COMMITTEE ON FINANCE
SENATE AMENDMENTS TO S.B. 1343
(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 23-617, Arizona Revised Statutes, is amended to read:

23-617. Exempt employment; definition

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

1. Agricultural labor as defined in section 23-603 unless the labor is performed for an employing unit that after December 31, 1977 either:
   (a) For some portion of a day, but not necessarily simultaneously, in each of twenty different calendar weeks, whether or not the weeks are or were consecutive, in either the current or the preceding calendar year, employed in agricultural labor at least ten individuals irrespective of whether the same individuals were employed in each day.
   (b) In any calendar quarter in either the current or preceding calendar year paid cash wages of twenty thousand dollars or more for agricultural labor.

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

3. Service performed on or in connection with a vessel or aircraft that is not an American vessel or American aircraft, if the employee is employed on and in connection with the vessel or aircraft when outside the United States.

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

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

6. Service performed in the employ of another state, or any political subdivision of another state, or an instrumentality of another state or another state's political subdivision that is wholly owned by one or more other states or political subdivisions and that exercises only governmental as distinguished from proprietary functions, and service performed in the employ of any political subdivisions of this or any other state to the extent the instrumentality, with respect to the service, is exempt under the Constitution of the United States from the tax imposed by section 3301 of the federal internal revenue code, except that part of the service performed in the employ of any of the foregoing that is "employment" under section 23-615, subsection A, paragraph 6, 7 or 8. But any state, or a political subdivision of a state, or instrumentality of any one or more of the foregoing that is wholly owned by one or more states or political subdivisions may elect coverage whether or not the service performed is governmental or proprietary for any state or political subdivision thereof or any instrumentality thereof or any department thereof in the manner prescribed and subject to the terms of section 23-725, and election may exclude any services described in section 23-615, subsection B. This state or any instrumentality or political subdivision of this state may appropriate funds to pay contributions or payments in lieu of contributions as required by this chapter.

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

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

9. Service performed in the employ of a school, college or university, if the service is performed either:
   (a) By a student enrolled and regularly attending classes at the school, college or university.
   (b) By the spouse of a student if the spouse is advised at the time the spouse commences to perform the service that the employment is provided under a program to provide financial assistance to the student by the school.
college or university and the employment will not be covered by any program of unemployment compensation.

10. Service performed in the employ of a corporation, community chest fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of a private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, and that does not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office; provided that services performed in the employ of an organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt on the ground that all of its profits are payable to one or more organizations exempt under this paragraph, and further provided that services exempt under this paragraph shall not include services performed for an employing unit with respect to which the employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund, and further provided that services exempt under this paragraph shall not include services that are “employment” under section 23-615, subsection B A, paragraph 6, 7 or 8.

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

12. Service performed by an individual for an employing unit as an insurance producer, if all service performed by the individual for the employing unit is performed for remuneration solely by way of commission.

13. Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, and service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement by which the newspapers or magazines are to be sold by the individual at a fixed price, the individual's compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to the individual, whether or not the individual is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.
14. Service performed by an individual for an employing unit as a licensed real estate broker or a licensed cemetery broker or a licensed real estate salesman or licensed cemetery salesman, if all service performed by the individual for the employing unit is performed for remuneration solely by way of commission, except that any service performed as a real estate broker, a cemetery broker, a real estate salesman or a cemetery salesman for an employing unit to which the provisions of section 23-750 apply APPLIES is not exempt employment.

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

16. Service performed in the employ of an instrumentality wholly owned by a foreign government if both:
   (a) The service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality of the United States government.
   (b) The department finds that the United States secretary of state has certified to the United States secretary of the treasury that the foreign government with respect to whose instrumentality exemption is claimed grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities of the United States government.

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

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

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

20. During any period in which it does not meet the definition of employment in section 23-615, subsection A, paragraph 10, 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 the institution's educational activities are carried on as a student in a full-time program, and taken for credit at the institution,
which 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, except that this paragraph shall not apply to service performed in
a program established for or on behalf of an employer or group of employers.

21. Service performed in the employ of a hospital if the service is
performed by a patient of the hospital.

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

23. Services performed by an individual for an employing unit in the
preparation of tax returns and related schedules and documents, if all
services are performed for remuneration solely by way of commissions,
independent of the control of the employing unit, other than that required by
the internal revenue service for correct preparation of the returns, except
that any service performed by an individual for an employing unit to which
the provisions of section 23-750 apply APPLIES is not exempt employment.

Sec. 2. Section 23-750, Arizona Revised Statutes, is amended to read:
23-750. Special provisions for nonprofit organizations and state
and local governments

A. The provisions of this section apply to:
1. Any nonprofit organization described in paragraph 10 of section
23-617, PARAGRAPH 10, which THAT but for the provisions of section 23-613,
subsection A, paragraph 2, subdivision (c) would not be subject to this
chapter, or which THAT is not mandatorily subject to this chapter because of
insufficient employees but which THAT has voluntarily elected to become
subject to this chapter.

2. This state, or a political subdivision thereof OF THIS STATE, or
any instrumentality, agency or board of any one or more of the foregoing or
any instrumentality of any of the foregoing and one or more other states or
political subdivisions.

B. Benefits paid to employees of employing units to which this section
applies shall be financed in accordance with the provisions of PURSUANT TO
this subsection— AS FOLLOWS:
1. Any employing unit to which this section applies:
   (a) Which THAT is or becomes subject to this chapter on January 1,
1972, may elect to become liable for payments in lieu of contributions for a
period of not less than three consecutive taxable years beginning with
January 1, 1972, provided it files with the department a written notice of
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its election not later than sixty days after written notice that such THE election may be made is first given to the employing unit by the department.

(b) Which THAT becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than three consecutive taxable years by filing a written notice of its election with the department not later than thirty days immediately following AFTER the date of the determination of such subjectivity.

(c) Which THAT makes an election in accordance with subdivision (a) or (b) of this paragraph shall continue to be liable for payments in lieu of contributions until it files with the department a written notice terminating its election not later than thirty days prior to BEFORE the beginning of the taxable year for which such THE termination shall first be effective.

(d) Which THAT has been paying contributions under this chapter subsequent to January 1, 1972, for a period of not less than three consecutive taxable years may elect to become liable for payments in lieu of contributions for a period of not less than three consecutive taxable years by filing a written notice of its election with the department not later than thirty days prior to BEFORE the beginning of the taxable year for which such THE election shall first be effective.

2. The department may for good cause extend the period within which a notice of election or a notice of termination must be filed.

3. The department shall notify the employing unit of any determination made of its status as an employer and of the effective date of any election or termination of such THE election made in accordance with PURSUANT TO this subsection. Such THE determination shall be subject to reconsideration, petition for hearing, and judicial review in accordance with the provisions of PURSUANT TO section 23-724.

4. EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, an employing unit shall pay to the department for the fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid which THAT were based upon ON wages paid during the employing unit's period of election to make payments in lieu of contributions, except that a governmental entity shall pay to the department for the fund an amount equal to the total amount of extended benefits paid for weeks of unemployment beginning on or after January 1, 1979, which THAT are based upon ON wages paid by the governmental entity during its election to make payments in lieu of contributions. The provisions of sections 23-727, 23-773 and 23-777, insofar as they apply to noncharging an employer's account for benefit payments, do not apply to benefits paid which THAT were based upon ON wages paid during the employing unit's period of election to make payments in lieu of contributions.

5. BENEFITS PAID OR PAYABLE TO A CLAIMANT ARE NOT ATTRIBUTABLE TO SERVICE WITH AN EMPLOYING UNIT UNDER THIS SECTION IF THE EMPLOYING UNIT
EMPLOYS THREE OR FEWER EMPLOYEES AND WAS A BASE PERIOD EMPLOYER FROM WHICH THE EMPLOYEE VOLUNTARILY TERMINATED THE EMPLOYEE'S EMPLOYMENT. THE EMPLOYING UNIT IS NOT REQUIRED TO REIMBURSE THE BENEFITS IF THE EMPLOYING UNIT PROVIDES THE DEPARTMENT WITH INFORMATION SUFFICIENT TO ESTABLISH THE EMPLOYEE'S VOLUNTARY TERMINATION FROM THE EMPLOYING UNIT WITHIN TEN DAYS AFTER RECEIPT OF A BENEFIT CHARGE NOTICE FROM THE DEPARTMENT OR MAILING OF NOTICE BY THE DEPARTMENT THAT THE INDIVIDUAL HAS FILED A CLAIM FOR BENEFITS.

C. As soon as practicable after the end of each calendar quarter the department shall determine the amount of payments in lieu of contributions due from each employing unit and shall bill each employing unit for the amount due. If payment is not made on or before the date due and payable as prescribed by the department, the whole or part thereafter remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof, from and after the due date until payment is received by the department. The amount of payments due hereunder but not paid may be collected by the department, together with interest and penalties, if any, in the same manner and subject to the same conditions as contributions due from other employers. The amount due specified in any bill from the department shall be conclusive and binding on the employing unit unless not later than fifteen days after the bill was mailed to its last known address, the employing unit files an application for redetermination. A redetermination made under this subsection shall be subject to petition for hearing and judicial review in accordance with the provisions of PURSUANT TO section 23-724.

D. Two or more employing units that have become liable for payments in lieu of contributions may file a joint application to the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of employing units. Each application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon ON approval of the application, the department shall establish a group account for employing units effective as of the beginning of the calendar quarter in which the application is received and shall notify the group's representative of the effective date of the account. The account shall remain in effect for at least three years and thereafter until terminated at the discretion of the department or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by member in quarter bear to the
total wages paid during such THAT quarter for service performed in the employ of all members of the group. The department shall prescribe such regulations as it deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such THE accounts, and for the determination of the amounts that are payable under this subsection by members of the group and the time and manner of such THE payments.

E. Benefits are payable on the basis of employment to which this section applies, in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other employment subject to this chapter, except that notwithstanding the provisions of sections 23-779 and 23-780:

1. Benefits based on service in an instructional, research, or principal administrative capacity for an educational institution shall not be paid to an individual for any week of unemployment which THAT begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such THE services in the first of such academic years YEAR or terms TERM and if there is a contract or a reasonable assurance that such THE individual will perform services in any such capacity for any educational institution in the second of such academic years YEAR or terms TERM.

2. Benefits based on service in any other capacity for an educational institution shall not be paid to an individual for any week of unemployment which THAT begins during a period between two successive academic years or terms if the individual performs such THE services in the first of such academic years YEAR or terms TERM and if there is a reasonable assurance that such THE individual will perform such THE services in the second of such academic years YEAR or terms TERM, except that if benefits are denied to any individual under this paragraph and that individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years YEAR or terms TERM, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

3. Benefits based on services described in paragraph 1 or 2 of this subsection shall not be paid to an individual for any week of unemployment which THAT begins during an established and customary vacation period or holiday recess if the individual performs such THE services in the period immediately before such THE vacation period or holiday recess and if there is
a reasonable assurance that such THE individual will perform such THE services in the period immediately following such THE vacation period or holiday recess.

4. With respect to any services described in paragraph 1 or 2 of this subsection, benefits are not payable on the basis of services in any capacity specified in paragraph 1, 2 or 3 of this subsection to any individual who performed such THE services in an educational institution while in the employ of an educational service agency. For the purposes of this paragraph, "educational service agency" means a governmental agency or governmental entity which THAT is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

5. With respect to services described in paragraph 1, 2 or 3 of this subsection, benefits are not payable on the basis of services specified in paragraph 1, 2 or 3 of this subsection to any individual who performed these services while in the employ of an entity that provides these services to or on behalf of an educational institution.

F. In determining contribution rates assigned to employers under this chapter, the payrolls of employing units liable for payments in lieu of contributions shall not be included in computing the contribution rates to be assigned to employers under this chapter. The payments in lieu of contributions made by such THE employing units shall be included in the total assets of the fund in the same manner as contributions paid by other employers.

G. Except as inconsistent with the provisions of this section, the provisions of this chapter and regulations of the department shall apply to any matter arising pursuant to this section."