

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

CHAPTER 204

HOUSE BILL 2173

AN ACT

AMENDING TITLE 23, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; AMENDING SECTIONS 23-727, 23-762, 23-763, 23-771, 23-772, 23-787 AND 29-857, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF TITLE 23, CHAPTER 4, ARTICLE 2.1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; 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. Title 23, chapter 4, Arizona Revised Statutes, is amended
3 by adding article 2.1, to read:

4 ARTICLE 2.1. UNEMPLOYMENT INSURANCE TAX ANTICIPATION NOTES

5 23-665. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

8 2. "NOTE" MEANS A NOTE ISSUED PURSUANT TO THIS ARTICLE.

9 3. "NOTE DEBT SERVICE FUND" MEANS THE FUND ESTABLISHED AND
10 ADMINISTERED PURSUANT TO SECTION 23-665.03.

11 4. "NOTE RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE DIRECTOR
12 TO ISSUE AND ADMINISTER THE NOTES INCLUDING UNDERWRITING FEES AND COSTS,
13 TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND ADVERTISING COSTS,
14 PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING, FEASIBILITY
15 CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, NOTE INSURANCE OR OTHER
16 CREDIT ENHANCEMENTS OR LIQUIDITY FACILITIES, ATTORNEY AND ACCOUNTING FEES AND
17 EXPENSES RELATED TO CREDIT ENHANCEMENT, REMARKETING FEES, RATING AGENCY FEES
18 AND COSTS, TRAVEL AND TELECOMMUNICATIONS EXPENSES AND ALL OTHER FEES
19 CONSIDERED NECESSARY BY THE DIRECTOR TO MARKET AND ADMINISTER THE NOTES.

20 5. "UNEMPLOYMENT SPECIAL ASSESSMENT FUND" MEANS THE FUND ESTABLISHED
21 PURSUANT TO SECTION 23-665.02.

22 23-665.01. Authorization of unemployment insurance tax
23 anticipation notes

24 A. THE DIRECTOR MAY ISSUE UNEMPLOYMENT INSURANCE TAX ANTICIPATION
25 NOTES PURSUANT TO THIS ARTICLE DURING FISCAL YEAR 2013-2014 IN AN AMOUNT NOT
26 TO EXCEED THE LESSER OF TWO HUNDRED MILLION DOLLARS AND THE AMOUNT DETERMINED
27 BY THE DIRECTOR TO BE SUFFICIENT TO PROVIDE MONIES TO DO ALL OF THE
28 FOLLOWING:

29 1. REPAY THE OUTSTANDING BALANCE BORROWED FROM THE FEDERAL GOVERNMENT
30 TO PAY UNEMPLOYMENT INSURANCE BENEFITS.

31 2. PROVIDE FOR PAYMENT OF UNEMPLOYMENT INSURANCE BENEFITS DURING
32 FISCAL YEAR 2013-2014 UNTIL UNEMPLOYMENT INSURANCE TAX RECEIPTS ARE
33 SUFFICIENT TO PROVIDE FOR PAYMENT OF BENEFITS.

34 3. PAY NOTE RELATED EXPENSES.

35 B. THE DIRECTOR SHALL AUTHORIZE THE ISSUANCE OF THE NOTES WITH A
36 SIGNED DOCUMENT THAT PRESCRIBES ALL OF THE FOLLOWING:

37 1. THE FIXED OR VARIABLE RATES OF INTEREST, THE DATES ON WHICH
38 INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE NOTES.

39 2. THE DATES OF THE NOTES AND MATURITY WITHIN TWELVE MONTHS AFTER THE
40 DATE OF ISSUANCE.

41 3. THE FORM OF THE NOTES.

42 4. THE MANNER OF EXECUTING THE NOTES.

43 5. THE MEDIUM AND PLACE OF PAYMENT.

44 6. THE TERMS OF REDEMPTION BEFORE MATURITY, INCLUDING WHETHER A
45 PREMIUM IS PAYABLE ON EARLY REDEMPTION.

1 C. THE NOTES MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT THE PRICE AND ON
2 THE TERMS PRESCRIBED BY THE DIRECTOR AT, ABOVE OR BELOW PAR.

3 D. THE DIRECTOR SHALL DEPOSIT THE NET PROCEEDS RECEIVED FROM THE SALE
4 OF THE NOTES IN A SEPARATE ACCOUNT CREATED FOR THAT PURPOSE. MONIES IN THE
5 ACCOUNT MAY BE INVESTED AS PROVIDED IN SECTION 23-665.08.

6 23-665.02. Unemployment special assessment proceeds fund

7 A. THE UNEMPLOYMENT SPECIAL ASSESSMENT PROCEEDS FUND IS ESTABLISHED
8 AND CONSISTS OF MONIES TRANSFERRED TO THE FUND AS PROVIDED BY LAW. THE FUND
9 SHALL BE KEPT SEPARATE FROM ALL OTHER MONIES OF THIS STATE. THE DEPARTMENT
10 SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED
11 FOR THE PURPOSES PRESCRIBED IN THIS SECTION AND ARE EXEMPT FROM THE
12 PROVISIONS OF SECTION 35-190, RELATING TO THE LAPSING OF APPROPRIATIONS.

13 B. NOTWITHSTANDING ANY OTHER LAW, IF THIS STATE HAS AN OUTSTANDING
14 LOAN TO PAY UNEMPLOYMENT INSURANCE BENEFITS TO ELIGIBLE CLAIMANTS, FUND
15 MONIES SHALL BE:

16 1. USED TO PAY INTEREST CHARGES INCURRED ON THE LOAN.

17 2. AFTER PAYMENTS PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, USED TO
18 RETIRE THE LOAN PRINCIPAL OR, IF THE DIRECTOR HAS ISSUED NOTES PURSUANT TO
19 THIS ARTICLE, TRANSFERRED TO THE NOTE DEBT SERVICE FUND AS PRESCRIBED IN
20 SECTION 23-665.03.

21 C. ANY MONIES REMAINING IN THE FUND AFTER PAYMENT OF ALL PRINCIPAL AND
22 INTEREST ON THE LOAN, INCLUDING DELINQUENT AMOUNTS COLLECTED AFTER THIS
23 PAYMENT, AND AMOUNTS PAYABLE AS PRESCRIBED IN SECTION 23-655.03, SUBSECTION
24 A, PARAGRAPH 2 SHALL BE TRANSFERRED TO THE UNEMPLOYMENT COMPENSATION FUND
25 ESTABLISHED BY SECTION 23-701.

26 23-665.03. Note debt service fund

27 A. IF THE DIRECTOR ISSUES NOTES, THE DIRECTOR SHALL DO ALL OF THE
28 FOLLOWING:

29 1. ESTABLISH A NOTE DEBT SERVICE FUND CONSISTING OF MONIES TRANSFERRED
30 TO THE FUND PURSUANT TO LAW.

31 2. TRANSFER MONIES FROM THE UNEMPLOYMENT SPECIAL ASSESSMENT PROCEEDS
32 FUND TO THE NOTE DEBT SERVICE FUND UNTIL THE DEBT SERVICE FUND CONTAINS
33 MONIES SUFFICIENT TO PAY ALL INTEREST TO BECOME DUE ON THE NOTES AND NOTE
34 RELATED EXPENSES.

35 3. TRANSFER MONIES FROM THE MONIES CREDITED TO THIS STATE'S ACCOUNT IN
36 THE UNEMPLOYMENT TRUST FUND PURSUANT TO 42 UNITED STATES CODE SECTION 1103 TO
37 THE NOTE DEBT SERVICE FUND IN AN AMOUNT SUFFICIENT TO REPAY ALL UNPAID
38 PRINCIPAL OF THE NOTES.

39 B. MONIES IN THE NOTE DEBT SERVICE FUND MAY BE USED ONLY TO PAY
40 AMOUNTS PAYABLE ON NOTES AND NOTE RELATED EXPENSES AS THEY BECOME DUE.

41 C. THE DEPARTMENT SHALL ADMINISTER AND ACCOUNT FOR THE NOTE DEBT
42 SERVICE FUND.

43 D. ON THE PAYMENT OF ALL AMOUNTS DUE AND TO BECOME DUE ON THE NOTES
44 AND THE PAYMENT OF ALL NOTE RELATED EXPENSES, ANY AMOUNTS REMAINING IN THE
45 NOTE DEBT SERVICE FUND SHALL BE TRANSFERRED TO THE UNEMPLOYMENT COMPENSATION
46 FUND ESTABLISHED BY SECTION 23-701.

23-665.04. Securing principal and interest: refunding notes

TO SECURE THE PRINCIPAL AND INTEREST ON NOTES, THE DIRECTOR MAY:

1. SEGREGATE THE NOTE DEBT SERVICE FUND INTO ONE OR MORE ACCOUNTS AND SUBACCOUNTS AND PROVIDE THAT NOTES MAY BE SECURED BY A LIEN ON ALL OR PART OF THE MONIES PAID TO THE NOTE DEBT SERVICE FUND OR TO ANY ACCOUNT OR SUBACCOUNT IN THE FUND.

2. PROVIDE THAT THE NOTES ARE SECURED BY A FIRST LIEN ON THE MONIES PAID INTO THE NOTE DEBT SERVICE FUND AS PROVIDED IN THIS ARTICLE AND PLEDGE AND ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDERS OF THE NOTES ALL OR PART OF THE MONIES IN THE NOTE DEBT SERVICE FUND OR IN ANY ACCOUNT OR SUBACCOUNT IN THE FUND AS IS NECESSARY TO SECURE AND PAY THE PRINCIPAL, THE INTEREST AND ANY PREMIUM ON THE NOTES AS THEY COME DUE.

3. ESTABLISH PRIORITIES AMONG NOTEHOLDERS BASED ON CRITERIA ADOPTED BY THE DIRECTOR.

4. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH NOTEHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF NOTES THE HOLDERS OF WHICH MUST CONSENT TO AN AMENDMENT OR ABROGATION AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

6. PROVIDE FOR PAYMENT OF NOTE RELATED EXPENSES FROM THE PROCEEDS OF THE SALE OF THE NOTES OR OTHER SOURCES AUTHORIZED BY THIS ARTICLE AND AVAILABLE TO THE DIRECTOR.

7. PROVIDE FOR THE SERVICES OF TRUSTEES, AGENTS AND CONSULTANTS AND OTHER SPECIALIZED SERVICES WITH RESPECT TO THE NOTES.

8. TAKE ANY OTHER ACTION THAT MAY AFFECT THE SECURITY AND PROTECTION OF THE NOTES OR INTEREST ON THE NOTES.

9. REFUND ANY NOTES ISSUED BY THE DIRECTOR BY ISSUING NEW NOTES, IF THESE NEW NOTES ARE SECURED BY AND PAYABLE FROM A SOURCE OF REVENUES AUTHORIZED BY THIS ARTICLE.

10. ISSUE NOTES PARTLY TO REFUND OUTSTANDING NOTES AND PARTLY FOR ANY OTHER PURPOSE CONSISTENT WITH THIS ARTICLE.

23-665.05. Lien of pledge

A. A PLEDGE MADE UNDER THIS ARTICLE IN CONNECTION WITH THE NOTES IS VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE.

B. THE MONIES DEPOSITED IN THE NOTE DEBT SERVICE FUND ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER ACT. ANY LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES THAT HAVE CLAIMS OF ANY KIND AGAINST THIS STATE, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL INSTRUMENT BY WHICH A PLEDGE IS CREATED, WHEN ADOPTED BY THE DIRECTOR, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THE INSTRUMENT NEED NOT BE RECORDED IN ANY OTHER PLACE TO PERFECT THE PLEDGE.

1 23-665.06. Note purchase: cancellation

2 THE DIRECTOR MAY PURCHASE NOTES FOR CANCELLATION OUT OF ANY MONIES
3 AVAILABLE FOR THE PURCHASE, AT A PRICE OF NOT MORE THAN EITHER OF THE
4 FOLLOWING:

5 1. IF THE NOTES ARE REDEEMABLE AT THE TIME OF THE PURCHASE, THE
6 APPLICABLE REDEMPTION PRICE PLUS ACCRUED INTEREST TO THE NEXT INTEREST
7 PAYMENT DATE ON THE NOTES.

8 2. IF THE NOTES ARE NOT REDEEMABLE AT THE TIME OF THE PURCHASE, THE
9 APPLICABLE REDEMPTION PRICE ON THE FIRST DATE AFTER THE PURCHASE ON WHICH THE
10 NOTES BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

11 23-665.07. Payment of notes

12 THE NOTES SHALL BE PAID SOLELY FROM MONIES IN THE NOTE DEBT SERVICE
13 FUND.

14 23-665.08. Investment of note proceeds and note debt service
15 fund monies

16 A. THE DIRECTOR MAY AUTHORIZE THE NOTE TRUSTEE TO INVEST THE NOTE
17 PROCEEDS AND MONIES IN THE NOTE DEBT SERVICE FUND.

18 B. THE ORDER DIRECTING AN INVESTMENT MAY STATE A SPECIFIED TIME WHEN
19 THE MONIES INVESTED WILL BE USED. THE NOTE TRUSTEE SHALL MAKE THE INVESTMENT
20 IN SUCH A WAY SO THAT THE INVESTMENT MATURES AT THE SPECIFIED DATE.

21 C. MONIES EARNED AS INTEREST OR OTHERWISE DERIVED FROM THE INVESTMENT
22 OF THE NOTE PROCEEDS OR MONIES IN THE NOTE DEBT SERVICE FUND SHALL BE USED
23 ONLY FOR THE PURPOSES FOR WHICH THE MONIES INVESTED MAY BE USED.

24 D. AT THE DIRECTION OF THE DIRECTOR, THE NOTE TRUSTEE MAY INVEST OR
25 REINVEST NOTE PROCEEDS AND MONIES IN THE NOTE DEBT SERVICE FUND IN ANY
26 INVESTMENTS AUTHORIZED BY SECTION 35-313. THE PURCHASE OF THE SECURITIES
27 SHALL BE MADE BY THE NOTE TRUSTEE ON AUTHORITY OF THE DIRECTOR. THE NOTE
28 TRUSTEE SHALL ACT AS CUSTODIAN OF ALL SECURITIES PURCHASED. THE SECURITIES
29 MAY BE SOLD ON AN ORDER OF THE DIRECTOR.

30 23-665.09. Characteristics of notes

31 A. THE NOTES ARE FULLY NEGOTIABLE WITHIN THE MEANING AND FOR ALL
32 PURPOSES OF THE UNIFORM COMMERCIAL CODE, SUBJECT ONLY TO ANY PROVISIONS FOR
33 REGISTRATION, REGARDLESS OF WHETHER THE NOTES ACTUALLY CONSTITUTE NEGOTIABLE
34 INSTRUMENTS UNDER THE UNIFORM COMMERCIAL CODE.

35 B. THE NOTES, THEIR TRANSFER AND THE INCOME FROM THE NOTES ARE AT ALL
36 TIMES FREE FROM TAXATION IN THIS STATE.

37 C. THE NOTES:

38 1. ARE PAYABLE ONLY ACCORDING TO THEIR TERMS.

39 2. ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE.

40 3. DO NOT CONSTITUTE A DEBT OF THIS STATE.

41 4. ARE NOT ENFORCEABLE AGAINST THIS STATE NOR IS THE PAYMENT OF THE
42 NOTES ENFORCEABLE OUT OF ANY MONIES OTHER THAN THE REVENUE PLEDGED AND
43 ASSIGNED TO, OR IN TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE
44 NOTES.

45 5. ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE
46 AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL

1 COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS,
2 ALL FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING
3 ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE
4 AUTHORIZED TO INVEST IN GOVERNMENT OBLIGATIONS MAY PROPERLY AND LEGALLY
5 INVEST.

6 6. ARE SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES
7 OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR
8 PURPOSES THAT REQUIRE THE DEPOSIT OF GOVERNMENT NOTES OR OBLIGATIONS.

9 23-665.10. Effect of changing circumstances on notes; agreement
10 of state

11 A. AN AMENDMENT OF ANY PROVISION OF THIS ACT DOES NOT DIMINISH OR
12 IMPAIR THE VALIDITY OF NOTES ISSUED UNDER THIS ACT OR THE REMEDIES AND RIGHTS
13 OF NOTEHOLDERS.

14 B. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE NOTES THAT
15 THIS STATE WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS AND REMEDIES OF THE
16 NOTEHOLDERS, UNTIL ALL NOTES ISSUED UNDER THIS ARTICLE, TOGETHER WITH
17 INTEREST ON THE NOTES, INTEREST ON ANY UNPAID INSTALLMENTS OF PRINCIPAL OR
18 INTEREST AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR
19 PROCEEDINGS BY OR ON BEHALF OF THE NOTEHOLDERS, ARE FULLY MET AND DISCHARGED.
20 THE DIRECTOR, AS AGENT FOR THIS STATE, MAY INCLUDE THIS PLEDGE AND
21 UNDERTAKING IN THE INSTRUMENTS AUTHORIZING AND SECURING THE NOTES.

22 23-665.11. Validity of notes

23 A. THIS ARTICLE CONSTITUTES FULL AUTHORITY FOR AUTHORIZING AND ISSUING
24 THE NOTES WITHOUT REFERENCE TO ANY OTHER LAW OF THIS STATE. NO OTHER LAW
25 WITH REGARD TO AUTHORIZING OR ISSUING OBLIGATIONS OR THAT IN ANY WAY IMPEDES
26 OR RESTRICTS PERFORMING THE ACTS AUTHORIZED BY THIS ARTICLE MAY BE CONSTRUED
27 TO APPLY TO ANY PROCEEDINGS TAKEN OR ACTS DONE PURSUANT TO THIS ARTICLE.

28 B. THE VALIDITY OF THE NOTES DOES NOT DEPEND ON AND IS NOT AFFECTED BY
29 THE LEGALITY OF ANY PROCEEDING RELATING TO ANY ACTION RELATING TO APPLICATION
30 OF THE PROCEEDS OF THE NOTES.

31 C. THE NOTES SHALL RECITE THAT THEY ARE REGULARLY ISSUED PURSUANT TO
32 THIS ARTICLE. THAT RECITAL CONSTITUTES PRIMA FACIE EVIDENCE OF THE LEGALITY
33 AND VALIDITY OF THE NOTES. FROM AND AFTER THE SALE AND DELIVERY OF THE
34 NOTES, THEY ARE INCONTESTABLE BY THE DIRECTOR OR THIS STATE.

35 23-665.12. Compliance with federal tax requirements

36 ALL STATE OFFICIALS SHALL COMPLY WITH ANY REQUIREMENT PRESCRIBED BY THE
37 DIRECTOR DEEMED NECESSARY TO OBTAIN OR RETAIN AN EXEMPTION FROM FEDERAL
38 INCOME TAXES FOR INTEREST INCOME ON THE NOTES.

39 23-665.13. Reports

40 A. WITHIN FIFTEEN DAYS AFTER THE ISSUANCE OF THE NOTES, THE DEPARTMENT
41 SHALL REPORT TO THE DIRECTORS OF THE JOINT LEGISLATIVE BUDGET COMMITTEE AND
42 THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING ON THE FINALIZED
43 DEBT ISSUANCE, INCLUDING THE PRINCIPAL AMOUNT, INTEREST RATE, THE DEBT
44 SERVICE SCHEDULE, THE LENGTH OF TERM, THE INTEREST TO BE PAID OVER THE LIFE
45 OF THE LOAN AND THE STATUS OF THE BONDS AS TAXABLE OR NON-TAXABLE.

1 B. THIRTY DAYS AFTER THE END OF EACH CALENDAR QUARTER OF FISCAL YEAR
2 2013-2014, THE DEPARTMENT SHALL REPORT TO THE DIRECTORS OF THE JOINT
3 LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING
4 AND BUDGETING CONCERNING THE STATUS OF THE UNEMPLOYMENT INSURANCE SYSTEM.
5 EACH QUARTERLY REPORT SHALL INCLUDE THE BEGINNING BALANCE IN THIS STATE'S
6 ACCOUNT IN THE UNEMPLOYMENT TRUST FUND PURSUANT TO 42 UNITED STATES CODE
7 SECTION 1103, REVENUE DURING THE YEAR, NET ASSESSMENT REVENUE, FEDERAL
8 UNEMPLOYMENT TAX REDUCTION REVENUE, FUND OUTLAYS, THE ENDING BALANCE,
9 INTEREST CHARGES ON THE LOAN, AND ANY OUTSTANDING FEDERAL DEBT. EACH REPORT
10 SHALL ALSO PROVIDE QUARTERLY ESTIMATES FOR EACH OF THESE CATEGORIES THROUGH
11 THE FINAL QUARTER OF CALENDAR YEAR 2014.

12 Sec. 2. Section 23-727, Arizona Revised Statutes, is amended to read:
13 23-727. Credits and charges to employer accounts

14 A. The commission shall maintain a separate account for each employer
15 and shall credit the account with all contributions and payments in lieu of
16 contributions paid by the employer and shall charge the account with all
17 benefits chargeable to it.

18 B. Nothing in this chapter shall be construed to grant any employer or
19 individuals in its service prior claims or rights to the amounts paid by the
20 employer into the fund.

21 C. Except as otherwise provided in subsections D, E, F, G, I and J of
22 this section and sections 23-773 and 23-777, benefits paid to an individual
23 shall be charged against the accounts of the individual's base-period
24 employers. The amount of benefits so chargeable against each base-period
25 employer's account shall bear the same ratio to the total benefits paid to an
26 individual as the base-period wages paid to the individual by the employer
27 bear to the total amount of base-period wages paid to the individual by all
28 the individual's base-period employers.

29 D. Benefits paid to an individual whose separation from work with any
30 employer occurs under conditions found by the commission to be within those
31 prescribed by section 23-775, paragraph 1 or 2 or for compelling personal
32 reasons not attributable to the employer and not warranting disqualification
33 for benefits shall not be used as a factor in determining the future
34 contribution rate of the employer from whose employment the individual so
35 separated, but the employer shall establish the condition of such separation
36 to the satisfaction of the commission by submitting information the
37 commission requires within ten days after the date of notification or mailing
38 of notice by the commission that the individual has first filed a claim for
39 benefits.

40 E. Benefits paid to an individual who, during the individual's base
41 period, earned wages for part-time employment with an employer shall not be
42 used as a factor in determining the future contribution rate of that employer
43 if the employer continues to give employment opportunities to the individual
44 to the same extent while the individual is receiving benefits as during the
45 base period and the employer submits information the commission may require
46 within ten working days after the date of notification or mailing of notice

1 by the commission that the individual has first filed a claim for benefits.
2 The commission has the burden of proof to establish that the employer failed
3 to give employment opportunities to the individual to the same extent as
4 during the base period.

5 F. Benefits paid to an individual whose employment was terminated by
6 retirement pursuant to a nongovernmental retirement or lump sum retirement
7 pay plan under which the age of mandatory retirement has been agreed on
8 between the employer and its employees or by the bargaining agent
9 representing such employees shall not be used as a factor in determining the
10 future contribution rate of that employer but the employer shall establish
11 that fact by submitting information the commission may require within ten
12 days after the date of notification or mailing of notice by the commission
13 that the individual has first filed a claim for benefits.

14 G. Benefits paid pursuant to section 23-771, subsections B and D shall
15 not be used as a factor in determining the future contribution rate of the
16 affected base-period employers.

17 H. A determination that benefits paid shall be used in determining
18 future contribution rates of the employer may be appealed by the employer in
19 the same manner provided for appeals of benefit determinations.

20 I. Benefits paid to an individual whose employment was terminated
21 because the individual's employer was called to active duty in the military
22 shall not be used as a factor in determining the future contribution rate of
23 the employer from whose employment the individual was terminated.

24 J. Benefits paid to an individual whose employment was terminated
25 because a former employee of the employer returned to work for the employer
26 after being called to active duty in the military shall not be used as a
27 factor in determining the future contribution rate of the employer from whose
28 employment the individual was terminated.

29 K. THE COMMISSION SHALL NOT RELIEVE AN EMPLOYER'S ACCOUNT OF CHARGES
30 RELATING TO AN ERRONEOUS BENEFIT PAYMENT IF THE COMMISSION DETERMINES BOTH OF
31 THE FOLLOWING:

32 1. THE ERRONEOUS BENEFIT PAYMENT WAS MADE BECAUSE THE EMPLOYER OR AN
33 AGENT OF THE EMPLOYER FAILED TO TIMELY OR ADEQUATELY RESPOND TO A WRITTEN
34 REQUEST FROM THE COMMISSION FOR INFORMATION RELATING TO A CLAIM FOR
35 UNEMPLOYMENT COMPENSATION.

36 2. THE EMPLOYER OR THE EMPLOYER'S AGENT HAS ESTABLISHED A PATTERN OF
37 FAILING TO TIMELY OR ADEQUATELY RESPOND TO REQUESTS.

38 L. FOR THE PURPOSES OF SUBSECTION K OF THIS SECTION:

39 1. "ERRONEOUS BENEFIT PAYMENT" MEANS A PAYMENT THAT WOULD NOT HAVE
40 BEEN MADE BUT FOR THE FAILURE OF THE EMPLOYER OR THE EMPLOYER'S AGENT TO MAKE
41 A TIMELY OR ADEQUATE RESPONSE AS DESCRIBED IN SUBSECTION K, PARAGRAPH 1 OF
42 THIS SECTION IN REGARD TO THE CLAIM FOR UNEMPLOYMENT COMPENSATION.

43 2. "PATTERN OF FAILING" MEANS THE REPEATED DOCUMENTED FAILURE OF AN
44 EMPLOYER OR EMPLOYER'S AGENT TO MAKE TIMELY AND ADEQUATE RESPONSES AS
45 DESCRIBED IN SUBSECTION K, PARAGRAPH 1 OF THIS SECTION WITH CONSIDERATION OF
46 THE NUMBER OF INSTANCES OF FAILURE IN RELATION TO THE TOTAL NUMBER OF

1 REQUESTS. PATTERN OF FAILING SHALL BE DETERMINED BY REVIEWING THE MOST
2 IMMEDIATE TWELVE MONTH PRIOR PERIOD. A PATTERN SHALL BE ESTABLISHED IF THE
3 EMPLOYER OR THE AGENT REPRESENTING THE EMPLOYER HAS FIVE OR MORE FAILURES OR
4 FAILURES IN MORE THAN FIVE PER CENT OF THE NUMBER OF REQUESTS, WHICHEVER IS
5 GREATER. WHEN AN AGENT IS REPRESENTING THE EMPLOYER, THE FIVE OR MORE
6 FAILURES OR FAILURES IN MORE THAN FIVE PER CENT OF THE NUMBER OF REQUESTS
7 SHALL BE SPECIFIC TO THE INDIVIDUAL EMPLOYER'S ACCOUNT.

8 Sec. 3. Section 23-762, Arizona Revised Statutes, is amended to read:

9 ~~23-762.~~ Requirements of shared work plan; approval

10 A. An employer wishing to participate in the shared work unemployment
11 compensation program shall submit a signed, written shared work plan to the
12 department for approval. The department shall approve a shared work plan
13 only if the plan:

14 1. Specifies the employees in the affected group.

15 2. Applies to only one affected group.

16 3. IF FEASIBLE, INCLUDES A DESCRIPTION OF THE EMPLOYER'S PLAN FOR
17 NOTIFYING AN EMPLOYEE WHOSE WORK WEEK IS TO BE REDUCED.

18 ~~3-~~ 4. Includes a certified statement by the employer that, for the
19 six-month period immediately preceding the date the plan is submitted,
20 compensation was payable from the shared work employer, or its ~~predecessor~~
21 ~~PREDECESSORS~~ whether or not they were shared work employers, to each employee
22 in the affected group in an amount equal to or greater than the wages for
23 insured work in one calendar quarter as provided in section 23-771,
24 subsection A, paragraph 6. An employee who joins an affected group after the
25 approval of the shared work plan is automatically covered under the
26 previously approved plan, effective the week that the department receives
27 written notice from the shared work employer that the employee has joined and
28 certification from the employer that the employee meets the provisions of
29 section 23-771, subsection A, paragraph 6.

30 ~~4-~~ 5. Includes a certified statement by the employer that for the
31 duration of the plan the reduction in the total normal weekly hours of work
32 of the employees in the affected group is instead of layoffs which otherwise
33 would result in at least as large a reduction in the total normal weekly
34 hours of work. THE EMPLOYER SHALL INCLUDE AN ESTIMATE OF THE NUMBER OF
35 LAYOFFS THAT WOULD HAVE OCCURRED WITHOUT AN APPROVED SHARED WORK PLAN.

36 ~~5-~~ 6. Specifies the manner in which the employer will treat fringe
37 benefits of the employees in the affected group if the employees' hours are
38 reduced to less than their normal weekly hours of work. THE EMPLOYER MUST
39 CERTIFY, IF THE EMPLOYER PROVIDES HEALTH BENEFITS AND RETIREMENT BENEFITS
40 UNDER A DEFINED BENEFIT PLAN TO ANY EMPLOYEE WHOSE WORK WEEK IS REDUCED UNDER
41 THE PLAN, THAT THESE BENEFITS WILL CONTINUE TO BE PROVIDED TO AN EMPLOYEE
42 PARTICIPATING IN THE SHARED WORK PLAN UNDER THE SAME TERMS AND CONDITIONS AS
43 THOUGH THE WORK WEEK OF THE EMPLOYEE HAD NOT BEEN REDUCED OR TO THE SAME
44 EXTENT AS OTHER EMPLOYEES NOT PARTICIPATING IN THE SHARED WORK PROGRAM.

45 ~~6-~~ 7. Specifies an expiration date ~~which~~ THAT is no more than one
46 year from the date the employer submits the plan for approval, except that on

1 written request by the employer, the department may approve an extension of
2 the plan for a period of not more than one year from the date of the request.

3 ~~7-~~ 8. Is approved in writing by the collective bargaining agent for
4 each collective bargaining agreement ~~which~~ THAT covers any employee in the
5 affected group.

6 B. THE PLAN PRESCRIBED IN SUBSECTION A OF THIS SECTION AND THE
7 IMPLEMENTATION OF THE PLAN MUST BE CONSISTENT WITH THE EMPLOYER'S OBLIGATIONS
8 UNDER ALL OTHER FEDERAL AND STATE LAWS.

9 ~~B-~~ C. The department shall approve or disapprove the ~~proposal~~ PLAN
10 within fifteen days ~~of~~ AFTER receipt of the ~~proposal~~ PLAN by the
11 department. The department shall notify the employer of the reasons for
12 denial of a shared work plan within ten days of ~~such~~ THE determination.

13 Sec. 4. Section 23-763, Arizona Revised Statutes, is amended to read:

14 23-763. Shared work benefits; eligibility; requirements

15 A. An individual is eligible to receive shared work benefits with
16 respect to any week only if, in addition to meeting the requirements of
17 article 6 of this chapter as modified by ~~subsections D and~~ SUBSECTION E of
18 this section, the department finds that DURING THE WEEK:

19 1. ~~During the week~~ The individual is employed as a member of an
20 affected group in an approved plan ~~which~~ THAT was approved ~~prior to~~ BEFORE
21 the week and is in effect for the week.

22 2. ~~During the week~~ The individual's normal weekly hours of work were
23 reduced at least ten per cent but not more than forty per cent.

24 3. THE INDIVIDUAL MET THE REQUIREMENTS OF SECTION 23-771, SUBSECTION
25 A, PARAGRAPHS 3 AND 4.

26 B. ELIGIBLE INDIVIDUALS MAY PARTICIPATE IN TRAINING TO ENHANCE JOB
27 SKILLS, INCLUDING EMPLOYER SPONSORED TRAINING OR WORKER TRAINING FUNDED UNDER
28 THE WORKFORCE INVESTMENT ACT OF 1998, IF THE TRAINING IS APPROVED BY THE
29 DEPARTMENT.

30 ~~B-~~ C. The department shall not pay an individual shared work benefits
31 for more than twenty-six weeks in a benefit year, except that this limitation
32 does not apply to a week if for the period consisting of the week and the
33 immediately preceding twelve weeks the rate, not seasonally adjusted, of
34 insured unemployment in this state is equal to or greater than four per cent.

35 ~~C-~~ D. The total amount of regular benefits and shared work benefits
36 ~~which~~ THAT the department pays to an individual for weeks in ~~his~~ THE
37 INDIVIDUAL'S benefit year shall not exceed the total for the benefit year as
38 provided in section 23-780.

39 ~~D. The department shall not deny an otherwise eligible individual~~
40 ~~benefits under this article because of the application of any provision of~~
41 ~~this chapter relating to availability for work, active search for work or~~
42 ~~refusal to apply for or accept work from other than the individual's shared~~
43 ~~work employer.~~

44 E. Notwithstanding section 23-621 or any other provision of this
45 chapter, for purposes of this article an individual is unemployed in any week
46 for which compensation is payable to ~~him~~ THE INDIVIDUAL, as an employee in an

1 affected group, for less than ~~his~~ THE INDIVIDUAL'S normal weekly hours of
2 work in accordance with an approved plan in effect for the week.

3 Sec. 5. Section 23-771, Arizona Revised Statutes, is amended to read:
4 23-771. Eligibility for benefits

5 A. An unemployed individual shall be eligible to receive benefits with
6 respect to any week only if the department finds that the individual:

7 1. Has registered for work at and thereafter has continued to report
8 at an employment office in accordance with such regulations as the department
9 prescribes.

10 2. Has made a claim for benefits in accordance with section 23-772.

11 3. Is able to work.

12 4. EXCEPT FOR AN INDIVIDUAL WHO IS APPLYING FOR SHARED WORK BENEFITS
13 PURSUANT TO ARTICLE 5.1 OF THIS CHAPTER, is available for work and both of
14 the following apply:

15 (a) The individual has engaged in a systematic and sustained effort to
16 obtain work during at least four days of the week.

17 (b) The individual has made at least three work search contacts during
18 the week.

19 5. Has been unemployed for a waiting period of one week. A week shall
20 not be counted as a week of unemployment for the purpose of this paragraph:

21 (a) Unless it occurs within the benefit year that includes the week
22 with respect to which the individual claims payment of benefits.

23 (b) Unless the individual was eligible for benefits with respect
24 thereto as provided in this section and sections 23-775, 23-776 and 23-777.

25 (c) If benefits have been paid in respect thereto.

26 6. Has met one of the following requirements:

27 (a) Has been paid wages for insured work during the individual's base
28 period equal to at least one and one-half times the wages paid to the
29 individual in the calendar quarter of the individual's base period in which
30 such wages were highest, and the individual has been paid wages for insured
31 work in one calendar quarter of the individual's base period equal to an
32 amount that is equal to at least three hundred ninety times the minimum wage
33 prescribed by section 23-363 that is in effect when the individual files a
34 claim for benefits.

35 (b) Has for a benefit year beginning on or after September 2, 1984,
36 been paid wages for insured work during at least two quarters of the
37 individual's base period and the amount of such wages paid in one quarter
38 would be sufficient to qualify the individual for the maximum weekly benefit
39 amount payable under this chapter and the total of the individual's
40 base-period wages is equal to or greater than the taxable limit as specified
41 in section 23-622, subsection B, paragraph 1.

42 7. Following the beginning date of a benefit year established under
43 this chapter or the unemployment compensation law of any other state and
44 prior to the effective date of a subsequent benefit year under this chapter,
45 has performed services whether or not in employment as defined in section
46 23-615 for which wages were payable in an amount equal to or in excess of

1 eight times the weekly benefit amount for which the individual is otherwise
2 qualified under section 23-779. In making a determination under this
3 paragraph the department shall use information available in its records or
4 require the individual to furnish necessary information within thirty days
5 from the date notice is given that such information is required.

6 B. If an unemployed individual cannot establish a benefit year as
7 defined in section 23-609 due to receipt during the base period of
8 compensation for a temporary total disability pursuant to chapter 6 of this
9 title, or any similar federal law, the individual's base period shall be the
10 first four of the last five completed calendar quarters immediately preceding
11 the first day of the calendar week in which the disability began. Wages
12 previously used to establish a benefit year may not be reused. This
13 subsection does not apply unless all of the following occur:

14 1. The individual has filed a claim for benefits not later than the
15 fourth calendar week of unemployment after the end of the period of
16 disability.

17 2. The claim is filed within two years after the period of disability
18 begins.

19 3. The individual meets the requirements of subsection A of this
20 section.

21 4. The individual has attempted to return to the employment where the
22 temporary total disability occurred.

23 C. If an unemployed individual is a member of the national guard or
24 other reserve component of the United States armed forces, the individual
25 shall not be considered to be either employed or unavailable for work by
26 reason of the individual's participation in drill, training or other national
27 guard or reserve activity that occurs on not more than one weekend per month
28 or in lieu of a weekend drill or the equivalent.

29 D. The department shall not disqualify an individual from receiving
30 benefits under this chapter on the basis of the individual's separation from
31 employment if the individual is a victim of domestic violence and leaves
32 employment due to a documented case involving domestic violence pursuant to
33 section 13-3601 or 13-3601.02. Benefits paid to an individual pursuant to
34 this subsection shall not be charged against an employer's account pursuant
35 to section 23-727, subsection G.

36 E. For the purposes of subsection A, paragraph 6 of this section,
37 wages shall be counted as "wages for insured work" for benefit purposes with
38 respect to any benefit year only if that benefit year begins subsequent to
39 the date on which the employing unit by which those wages were paid has
40 become an employer subject to this chapter.

41 Sec. 6. Section 23-772, Arizona Revised Statutes, is amended to read:

42 23-772. Claims for benefits; notice to employer; posting
43 printed statements dealing with claims

44 A. Claims for benefits shall be made in accordance with such
45 regulations as the department prescribes.

1 B. All ~~base-period~~ BASE-PERIOD employers of a claimant for benefits
2 shall be promptly notified when a claimant files ~~an initial~~ A PAYABLE
3 CONTINUED claim for benefits during a period of unemployment.

4 C. Each employer shall post and maintain printed statements dealing
5 with claims for benefits in places readily accessible to individuals in ~~his~~
6 THE EMPLOYER'S service, and shall make available to each individual at the
7 time ~~he~~ THE INDIVIDUAL becomes unemployed, ~~a~~ printed statement dealing with
8 claims for benefits. Printed statements shall be supplied by the department
9 to each employer without cost.

10 Sec. 7. Section 23-787, Arizona Revised Statutes, is amended to read:
11 23-787. Repayment of and deductions for benefits obtained by
12 claimants not entitled to benefits; collection

13 A. A person who receives any amount as benefits under this chapter to
14 which the person is not entitled is liable to repay the overpaid amount to
15 the department. The department may deduct all or a portion of the
16 overpayment from future benefits payable to the person under this chapter.

17 B. If benefits to which a person is not entitled are received by
18 reason of fraud COMMITTED BY THE PERSON as determined by the department, THE
19 DEPARTMENT SHALL ASSESS A PENALTY ON THE PERSON EQUAL TO FIFTEEN PER CENT OF
20 THE AMOUNT OF THE ERRONEOUS PAYMENT AND the person is not eligible to receive
21 any benefits under this chapter until the total amount of the overpayment has
22 been recovered or otherwise satisfied in compliance with a civil judgment.
23 THE DEPARTMENT SHALL IMMEDIATELY DEPOSIT ALL ASSESSMENTS PAID PURSUANT TO
24 THIS SUBSECTION IN THE UNEMPLOYMENT COMPENSATION FUND ESTABLISHED BY SECTION
25 23-701.

26 C. If benefits to which a person is not entitled are received without
27 any fault on the person's part and if repayment or deduction from future
28 benefits would be against equity and good conscience, the department may
29 waive all or a portion of the amount overpaid.

30 D. If benefits to which a person is not entitled are received without
31 any fault on the person's part, deductions made by the department pursuant to
32 subsection A OF THIS SECTION from benefits payable to an individual for any
33 week shall not exceed twenty-five per cent of the individual's weekly benefit
34 amount unless required by federal law, except that the amount recouped from
35 benefits payable may be fifty per cent of the weekly benefit amount if the
36 individual has previously received benefits but has not received benefits for
37 at least twelve consecutive months ~~prior to~~ BEFORE the most recent receipt of
38 benefits and there has been no reasonable attempt to repay the indebtedness
39 during that period. The fifty per cent recoupment rate may not be put in
40 effect ~~prior to~~ BEFORE one year after the establishment of the overpayment.

41 E. The department shall adopt rules to implement ~~the provisions of~~
42 subsection D OF THIS SECTION.

43 F. The attorney general or the appropriate county attorney may
44 institute appropriate court proceedings to recover in the name of the
45 department any amount for which a person is liable to the department.

46 Sec. 8. Section 29-857, Arizona Revised Statutes, is amended to read:

1 29-857. Taxation

2 A limited liability company established under this chapter or a foreign
3 limited liability company transacting business in this state pursuant to this
4 chapter shall pay the taxes that are imposed by the laws of this state or any
5 political subdivision of this state on domestic and foreign limited
6 partnerships on an identical basis, except that, for purposes of TITLE 23,
7 CHAPTER 4 AND title 43, a domestic or foreign limited liability company and
8 its members shall be taxed as if the limited liability company is either a
9 partnership or a corporation or is disregarded as an entity as determined
10 pursuant to the internal revenue code as defined in section 43-105.

11 Sec. 9. Transfer of monies

12 Any monies remaining in the unemployment special assessment fund
13 established by section 23-730.01, Arizona Revised Statutes, as added by Laws
14 2011, chapter 218, section 2 are transferred for deposit in the unemployment
15 special assessment proceeds fund established by section 23-665.02, Arizona
16 Revised Statutes, as added by this act.

17 Sec. 10. Delayed repeal

18 Title 23, chapter 4, article 2.1, Arizona Revised Statutes, as added by
19 this act, is repealed from and after December 31, 2015.

20 Sec. 11. Emergency

21 This act is an emergency measure that is necessary to preserve the
22 public peace, health or safety and is operative immediately as provided by
23 law.

APPROVED BY THE GOVERNOR JUNE 19, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.