

35A-4-205 Exempt employment.

(1) If the services are also exempted under the Federal Unemployment Tax Act, as amended, employment does not include:

(a) service performed in the employ of the United States Government or an instrumentality of the United States immune under the United States Constitution from the contributions imposed by this chapter, except that, to the extent that the Congress of the United States shall permit, this chapter shall apply to those instrumentalities and to services performed for the instrumentalities to the same extent as to all other employers, employing units, individuals and services; provided, that if this state is not certified for any year by the Secretary of Labor under Section 3304 of the Federal Internal Revenue Code of 1954, 26 U.S.C. 3304, the payments required of the instrumentalities with respect to that year shall be refunded by the division from the fund in the same manner and within the same period as is provided in Subsection 35A-4-306(5) with respect to contributions erroneously collected;

(b) service performed by an individual as an employee or employee representative as defined in Section 1 of the Railroad Unemployment Insurance Act, 45 U.S.C., Sec. 351;

(c) agricultural labor as defined in Section 35A-4-206;

(d) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in Subsection 35A-4-204(2)(k);

(e)

(i) service performed in the employ of a school, college, or university, if the service is performed:

(A) by a student who is enrolled and is regularly attending classes at that school, college, or university; or

(B) by the spouse of the student, if the spouse is advised, at the time the spouse commences to perform that service, that the employment of that spouse to perform that service is provided under a program to provide financial assistance to the student by the school, college, or university, and that the employment will not be covered by any program of unemployment insurance;

(ii) service performed by an individual who is enrolled at a nonprofit or public educational institution, that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at the institution, that combines academic instruction with work experience, if the service is an integral part of the program and the institution has so certified to the employer, but this Subsection (1) does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(iii) service performed in the employ of a hospital, if the service is performed by a patient of the hospital; or

(iv) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved under state law;

(f) service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of the child's parent;

(g) for the purposes of Subsections 35A-4-204(2)(d) and (e), service performed:

(i) in the employ of:

(A) a church or convention or association of churches; or

(B) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;

(iii) in the employ of a governmental entity or Indian tribe referred to in Subsection 35A-4-204(2)(d) if the service is performed by an individual in the exercise of the individual's