who has not been liable for contributions hereunder during each of the twelve calendar quarters ending with the computation date, "qualifying period" means the period ending with the computation date and beginning with the first calendar quarter in which such employer was liable for contributions hereunder but in no event less than the four consecutive calendar quarters ending with the computation date. Employers who have been subject to the Act less than four calendar quarters immediately preceding the computation date, and their employees, shall not be entitled to a rate determination under this Article but shall pay contributions at the standard rates specified in Section 502. An employing unit is subject to the Act beginning with the start of the first quarter in which he is liable for contributions, and ending with the end of the calendar quarter in which he files closing contribution and wage reports pursuant to regulations of the Commissioner.

Sec. 555. **Eligible Employer.** An employer and his employees shall be eligible for a rate determination in accordance with the provisions of this Article and the Commissioner's regulations if the employer has been subject to the Act throughout not less than the four consecutive calendar quarters ending with the computation date. Notwithstanding any other provisions of this Article, no employer or his employees shall be eligible for a rate determination pursuant to this Article if, with

respect to any calendar quarter in or preceding his qualifying period the employer has failed to file any contribution or payroll reports or to pay any contributions required by this Act within 60 days following the computation date or within 10 days after the Commissioner or his representative has mailed the employer written notice of such delinquency and/or failure to file reports, by registered or certified mail to his last known address, whichever is the later date.

Reports made arbitrarily for an employer by the Commissioner pursuant to Section 519 shall not entitle an employer to a rate determination pursuant to this Article but such reports may be used to establish a rate determination pursuant to this Article in the discretion of the Commissioner.

Each employer who, for the reasons set out in this section, does not qualify for a rate determination under this Article, and his employees, shall pay contributions at the highest rate provided in this Article.

**Sec. 556. Quarterly Decline Quotients.** The Commissioner shall determine each eligible employer's contribution rate by the procedures set out in this and the following sections. He shall array such employer's quarterly payrolls in chronological order beginning with the first calendar quarter in the qualifying period and ending with the last calendar quarter in the period. Whenever an employer's payroll in a calendar quarter is less than the payroll in the preceding quarter in the qualifying period, the quarterly decline quotient shall be computed to at least nine decimal places by dividing the amount of the decline by the amount of the payroll in the preceding calendar quarter.

For the purpose of computing quarterly decline quotients, the Commissioner may, by regulation, prescribe: (a) the manner in which wages paid in the form of annual bonuses or other lump-sum payments for service performed over a period of more than three months shall be apportioned among the calendar quarters of the calendar year in which such service was performed; and (b) the method for making adjust-

ments in quarterly payrolls to eliminate the effect upon quarterly decline quotients resulting from unemployment which would not be compensable by reason of the labor dispute provision of Section 741 (i).

The Commissioner shall determine the sum of each eligible employer's decline quotients and shall weight such sum by adding to it 1.00000000 for each quarter in the employer's qualifying period in which he has no payroll, which quarter immediately succeeds a quarter in which he has no payroll. Each eligible employer's average quarterly decline quotient shall be computed to the ninth decimal place by dividing the sum of the quarterly decline quotients for such employer (weighted when required by this section) by the number of quarters in his qualifying period less one.

**Sec. 557. Rate Determination.** The Commissioner shall then determine each eligible employer's ratable payroll as defined in Section 553. He shall then array all eligible employers in the order of their average quarterly decline quotients beginning with the smallest average decline quotient and shall determine, with respect to each employer in the array, the cumulative ratable payroll during the four consecutive quarters ending with the computation date of such employer together with all employers who precede him on the list.

The Commissioner shall segregate the arrayed employers into groups in accordance with cumulative ratable payroll. The limits of the groups shall be those set out in Column B of the table below. Each of such groups shall be identified by the rate class number in Column A which is opposite the figures in Column B which represents the percentage limits of each group. Each employer in the array shall be assigned to the rate class in which the greater part of such employer's ratable payroll falls except that if one-half of the employer's ratable payroll falls in one class, and one-half in another, he shall be assigned to the lower numbered rate class in which one-half of his ratable payroll falls. Provided, that no employer shall be assigned to a higher

numbered rate class than is assigned to another employer with the same average quarterly decline quotient. Each eligible employer and his employees shall pay contributions on wages paid

by him and received by them at the contribution rate in Column C and Column D, respectively, which are opposite such employer's rate class in Column A.

A Rate Class	B Arrayed Employer's Cumulative Payroll Limits (Percent of State Total Ratable Payroll)		C Contribution Rate (Percent)		D
	More than	Equal to or Less than	Employer	Employee	Rate
1	0	10	1.5		0.3
2	10	20	1.8		0.4
3	20	30	2.1		0.5
4	30	40	2.4		0.6
5	40	50	2.9		0.6
6	50	60	3.2		0.7
7	60	70	3.5		0.8
8	70	80	3.7		0.8
9	80	90	3.8		0.9
10	90	100	4.0		0.9

**Sec. 558. Corrections and Adjustments.** Corrections or modifications of an employer's payroll may be taken into account within two years after the computation date, for the purpose of a reduction or increase in his and his employees' rates. When any adjustment is made in an employer's payroll or in his average quarterly decline quotient after rates have been assigned, the adjustment shall not alter the position of any other employer on the schedule or the contribution rate of any other employer. The employer with respect to whom the adjustment in decline quotients is made shall be placed in that class in which another employer with the nearest similar average quarterly decline quotient is placed.

**Sec. 559. Rates for Successors in Business.** Subsequent to January 1, 1956, whenever an employing unit (whether or not an employer within the meaning of Section 201) in any manner succeeds to or acquires, or has succeeded to or acquired, substantially all of the operating assets of an organization, trade, or business of another employing unit which at the time of acquisition was an employer subject to this Act, the payroll records of such predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose

of determining an employer's qualifying period and for all other purposes of rate determination. Notwithstanding any other provision of this section, if the successor employer was an employer subject to this Act prior to the date of acquisition, his rate of contributions for the remainder of the calendar year of acquisition shall be his rate with respect to the period immediately preceding the date of acquisition; his rate for the succeeding years shall be based on the total of his payrolls consolidated with those of the predecessor. If the successor was not an employer prior to the date of acquisition, his rate shall be the rate applicable to the predecessor employer or employers with respect to the period immediately preceding the date of acquisition provided there was only one predecessor or there were only predecessors with identical rates; if the predecessor rates were not identical, the successor's rate shall be the highest rate applicable to any of the predecessor employers with respect to the period immediately preceding the date of acquisition. This section shall not apply to any acquisition if such acquisition is determined by the Commissioner (1) to have been primarily for the purpose of obtaining a more favorable rate of contributions under this Article, (2) to be inequitable to the parties, or (3) to be contrary to the public interest.

**Sec. 560. Application for Review.** The Commissioner shall notify each employer promptly of his rate of contributions as determined for any calendar year pursuant to this Article. Such determination shall become conclusive upon the employer unless within 15 days after the notice was mailed to his last known address or otherwise delivered to him, the employer files an application for review and redetermination, setting forth his reasons therefor. If the Commissioner grants such review, the employer shall be notified thereof promptly and shall be granted a reasonable opportunity for a fair hearing. The Commissioner shall make a redetermination and shall notify the employer of the redetermination and the reason therefor. If the Commissioner denies a review, he shall notify the employer of the denial and the reasons therefor. A redetermination or a denial of review shall become final, unless within 15 days after the notice was mailed to the last known address of the employer, or otherwise delivered to him, petition for judicial review is filed in accordance with Section 809.

**Sec. 12. Subsec. (e) of Sec. 712, Art. VII, Ch. 5, ESLA 1955, as amended in subsec. (e) of Sec. 712, Ch. 169, SLA 1957, is hereby amended to read as follows:**

(e) **Interstate Payment Restrictions.** Notwithstanding the above subsections of this section, if an individual files a claim for benefits while outside of Alaska his benefits for such week shall be restricted as follows:

1. he shall not be paid an augmented weekly benefit amount
2. he shall not be paid more than \$20.00
3. his maximum potential benefits shall be reduced by the amount he

would have received if such claim had been filed within Alaska.

**Sec. 13. Subsec. (a) of Sec. 741, Art. VII, Ch. 5, ESLA 1955 as amended by Ch. 62 and Ch. 169, SLA 1957 is hereby amended to read as follows:**

(a) He was not able to work or was not available for suitable work for such week. Provided that an insured worker shall not be considered ineligible for receipt of unemployment benefits for any week because of failure to comply with the provisions of this subsection if:

(1) he is unable to work because of an illness or disability; or

(2) he resides in Alaska and is not available for work because of his non-commercial fishing and hunting necessary for the survival of himself and his dependents; and

(3) the condition described in (1) or (2) above occurs during an uninterrupted period of unemployment following a week for which he has filed a compensable claim and no work has been offered him for any part of said week which would have been suitable prior to the beginning of such fishing, hunting, illness, or disability.

**Sec. 14. Sec. 1013 of Art. X, Ch. 5, ESLA 1955 as amended by Ch. 169, SLA 1957 is hereby repealed and re-enacted to read as follows:**

**Sec. 1013. Data to Be Collected.** For reporting periods beginning April 1, 1960 and thereafter, the Commissioner of Labor is directed to obtain from each employer relative to each of his employees the number of weeks in each calendar quarter in which such employee earned wages of \$30.00 or more.

**Sec. 15.** This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

Approved March 30, 1960