

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HOUSE BILL 2645

AN ACT

AMENDING SECTIONS 23-603, 23-613, 23-615, 23-615.01, 23-617, 23-725 AND  
23-751.01, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-603, Arizona Revised Statutes, is amended to  
3 read:

4 23-603. Agricultural labor; definitions; exemption

5 A. "Agricultural labor" means and includes all service performed prior  
6 to January 1, 1972, ~~which~~ THAT was agricultural labor as defined in this  
7 section prior to ~~such~~ THAT date, and THAT remunerated service performed after  
8 December 31, 1971:

9 1. On a farm, in the employ of any person, in connection with  
10 cultivating the soil, or in connection with raising or harvesting any  
11 agricultural or horticultural commodity, including the raising, shearing,  
12 feeding, caring for, training and management of livestock, bees, poultry, and  
13 fur-bearing animals and wildlife.

14 2. In the employ of the owner or tenant or other operator of a farm,  
15 in connection with the operation, management, conservation, improvement or  
16 maintenance of the farm and its tools and equipment or in salvaging timber or  
17 clearing land of brush and other debris left by a hurricane, if the major  
18 part of the service is performed on a farm.

19 3. In connection with the production or harvesting of any commodity  
20 defined as an agricultural commodity in section 15(g) of the agricultural  
21 marketing act, as amended (46 Stat. 1550, sec. 3; 12 ~~U.S.C.~~ UNITED STATES  
22 CODE SECTION 1141j), or in connection with the ginning of cotton or in  
23 connection with the operation or maintenance of ditches, canals, reservoirs  
24 or waterways, not owned or operated for profit, used exclusively for  
25 supplying and storing water for farming purposes.

26 4. ~~(a)~~ In the employ of the operator of a farm in handling, planting,  
27 drying, packing, packaging, processing, freezing, grading, storing or  
28 delivering to storage or to market, or to a carrier for transportation to  
29 market, in its unmanufactured state, any agricultural or horticultural  
30 commodity, but only if the operator produced more than one-half of the  
31 commodity with respect to which ~~such~~ THE service is performed and only if the  
32 service is performed as an incident to ordinary farming operations or, in the  
33 case of fruits and vegetables, as an incident to the preparation of the  
34 fruits or vegetables for market.

35 ~~(b)~~ 5. In the employ of a group of operators of farms, or a  
36 cooperative organization of which ~~such~~ THE operators are members, in the  
37 performance of service described in ~~subdivision (a)~~ PARAGRAPH 4 OF THIS  
38 SUBSECTION, but only if ~~such~~ THE operators produced more than one-half of the  
39 commodity with respect to which ~~such~~ THE service is performed.

40 ~~(c) The provisions of subdivisions (a) and (b) shall not be deemed to~~  
41 ~~be applicable with respect to service performed in connection with commercial~~  
42 ~~canning or commercial freezing or in connection with any agricultural or~~  
43 ~~horticultural commodity after its delivery to a terminal market for~~  
44 ~~distribution for consumption.~~

1           ~~5-~~ 6. On a farm operated for profit if ~~such~~ THE service is not in the  
2 course of the employer's trade or business.

3           B. ~~As used in~~ FOR THE PURPOSES OF this section, "farm" includes stock,  
4 dairy, poultry, fruit, fur-bearing animal and truck farms, ~~AND~~ plantations,  
5 ranches, nurseries, ranges, greenhouses, ~~or~~ other similar structures THAT  
6 ARE used primarily for raising agricultural or horticultural commodities, ~~and~~  
7 INCLUDING orchards.

8           C. Notwithstanding ~~the provisions of~~ section 23-617, paragraph 1,  
9 service ~~defined in~~ AS PRESCRIBED BY subsection A of this section THAT IS  
10 performed after December 31, 1977, by an individual who is an alien admitted  
11 to the United States to perform agricultural labor pursuant to sections  
12 214(c) and 101(a)(15)(H) of the immigration and nationality act is exempt  
13 employment during any period in which it does not meet the definition of  
14 employment in section 23-615, SUBSECTION A, paragraph ~~8-~~ 10.

15           D. SUBSECTION A, PARAGRAPHS 4 AND 5 OF THIS SECTION DO NOT APPLY TO  
16 SERVICE PERFORMED IN CONNECTION WITH COMMERCIAL CANNING OR COMMERCIAL  
17 FREEZING OR IN CONNECTION WITH ANY AGRICULTURAL OR HORTICULTURAL COMMODITY  
18 AFTER ITS DELIVERY TO A TERMINAL MARKET FOR DISTRIBUTION FOR CONSUMPTION.

19           Sec. 2. Section 23-613, Arizona Revised Statutes, is amended to read:  
20 23-613. Employer

21           A. "Employer" means:

22           1. Any employing unit which, within the calendar year 1941 or within  
23 any succeeding calendar year through 1971, for some portion of a day, but not  
24 necessarily simultaneously, in each of twenty different calendar weeks,  
25 whether or not the weeks are or were consecutive, has or had in employment  
26 three or more individuals irrespective of whether the same individuals are or  
27 were employed in each ~~such~~ day.

28           2. Any employing unit:

29           (a) ~~Which~~ THAT after December 31, 1971 for some portion of a day in  
30 each of twenty different calendar weeks, whether or not the weeks are or were  
31 consecutive, in either the current or the preceding calendar year, has or had  
32 in employment at least one individual irrespective of whether the same  
33 individual was in employment in each ~~such~~ day. ~~;-or~~

34           (b) ~~Which~~ THAT after December 31, 1971 in any calendar quarter in  
35 either the current or preceding calendar year, paid for service in employment  
36 wages of one thousand five hundred dollars or more. ~~;-or~~

37           (c) For which service in employment, as defined in section 23-615,  
38 SUBSECTION A, paragraph 6, 7 OR 8 or section 23-615.01 is performed after  
39 December 31, 1977.

40 For purposes of this paragraph, there shall not be taken into account any  
41 wages paid to, or employment of, an employee performing domestic services  
42 referred to in subsection C OF THIS SECTION. If an employing unit is  
43 determined an employer under subsection B of this section, ~~such~~ THE employing  
44 unit shall be determined an employer for the purposes of this paragraph.

1           3. Any individual or employing unit ~~which~~ THAT acquired the  
2 organization, trade or business or substantially all the assets thereof, of  
3 another ~~which~~ EMPLOYING UNIT THAT at the time of acquisition was an employer  
4 subject to this chapter, or ~~which~~ THAT acquired a part of the organization,  
5 trade or business of another ~~which~~ EMPLOYING UNIT THAT at the time of  
6 acquisition was an employer subject to this chapter provided ~~such other~~ THE  
7 EMPLOYING UNIT would have been an employer under this ~~section~~ SUBSECTION if  
8 ~~such~~ THAT part had constituted its entire organization, trade or business.

9           4. Any individual or employing unit ~~which~~ THAT acquired the  
10 organization, trade or business, or substantially all the assets ~~thereof~~ OF  
11 THE INDIVIDUAL OR EMPLOYING UNIT, of another employing unit if EITHER:

12           (a) The employment record of the individual or employing unit  
13 subsequent to the acquisition, together with the employment record of the  
14 acquired unit ~~prior to~~ BEFORE the acquisition, both within the same calendar  
15 year, would be sufficient to constitute an employing unit an employer subject  
16 to this chapter under this section. ~~, or~~

17           (b) The wages paid by the individual or employing unit subsequent to  
18 the acquisition, together with the wages paid by the acquired unit ~~prior to~~  
19 BEFORE the acquisition, both within the same calendar quarter, would be  
20 sufficient to constitute an employing unit an employer subject to this  
21 chapter under this section.

22           5. Any employing unit which, together with one or more other employing  
23 units, is owned or controlled by legally enforceable means or otherwise,  
24 directly or indirectly by the same interests, or ~~which~~ THAT owns or controls  
25 by legally enforceable means or otherwise one or more other employing units,  
26 and ~~which~~ THAT if treated as a single unit with the other employing units or  
27 interests, or both, would be an employer under this section.

28           6. Any employing unit THAT IS not an employer by reason of any other  
29 paragraph of this ~~section~~ SUBSECTION for which, within either the current or  
30 preceding calendar year, services in employment are or were performed with  
31 respect to which the employing unit is liable for any federal tax against  
32 which credit may be taken for contributions required to be paid into a state  
33 unemployment compensation fund, or which, as a condition for approval of this  
34 chapter for full tax credit against the tax imposed by the federal  
35 unemployment tax act, is required, pursuant to ~~such~~ THE act, to be an  
36 employer under this chapter.

37           7. Any employing unit which, having become an employer under this  
38 section has not, under section 23-725, ceased to be an employer subject to  
39 this chapter.

40           8. For the effective period of its election pursuant to section  
41 23-725, any other employing unit ~~which~~ THAT has elected to become subject to  
42 this chapter.

43           B. In the case of agricultural labor, the term "employer" means any  
44 employing unit ~~which~~ THAT after December 31, 1977:

1           1. For some portion of a day, but not necessarily simultaneously, in  
2 each of twenty different calendar weeks, whether or not the weeks are or were  
3 consecutive, in either the current or the preceding calendar year, employed  
4 in agricultural labor at least ten individuals irrespective of whether the  
5 same individuals were employed in each ~~such~~ day. ~~;~~~~or~~

6           2. In any calendar quarter in either the current or preceding calendar  
7 year paid cash wages of twenty thousand dollars or more for agricultural  
8 labor.

9           C. In the case of domestic service in a private home, local college  
10 club, or local chapter of a college fraternity or sorority, the term  
11 "employer" means any employing unit, which after December 31, 1977, in any  
12 calendar quarter in either the current or preceding calendar year paid cash  
13 wages of one thousand dollars or more to individuals employed in ~~such~~ **THAT**  
14 service. An employing unit, treated as an employer under this subsection  
15 shall not be treated as an employer with respect to wages paid for any other  
16 service unless ~~such~~ **THE** employing unit is treated as an employer under  
17 subsection A or B of this section with respect to ~~such~~ **THE** other service.

18           D. For purposes of this section, if any week includes both December 31  
19 and January 1, the days up to January 1 shall be deemed one calendar week and  
20 the days beginning January 1 another week.

21           Sec. 3. Section 23-615, Arizona Revised Statutes, is amended to read:

22           23-615. Employment; definition

23           A. "Employment" means any service of whatever nature performed by an  
24 employee for the person employing ~~him~~ **THE EMPLOYEE**, including service in  
25 interstate commerce, and includes:

26           1. An individual's entire service performed within or both within and  
27 ~~without~~ **OUTSIDE** this state if:

28           (a) The service is localized in this state.

29           (b) The service is not localized in any state but some of the service  
30 is performed in this state and **EITHER**:

31           (i) The individual's base of operations, or, if there is no base of  
32 operations, then the place from which ~~such~~ **THE** service is directed or  
33 controlled is **LOCATED** in this state. ~~;~~~~or~~

34           (ii) The individual's base of operations or place from which the  
35 service is directed or controlled is not **LOCATED** in any state in which some  
36 part of the service is performed but the individual's residence is in this  
37 state. Service ~~shall be~~ **IS** deemed localized within a state if the service is  
38 performed entirely within ~~such~~ **THAT** state, or the service is performed both  
39 within and without ~~such~~ **THAT** state but the service performed without the  
40 state is temporary or transitory in nature or consists of isolated  
41 transactions, and is incidental to the individual's service within the state.

42           2. Services covered by an election pursuant to section 23-725.

43           3. Services covered by an arrangement pursuant to section 23-644,  
44 between the department and the agency charged with the administration of any  
45 other state or federal unemployment compensation law pursuant to which all

1 services performed by an individual for an employing unit are deemed to be  
2 performed entirely within this state shall be deemed to be employment if the  
3 department has approved an election of the employing unit for which the  
4 services are performed, pursuant to which the entire service of the  
5 individual during the period covered by the election is deemed to be insured  
6 work.

7 4. Service performed by any officer of a corporation.

8 5. Service performed after December 31, 1971, outside the United  
9 States, except in Canada, by an individual who is a citizen of the United  
10 States in the employ of an American employer, ~~(other than service which THAT~~  
11 ~~is deemed employment under the provisions of~~ paragraph 1 of this ~~section~~  
12 ~~SUBSECTION~~ or the parallel provisions of another state's law~~)~~ if EITHER:

13 (a) The employer's principal place of business in the United States is  
14 located in this state. ~~;~~~~OR~~

15 (b) The employer has no place of business in the United States, but:

16 (i) The employer is an individual who is a resident of this state.  
17 ~~;~~~~OR~~

18 (ii) The employer is a corporation ~~which THAT~~ is organized under the  
19 laws of this state. ~~;~~~~OR~~

20 (iii) The employer is a partnership or a trust and the number of the  
21 partners or trustees who are residents of this state is greater than the  
22 number who are residents of any one other state. ~~;~~~~OR~~

23 (c) None of the criteria of SUBDIVISION (a) or (b) of this paragraph  
24 is met but the employer has elected coverage in this state or, the employer  
25 having failed to elect coverage in any state, the individual has filed a  
26 claim for benefits, ~~based on such service,~~ under the ~~law~~ LAWS of this state.

27 6. ~~(a)~~ Service performed after December 31, 1971, in the employ of  
28 this state or any of its instrumentalities, ~~(or in the employ of this state~~  
29 ~~and one or more other states or their instrumentalities)~~, for a hospital or  
30 institution of higher education located in this state. For purposes of this  
31 chapter, "service performed in the employ of this state for an institution of  
32 higher education" includes service performed for a community college located  
33 in this state ~~which THAT~~ is or becomes integrated into the state community  
34 college system, as provided in title 15.

35 ~~(b)~~ 7. Service performed after December 31, 1971, by an individual in  
36 the employ of a religious, charitable, educational or other organization, but  
37 only if BOTH OF the following conditions are met:

38 ~~(i)~~ (a) The service is excluded from "employment" as defined in the  
39 federal unemployment tax act solely by reason of section 3306(c)(8) of that  
40 act. ~~;~~~~and~~

41 ~~(ii)~~ (b) The organization had AT LEAST four ~~or more~~ individuals in  
42 employment for some portion of a day in each of twenty different weeks,  
43 whether or not ~~such~~ THE weeks ~~are~~ WERE consecutive, within either the current  
44 or preceding calendar year, regardless of whether ~~they~~ THE INDIVIDUALS were  
45 employed ~~at the same moment of time~~ SIMULTANEOUSLY.

1           ~~(e)~~ 8. Service performed after December 31, 1977, in the employ of  
2 this state, or any instrumentality, agency or board of this state, or any one  
3 or more of the foregoing and one or more other states.

4           ~~7-~~ 9. An individual's service wherever performed within the United  
5 States or Canada if BOTH OF THE FOLLOWING ARE TRUE:

6           (a) The service is not covered under the unemployment compensation law  
7 of any other state or Canada. ~~, and~~

8           (b) The place from which the service is directed or controlled is in  
9 this state.

10          ~~8-~~ 10. Notwithstanding any other provisions of this chapter, service  
11 with respect to which a tax is required to be paid under any federal law  
12 imposing a tax against which credit may be taken for contributions required  
13 to be paid into a state unemployment fund or ~~which~~ THAT as a condition for  
14 full tax credit against the tax imposed by the federal unemployment tax act  
15 is required to be covered under this chapter.

16          ~~(d)~~ B. For purposes of ~~this paragraph~~ SUBSECTION A, PARAGRAPHS 6, 7  
17 AND 8, the term "employment" does not apply to service performed FOR ANY OF  
18 THE FOLLOWING:

19          ~~(i)~~ 1. In the employ of a church or convention or association of  
20 churches, or an organization ~~which~~ THAT is operated primarily for religious  
21 purposes, INCLUDING EDUCATIONAL AND CHILD CARE SERVICES THAT INCLUDE  
22 RELIGIOUS INSTRUCTION, and ~~which~~ THAT is operated, supervised, controlled, or  
23 principally supported by a church or convention or association of churches.  
24 ~~;~~~~OR~~

25          ~~(ii)~~ 2. By a duly ordained, commissioned, ~~or~~ licensed minister of a  
26 church in the exercise of his ministry or by a member of a religious order in  
27 the exercise of duties required by ~~such~~ THE order. ~~;~~~~OR~~

28          ~~(iii)~~ 3. In the employ of a governmental entity referred to in  
29 section 23-750, subsection A, paragraph 2, if ~~such~~ THE service is performed  
30 by an individual in the exercise of ~~his~~ THE INDIVIDUALS duties IN ANY OF THE  
31 FOLLOWING:

32          ~~(A)~~ (a) As an elected official. ~~;~~~~OR~~

33          ~~(B)~~ (b) As a member of a legislative body or the judiciary, of this  
34 state or a political subdivision ~~thereof;~~~~OR~~ OF THIS STATE.

35          ~~(C)~~ (c) As a member of the state national guard or air national  
36 guard. ~~;~~~~OR~~

37          ~~(D)~~ (d) As an employee serving on a temporary basis in case of fire,  
38 storm, snow, earthquake, flood, ~~or~~ similar emergency. ~~;~~~~OR~~

39          ~~(E)~~ (e) In a position ~~which, under or~~ THAT pursuant to the LAWS OF  
40 THIS state ~~law~~ is designated as a major nontenured policymaking or advisory  
41 position, or a policymaking or advisory position the performance of the  
42 duties of which ordinarily does not require more than eight hours per week.  
43 ~~;~~~~OR~~

1           ~~(iv)~~ 4. In a facility conducted for the purpose of carrying out a  
2 program of rehabilitation for individuals whose earning capacity is impaired  
3 by age or physical or mental deficiency or injury, or providing remunerative  
4 work for individuals who because of their impaired physical or mental  
5 capacity cannot be readily absorbed in the competitive labor market, by an  
6 individual receiving such rehabilitation or remunerative work. ~~;~~~~or~~

7           ~~(v)~~ 5. As part of an unemployment work-relief or work-training  
8 program assisted or financed in whole or in part by any federal agency or an  
9 agency of a state or political subdivision ~~thereof~~ OF A STATE, by an  
10 individual receiving such work-relief or work-training. ~~;~~~~or~~

11           ~~(vi)~~ 6. By an inmate of a custodial or penal institution.

12           Sec. 4. Section 23-615.01, Arizona Revised Statutes, is amended to  
13 read:

14           23-615.01. Political subdivision or instrumentality employment

15           A. Notwithstanding any ~~provisions of~~ law to the contrary, except for  
16 subsection B of this section, for the purposes of this chapter, employment,  
17 as defined in section 23-615, SUBSECTION A, paragraph 6, ~~shall include~~ 7 OR 8  
18 INCLUDES service performed after December 31, 1977 in the employ of EITHER OF  
19 THE FOLLOWING:

20           1. Any political subdivision of this state or any instrumentality of  
21 such political subdivisions. ~~;~~~~or~~

22           2. Any combination of political subdivisions and this or another  
23 state, their instrumentalities, agencies or boards whether wholly within this  
24 state or partly within this state and one or more other states.

25           B. ~~The provisions of~~ This section shall not be applicable if Public  
26 Law 94-566 or the federal act it amends is adjudged unconstitutional or  
27 invalid in its application to the governmental entities described in  
28 subsection A of this section. If the application of Public Law 94-566 or the  
29 federal act it amends is stayed as to employees of the governmental entities  
30 described in subsection A of this section or its employees by any court of  
31 competent jurisdiction before or after the provisions of subsection A become  
32 effective, the provisions of subsection A shall not be effective from the  
33 time ~~which~~ THAT the stay order became effective and continue for the duration  
34 of ~~such~~ THE stay order.

35           C. If Public Law 94-566 is finally determined to be constitutional and  
36 the court further determines that the governmental entities described in  
37 subsection A of this section were liable for claims for benefits during a  
38 stay of enforcement then any ~~such~~ liability shall be borne by the affected  
39 governmental entities.

40           Sec. 5. Section 23-617, Arizona Revised Statutes, is amended to read:

41           23-617. Exempt employment; definition

42           "Exempt employment" means employment not considered in determining  
43 whether an employing unit constitutes an "employer" under this chapter and  
44 includes:

1           1. Agricultural labor as defined in section 23-603 unless ~~such~~ THE  
2 labor is performed for an employing unit ~~which~~ THAT after December 31, 1977  
3 either:

4           (a) For some portion of a day, but not necessarily simultaneously, in  
5 each of twenty different calendar weeks, whether or not the weeks are or were  
6 consecutive, in either the current or the preceding calendar year, employed  
7 in agricultural labor at least ten individuals irrespective of whether the  
8 same individuals were employed in each ~~such~~ day.

9           (b) In any calendar quarter in either the current or preceding  
10 calendar year paid cash wages of twenty thousand dollars or more for  
11 agricultural labor.

12           2. Domestic service in a private home, local college club, or local  
13 chapter of a college fraternity or sorority unless performed after December  
14 31, 1977, for an employing unit ~~which~~ THAT in any calendar quarter in either  
15 the current or preceding calendar year paid cash wages of one thousand  
16 dollars or more to individuals employed in ~~such~~ THAT service.

17           3. Service performed on or in connection with a vessel or aircraft  
18 that is not an American vessel or American aircraft, if the employee is  
19 employed on and in connection with ~~such~~ THE vessel or aircraft when outside  
20 the United States.

21           4. Service performed by an individual in the employ of the  
22 individual's son, daughter, or spouse, and service performed by an individual  
23 under ~~the age of~~ twenty-one years OF AGE in the employ of the individual's  
24 father or mother.

25           5. Service performed in the employ of the United States government or  
26 an instrumentality of the United States ~~which~~ THAT is wholly or partially  
27 owned by the United States or ~~which~~ THAT is exempt from the tax imposed by  
28 section 3301 of the federal internal revenue code, except that to the extent  
29 Congress shall permit states to require instrumentalities of the United  
30 States to make payments into an unemployment fund under a state unemployment  
31 compensation law, all of the provisions of this chapter shall be applicable  
32 to ~~such~~ THE instrumentalities, in the same manner, to the same extent and on  
33 the same terms as to all other employers, employing units, individuals and  
34 services, but if this state is not certified for any year by the secretary of  
35 labor of the United States under section 3304 of the federal internal revenue  
36 code, the payments required of ~~such~~ THE instrumentalities with respect to the  
37 year shall be refunded by the department from the fund in the same manner and  
38 within the same period as is provided in section 23-742 with respect to  
39 contributions erroneously collected.

40           6. Service performed in the employ of another state, or any political  
41 subdivision ~~thereof~~ OF ANOTHER STATE, or an instrumentality of ~~one or more~~  
42 ~~thereof~~ ~~which~~ ANOTHER STATE OR ANOTHER STATE'S POLITICAL SUBDIVISION THAT is  
43 wholly owned by one or more other states or political subdivisions and ~~which~~  
44 THAT exercises only governmental as distinguished from proprietary functions,  
45 and service performed in the employ of any political subdivisions of this or

1 any other state to the extent the instrumentality, with respect to ~~such~~ THE  
2 service, is exempt under the Constitution of the United States from the tax  
3 imposed by section 3301 of the federal internal revenue code, except that  
4 part of ~~such~~ THE service performed in the employ of any of the foregoing  
5 ~~which~~ THAT is "employment" under section 23-615, SUBSECTION A, paragraph 6, 7  
6 OR 8. But any state, or a political subdivision ~~thereof~~ OF A STATE, or  
7 instrumentality of any one or more of the foregoing ~~which~~ THAT is wholly  
8 owned by one or more states or political subdivisions may elect coverage  
9 whether or not the service performed is governmental or proprietary for any  
10 ~~such~~ state or political subdivision thereof or any instrumentality thereof or  
11 any department thereof in the manner prescribed and subject to the terms of  
12 section 23-725, and ~~such~~ election may exclude any services described in  
13 section 23-615, ~~paragraph 6, subdivision (d)~~ SUBSECTION B. This state or any  
14 instrumentality or political subdivision of this state may appropriate funds  
15 to pay contributions or payments in lieu of contributions as required by this  
16 chapter.

17 7. Service with respect to which unemployment compensation is payable  
18 under an unemployment compensation system established by an act of Congress.

19 8. Service performed in any calendar quarter in the employ of an  
20 organization exempt from income tax under section 501(a) (other than an  
21 organization described in section 401(a)) or under section 521 of the federal  
22 internal revenue code, if the remuneration for such service is less than  
23 fifty dollars.

24 9. Service performed in the employ of a school, college or university,  
25 if the service is performed either:

26 (a) By a student enrolled and regularly attending classes at the  
27 school, college or university.

28 (b) By the spouse of ~~such~~ a student if the spouse is advised at the  
29 time the spouse commences to perform ~~such~~ THE service that the employment is  
30 provided under a program to provide financial assistance to the student by  
31 the school, college or university and the employment will not be covered by  
32 any program of unemployment compensation.

33 10. Service performed in the employ of a corporation, community chest  
34 fund, or foundation, organized and operated exclusively for religious,  
35 charitable, scientific, testing for public safety, literary, or educational  
36 purposes, or for the prevention of cruelty to children or animals, no part of  
37 the net earnings of which inures to the benefit of a private shareholder or  
38 individual, no substantial part of the activities of which is carrying on  
39 propaganda or otherwise attempting to influence legislation, and ~~which~~ THAT  
40 does not participate in or intervene in (including the publishing or  
41 distributing of statements) any political campaign on behalf of any candidate  
42 for public office; provided that services performed in the employ of an  
43 organization operated for the primary purpose of carrying on a trade or  
44 business for profit shall not be exempt on the ground that all of its profits  
45 are payable to one or more organizations exempt under this paragraph, and

1 further provided that services exempt under this paragraph shall not include  
2 services performed for an employing unit with respect to which the employing  
3 unit is liable for any federal tax against which credit may be taken for  
4 contributions required to be paid into a state unemployment compensation  
5 fund, and further provided that services exempt under this paragraph shall  
6 not include services ~~which~~ THAT are "employment" under section 23-615,  
7 **SUBSECTION B**, paragraph 6, 7 OR 8.

8 11. Services performed as a student nurse in the employ of a hospital  
9 or a nurses' training school by an individual enrolled and regularly  
10 attending classes in a nurses' training school chartered or approved pursuant  
11 to state law, and service performed as an interne in the employ of a hospital  
12 by an individual who has completed a four years' course in a medical school  
13 chartered or approved pursuant to state law.

14 12. Service performed by an individual for an employing unit as an  
15 insurance producer, if all ~~such~~ service performed by the individual for ~~such~~  
16 **THE** employing unit is performed for remuneration solely by way of commission.

17 13. Service performed by an individual under the age of eighteen in the  
18 delivery or distribution of newspapers or shopping news, not including  
19 delivery or distribution to any point for subsequent delivery or  
20 distribution, and service performed by an individual in, and at the time of,  
21 the sale of newspapers or magazines to ultimate consumers under an  
22 arrangement by which the newspapers or magazines are to be sold by the  
23 individual at a fixed price, the individual's compensation being based on the  
24 retention of the excess of such price over the amount at which the newspapers  
25 or magazines are charged to the individual, whether or not the individual is  
26 guaranteed a minimum amount of compensation for such service, or is entitled  
27 to be credited with the unsold newspapers or magazines turned back.

28 14. Service performed by an individual for an employing unit as a  
29 licensed real estate broker or a licensed cemetery broker or a licensed real  
30 estate salesman or licensed cemetery salesman, if all ~~such~~ service performed  
31 by the individual for ~~such~~ **THE** employing unit is performed for remuneration  
32 solely by way of commission, except that any service performed as a real  
33 estate broker, a cemetery broker, a real estate salesman or a cemetery  
34 salesman for an employing unit to which the provisions of section 23-750  
35 apply is not exempt employment.

36 15. Service performed in the employ of a foreign government including  
37 service as a consular or other officer or employee or a nondiplomatic  
38 representative.

39 16. Service performed in the employ of an instrumentality wholly owned  
40 by a foreign government if both:

41 (a) The service is of a character similar to that performed in foreign  
42 countries by employees of the United States government or of an  
43 instrumentality ~~thereof~~ **OF THE UNITED STATES GOVERNMENT**.

1 (b) The department finds that the United States secretary of state has  
2 certified to the United States secretary of the treasury that the foreign  
3 government with respect to whose instrumentality exemption is claimed grants  
4 an equivalent exemption with respect to similar service performed in the  
5 foreign country by employees of the United States government and of  
6 instrumentalities ~~thereof~~ OF THE UNITED STATES GOVERNMENT.

7 17. Service covered by an arrangement between the department and the  
8 agency charged with the administration of any other state or federal  
9 unemployment compensation law pursuant to which all services performed by an  
10 individual for an employing unit during the period covered by the employing  
11 unit's duly approved election are deemed to be performed entirely within ~~such~~  
12 THE agency's state.

13 18. Casual labor not in the course of the employer's trade or business.

14 19. Service performed by an individual for an employing unit as a  
15 securities salesman, if all such service performed by the individual for ~~such~~  
16 THE employing unit is performed for remuneration solely by way of commission,  
17 except that any service performed as a securities salesman for an employing  
18 unit to which the provisions of section 23-750 apply is not exempt  
19 employment.

20 20. During any period in which it does not meet the definition of  
21 employment in section 23-615, SUBSECTION A, paragraph ~~8-~~ 10, service  
22 performed by an individual who is enrolled at a nonprofit or public  
23 educational institution ~~which~~ THAT normally maintains a regular faculty and  
24 curriculum and normally has a regularly organized body of students in  
25 attendance at the place where ~~its~~ THE INSTITUTION'S educational activities  
26 are carried on as a student in a full-time program, AND taken for credit at  
27 ~~such~~ THE institution, which combines academic instruction with work  
28 experience, if ~~such~~ THE service is an integral part of ~~such~~ THE program, and  
29 ~~such~~ THE institution has so certified to the employer, except that this  
30 paragraph shall not apply to service performed in a program established for  
31 or on behalf of an employer or group of employers.

32 21. Service performed in the employ of a hospital if ~~such~~ THE service  
33 is performed by a patient of the hospital.

34 22. Service performed by individuals solely to the extent that the  
35 compensation includes commissions, overrides or profits realized on sales  
36 primarily resulting from the in-person solicitation of orders for or making  
37 sales of consumer goods in the home, except that any ~~such~~ service performed  
38 by an individual for an employing unit to which the provisions of section  
39 23-750 apply is not exempt employment.

40 23. Services performed by an individual for an employing unit in the  
41 preparation of tax returns and related schedules and documents, if all ~~such~~  
42 services are performed for remuneration solely by way of commissions,  
43 independent of the control of the employing unit, other than that required by  
44 the internal revenue service for correct preparation of ~~such~~ THE returns,

1 except that any ~~such~~ service performed by an individual for an employing unit  
2 to which the provisions of section 23-750 apply is not exempt employment.

3 Sec. 6. Section 23-725, Arizona Revised Statutes, is amended to read:  
4 23-725. Employer coverage; termination; election of coverage

5 A. Except as provided in subsections D and E of this section, an  
6 employing unit ~~which~~ THAT is or becomes an employer subject to the provisions  
7 of this chapter within any calendar year shall be deemed an employer during  
8 the whole of ~~such~~ THE calendar year.

9 B. Except as otherwise provided in subsections D, E, F, G and H of  
10 this section, an employing unit shall cease to be an employer subject to this  
11 chapter:

12 1. As of the first day of January of any calendar year:

13 (a) If the department finds that during the preceding calendar year  
14 ~~such~~ THE employing unit ceased all operations for a period of thirty-five  
15 weeks and did not in any calendar quarter in ~~such~~ THE preceding calendar year  
16 pay wages for employment amounting to one thousand five hundred dollars or  
17 more, or

18 (b) If the employing unit files with the department within the period  
19 from January 1 through March 31 of ~~such~~ THE year a written application for  
20 termination of coverage and the department finds that during the preceding  
21 calendar year the employing unit did not have one or more individuals in  
22 employment in twenty ~~different~~ SEPARATE weeks and did not pay wages for  
23 employment amounting to at least one thousand five hundred dollars during any  
24 calendar quarter in ~~such~~ THE preceding calendar year.

25 2. On the transfer date of an employer experience rating account  
26 resulting from transfer by an employing unit of its organization, trade or  
27 business, or substantially all the assets ~~thereof~~ AN EMPLOYING UNIT, to a  
28 successor.

29 C. For the purposes of subsection B of this section, the two or more  
30 employing units mentioned in ~~paragraph 3, 4, or 5 of subsection A of~~ section  
31 23-613, SUBSECTION A, PARAGRAPH 3, 4 OR 5 shall be treated as a single  
32 employing unit.

33 D. An employing unit, not otherwise subject to this chapter, ~~which~~  
34 THAT files with the department its written election to become an employer  
35 subject ~~thereto~~ TO THIS CHAPTER for not less than two calendar years, shall  
36 with the written approval of ~~such~~ THE election by the department, become an  
37 employer subject ~~thereto~~ TO THIS CHAPTER to the same extent as all other  
38 employers, as of the date stated in ~~such~~ THE approval, and shall cease to be  
39 subject ~~thereto~~ TO THIS CHAPTER as of January 1 of any calendar year  
40 subsequent to ~~such~~ THE two calendar years, only if within the period from  
41 January 1 through March 31 of ~~such~~ THAT year it has filed with the department  
42 a written notice to that effect.

43 E. Any employing unit for which services that do not constitute  
44 employment as defined in this chapter are performed, may file with the  
45 department a written election that all such services, with respect to which

1 payments are not required under an employment security law of any other state  
2 or of the federal government, and ~~which~~ THAT are performed by individuals in  
3 its employ in one or more distinct establishments or places of business,  
4 shall be deemed to constitute employment by an employer for all the purposes  
5 of this chapter for ~~not less than~~ AT LEAST two calendar years. ~~Upon~~ ON the  
6 written approval of ~~such~~ THE election by the department, ~~such~~ THE services  
7 shall be deemed to constitute employment subject to this chapter from and  
8 after the date stated in the approval. ~~Such~~ THE services shall cease to be  
9 deemed employment subject ~~thereto~~ TO THIS CHAPTER as of January 1 of any  
10 calendar year subsequent to ~~such~~ THE two calendar years, only if within the  
11 period from January 1 through March 31 of ~~such~~ THAT year the employing unit  
12 has filed with the department a written notice to that effect.

13 F. Any employing unit ~~which~~ THAT became an employer by reason of  
14 ~~paragraph 2(c) of subsection A of~~ section 23-613, SUBSECTION A, PARAGRAPH 2,  
15 SUBDIVISION (c) because of services defined as employment under ~~paragraph~~  
16 ~~6(b) of~~ section 23-615, SUBSECTION A, PARAGRAPH 7, shall cease to be an  
17 employer subject to this chapter as of the first day of January of any  
18 calendar year IF EITHER OF THE FOLLOWING:

19 ~~(1)~~ 1. ~~If~~ The department finds that ~~such~~ THE employing unit ceased  
20 all operations for a period of thirty-five weeks in the preceding calendar  
21 year. ~~, or~~

22 ~~(2)~~ 2. ~~If~~ The employing unit files with the department within the  
23 period from January 1 through March 31 of ~~such~~ THE year a written application  
24 for termination of coverage and the department finds that there were not  
25 twenty ~~different~~ SEPARATE days, each day being in a ~~different~~ SEPARATE  
26 calendar week within the preceding calendar year, within which ~~such~~ THE  
27 employing unit employed four or more individuals in employment subject to  
28 this chapter.

29 G. Any employing unit ~~which~~ THAT is an employer solely by reason of  
30 section 23-613, subsection B, shall cease to be an employer subject to this  
31 chapter as of the first day of January of any calendar year IF EITHER OF THE  
32 FOLLOWING ARE TRUE:

33 1. ~~If~~ The department finds that during the preceding calendar year  
34 ~~such~~ THE employing unit ceased all operations for a period of thirty-five  
35 weeks and did not in any calendar quarter in ~~such~~ THE preceding calendar year  
36 pay wages for agricultural labor amounting to AT LEAST twenty thousand  
37 dollars. ~~or more, or~~

38 2. ~~If~~ The employing unit files with the department within the period  
39 from January 1 through March 31 of ~~such~~ THE year a written application for  
40 termination of coverage and the department finds that during the preceding  
41 calendar year the employing unit did not have AT LEAST ten ~~or more~~  
42 individuals employed in agricultural labor in twenty ~~different~~ SEPARATE weeks  
43 and did not pay wages for agricultural labor amounting to at least twenty  
44 thousand dollars during any calendar quarter in ~~such~~ THE preceding calendar  
45 year.

1 H. Any employing unit ~~which~~ THAT is an employer solely by reason of  
2 section 23-613, subsection C, shall cease to be an employer subject to this  
3 chapter as of ~~the first day of~~ January 1 of any calendar year if the  
4 employing unit files with the department within the period from January 1  
5 through March 31 of ~~such~~ THAT year a written application for termination of  
6 coverage and the department finds that the employing unit did not pay wages  
7 for domestic service in a private home, local college club, or local chapter  
8 of a college fraternity or sorority amounting to at least one thousand  
9 dollars during any calendar quarter in the preceding calendar year.

10 I. The time limitation for filing of written application for  
11 termination of coverage prescribed in subsections B, F, G and H of this  
12 section may be waived by the department if the time limitation has expired  
13 prior to the date on which a determination of liability that the employing  
14 unit is subject to this chapter has been made as provided in section 23-724.

15 Sec. 7. Section 23-751.01, Arizona Revised Statutes, is amended to  
16 read:

17 23-751.01. Employment by an Indian tribe; benefits; payments in  
18 lieu of contributions; definitions

19 A. Any Indian tribe for which service in employment is performed is an  
20 employer for the purposes of this chapter. Benefits that are based on  
21 service in the employment by an Indian tribe are payable in the same amount  
22 and on the same terms and are subject to the same conditions as benefits  
23 payable on the basis of other service subject to this chapter.

24 B. An Indian tribe that is subject to this chapter shall pay  
25 contributions under the same terms and conditions as prescribed for other  
26 employers that are subject to this chapter, unless the tribe elects to make  
27 payments in lieu of contributions.

28 C. An Indian tribe that elects to make payments in lieu of  
29 contributions:

30 1. Shall make the election in the same manner and under the same  
31 conditions as prescribed in section 23-750.

32 2. May elect to make payments in lieu of contributions by the tribe as  
33 a whole, by individual tribal units or by combinations of tribal units.

34 3. Is subject to all other provisions in section 23-750 relating to  
35 employers who elect to make payments in lieu of contributions.

36 D. An Indian tribe that fails to make the payments prescribed in  
37 section 23-750, including assessments of interest and penalties, within  
38 ninety days after receiving a bill for the payments loses the option to make  
39 payments in lieu of contributions for the following tax year unless the tribe  
40 makes full payment before the contributions for the next tax year are  
41 computed.

42 E. A tribe that has lost the option to make payments in lieu of  
43 contributions shall have the option restored after one year if the tribe  
44 timely paid all contributions during the prior year and all contributions,  
45 payments in lieu of contributions, penalties and interest have been paid.

1 F. The department shall notify the United States internal revenue  
2 service and the United States department of labor if an Indian tribe fails to  
3 make required payments, including assessments of penalties and interest.

4 G. The department shall include in a notice of payment or delinquency  
5 to an Indian tribe a statement that failure to make full payment within the  
6 prescribed time will cause the Indian tribe to:

7 1. Be liable for taxes under the federal unemployment tax act, as  
8 amended (26 United States Code sections 3301 through 3311).

9 2. Lose the option to make payments in lieu of contributions.

10 H. An Indian tribe shall pay for all extended benefits that are  
11 attributable to service in the employment of the tribe if the extended  
12 benefits are not reimbursed by the federal government.

13 I. For the purposes of this section:

14 1. "Employment by an Indian tribe" means employment by an Indian tribe  
15 as defined in 26 United States Code section 3306(u) or by a tribal unit  
16 except that employment by an Indian tribe does not include the exclusions  
17 from employment prescribed in section 23-615, ~~paragraph 6, subdivision (d),~~  
18 ~~item (iii), subitems (B) and (E) and section 23-615, paragraph 6, subdivision~~  
19 ~~(d), item (v)~~ SUBSECTION B, PARAGRAPH 3, SUBDIVISIONS (b) AND (e) AND  
20 PARAGRAPH 5.

21 2. "Tribal unit" means a subdivision or subsidiary of an Indian tribe  
22 or a business enterprise that is wholly owned by an Indian tribe.