

1 HB71  
2 164800-2  
3 By Representative Williams (P)  
4 RFD: Education Policy  
5 First Read: 03-MAR-15

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ENROLLED, An Act,

To amend Section 25-4-70, Code of Alabama 1975, relating to unemployment compensation; to provide that employees of private companies that provide direct services to schools may not receive unemployment benefits during breaks in employment occasioned by holidays, fall and winter breaks, and summer vacation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 25-4-70, Code of Alabama 1975, is amended to read as follows:

"§25-4-70.

"(a) After contributions have been due under this chapter for two years, benefits shall become payable from the fund to any employee who thereafter is or becomes unemployed and eligible for benefits, and shall be paid through unemployment offices or such other agencies at such times and in such manner as the director may prescribe.

"(b) Benefits based on service in employment defined in subdivisions (a) (2) and (a) (3) of Section 25-4-10 shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter; except, that:

"(1) With respect to any week of unemployment beginning after December 31, 1977, benefits shall not be paid

1 based on service in an instructional, research, or principal  
2 administrative capacity for any educational institution for  
3 any such week commencing during the period between two  
4 successive academic years, or during a similar period between  
5 two regular terms, whether or not successive, or during a  
6 period of paid sabbatical leave provided for in the  
7 individual's contract, to any individual if such individual  
8 performs such services in the first of such academic years (or  
9 terms) and if there is a contract or reasonable assurance that  
10 such individual will perform services in any such capacity for  
11 any educational institution in the second of such academic  
12 years or terms.

13           "(2) With respect to any week of unemployment  
14 beginning after April 3, 1983, benefits shall not be paid on  
15 the basis of service in any other capacity for an educational  
16 institution, to any individual for any such week which  
17 commences during a period between two successive academic  
18 years or terms if such individual performs such services in  
19 the first of such academic years or terms and there is a  
20 reasonable assurance that such individual will perform such  
21 services in the second of such academic years or terms, except  
22 that if compensation is denied to any individual under this  
23 subdivision (2) for weeks of unemployment beginning on or  
24 after April 3, 1983, and such individual was not offered an  
25 opportunity to perform such services for the educational

1 institution for the second of such academic years or terms,  
2 such individual shall be entitled to a retroactive payment of  
3 benefits for each week for which the individual filed a timely  
4 claim for benefits and for which benefits were denied solely  
5 by reason of this subdivision (2); provided further that such  
6 individual has given notice that the opportunity to return was  
7 not offered or was withdrawn to the director in such manner  
8 and within such time as the director by regulation shall  
9 prescribe.

10 "(3) With respect to any week of unemployment  
11 beginning on or after April 1, 1984, benefits shall not be  
12 paid based on services in any capacity described in  
13 subdivisions (1) and (2) to any individual for any week which  
14 commences during an established and customary vacation period  
15 or holiday recess if such individual performs such services in  
16 the period immediately before such vacation period or holiday  
17 recess, and there is a reasonable assurance that such  
18 individual will perform such services in the period  
19 immediately following such vacation period or holiday recess.  
20 The term "employment" shall include services performed in the  
21 employ of an Indian tribe, as herein defined, provided such  
22 service is excluded from employment as defined in FUTA by  
23 reason of Section 3306(c)(7), and is not otherwise excluded  
24 from employment under this chapter for purposes of this  
25 section. The exclusion from employment in Section 25-4-10(b)

1 shall be applicable to services performed in the employ of an  
2 Indian tribe.

3 "(4) With respect to any week of unemployment  
4 beginning on or after April 1, 1984, benefits shall not be  
5 paid on the basis of services described in subdivisions (1)  
6 and (2) of this subsection in any such capacities as specified  
7 in subdivisions (1), (2), and (3) to any individual who  
8 performed such services in an educational institution while in  
9 the employ of an educational service agency. For the purposes  
10 of this subdivision the term "educational service agency"  
11 shall mean a governmental agency or governmental entity which  
12 is established and operated exclusively for the purpose of  
13 providing such services to one or more educational  
14 institutions.

15 "(5) With respect to weeks of unemployment beginning  
16 on or after April 1, 1984, benefits shall not be paid with  
17 respect to services to which Sections 25-4-8(a) (7),  
18 25-4-8(a) (8), 25-4-10(a) (2) and 25-4-10(a) (3) apply, if such  
19 services are provided to or on behalf of an educational  
20 institution, under the same circumstances and subject to the  
21 same terms and conditions as described in subdivisions (1),  
22 (2), (3), and (4) of this subsection.

23 "(6) With respect to weeks of unemployment beginning  
24 before April 1, 1984, benefits shall be paid on the basis of  
25 this section prior to that date.

1           "(7) For the purposes of this subsection, the term  
2 "reasonable assurance" means a written, verbal, or implied  
3 agreement that the employee will perform services during the  
4 ensuing academic year or term and the term "contract" is  
5 intended to include tenure status.

6           "(c) Benefits paid based on services in the employ  
7 of an Indian tribe shall be payable on the same terms and  
8 subject to the same conditions as compensation payable on the  
9 basis of other service subject to this chapter.

10           "(d) Notwithstanding any provision of law, with  
11 respect to any week of unemployment beginning on or after May  
12 1, 2015, benefits based on service in employment defined in  
13 subdivision (1) of subsection (a) of Section 25-4-10 may not  
14 be paid with respect to services rendered to an educational  
15 institution, when the services are performed by an individual  
16 employed by an employer primarily or exclusively engaged in  
17 the provision of its employees to perform work for educational  
18 institutions, for any week commencing during the period  
19 between two successive academic years or terms, or for any  
20 week which commences during an established and customary  
21 vacation period or holiday recess, if the individual performs  
22 services for the educational institution in the period  
23 immediately before the vacation period or holiday recess, and  
24 there is a reasonable assurance that such individual will  
25 perform the same or similar services for the educational

1 ~~institution in the period immediately following the vacation~~  
2 ~~period or holiday recess.~~ for the period that the individual  
3 does not perform his or her duties because of a holiday or  
4 weather. This subsection applies regardless of whether the  
5 employer qualifies for exemption from federal employment tax  
6 under 26 U.S.C. 501(a) and regardless of whether the employer  
7 is a religious, charitable, or educational institution or  
8 organization. For purposes of this subsection, the term  
9 reasonable assurance shall have the same meaning as set out in  
10 subdivision (7) of subsection (b) of this section."

11           Section 2. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 26-MAY-15.

Jeff Woodard  
Clerk

Senate	<hr/>	04-JUN-15	Amended and Passed
House	<hr/>	04-JUN-15	Concurred in Sen- ate Amendment