

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 3

# HOUSE BILL 2151

AN ACT

AMENDING TITLE 23, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-751.01; AMENDING SECTION 23-769, 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. Title 23, chapter 4, article 5, Arizona Revised Statutes,  
3 is amended by adding section 23-751.01, to read:

4 23-751.01. Employment by an Indian tribe; benefits; payments in  
5 lieu of contributions; definitions

6 A. ANY INDIAN TRIBE FOR WHICH SERVICE IN EMPLOYMENT IS PERFORMED IS  
7 AN EMPLOYER FOR THE PURPOSES OF THIS CHAPTER. BENEFITS THAT ARE BASED ON  
8 SERVICE IN THE EMPLOYMENT BY AN INDIAN TRIBE ARE PAYABLE IN THE SAME AMOUNT  
9 AND ON THE SAME TERMS AND ARE SUBJECT TO THE SAME CONDITIONS AS BENEFITS  
10 PAYABLE ON THE BASIS OF OTHER SERVICE SUBJECT TO THIS CHAPTER.

11 B. AN INDIAN TRIBE THAT IS SUBJECT TO THIS CHAPTER SHALL PAY  
12 CONTRIBUTIONS UNDER THE SAME TERMS AND CONDITIONS AS PRESCRIBED FOR OTHER  
13 EMPLOYERS THAT ARE SUBJECT TO THIS CHAPTER, UNLESS THE TRIBE ELECTS TO MAKE  
14 PAYMENTS IN LIEU OF CONTRIBUTIONS.

15 C. AN INDIAN TRIBE THAT ELECTS TO MAKE PAYMENTS IN LIEU OF  
16 CONTRIBUTIONS:

17 1. SHALL MAKE THE ELECTION IN THE SAME MANNER AND UNDER THE SAME  
18 CONDITIONS AS PRESCRIBED IN SECTION 23-750.

19 2. MAY ELECT TO MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS BY THE TRIBE  
20 AS A WHOLE, BY INDIVIDUAL TRIBAL UNITS OR BY COMBINATIONS OF TRIBAL UNITS.

21 3. IS SUBJECT TO ALL OTHER PROVISIONS IN SECTION 23-750 RELATING TO  
22 EMPLOYERS WHO ELECT TO MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS.

23 D. AN INDIAN TRIBE THAT FAILS TO MAKE THE PAYMENTS PRESCRIBED IN  
24 SECTION 23-750, INCLUDING ASSESSMENTS OF INTEREST AND PENALTIES, WITHIN  
25 NINETY DAYS AFTER RECEIVING A BILL FOR THE PAYMENTS LOSES THE OPTION TO MAKE  
26 PAYMENTS IN LIEU OF CONTRIBUTIONS FOR THE FOLLOWING TAX YEAR UNLESS THE TRIBE  
27 MAKES FULL PAYMENT BEFORE THE CONTRIBUTIONS FOR THE NEXT TAX YEAR ARE  
28 COMPUTED.

29 E. A TRIBE THAT HAS LOST THE OPTION TO MAKE PAYMENTS IN LIEU OF  
30 CONTRIBUTIONS SHALL HAVE THE OPTION RESTORED AFTER ONE YEAR IF THE TRIBE  
31 TIMELY PAID ALL CONTRIBUTIONS DURING THE PRIOR YEAR AND ALL CONTRIBUTIONS,  
32 PAYMENTS IN LIEU OF CONTRIBUTIONS, PENALTIES AND INTEREST HAVE BEEN PAID.

33 F. THE DEPARTMENT SHALL NOTIFY THE UNITED STATES INTERNAL REVENUE  
34 SERVICE AND THE UNITED STATES DEPARTMENT OF LABOR IF AN INDIAN TRIBE FAILS  
35 TO MAKE REQUIRED PAYMENTS, INCLUDING ASSESSMENTS OF PENALTIES AND INTEREST.

36 G. THE DEPARTMENT SHALL INCLUDE IN A NOTICE OF PAYMENT OR DELINQUENCY  
37 TO AN INDIAN TRIBE A STATEMENT THAT FAILURE TO MAKE FULL PAYMENT WITHIN THE  
38 PRESCRIBED TIME WILL CAUSE THE INDIAN TRIBE TO:

39 1. BE LIABLE FOR TAXES UNDER THE FEDERAL UNEMPLOYMENT TAX ACT, AS  
40 AMENDED (26 UNITED STATES CODE SECTIONS 3301 THROUGH 3311).

41 2. LOSE THE OPTION TO MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS.

42 H. AN INDIAN TRIBE SHALL PAY FOR ALL EXTENDED BENEFITS THAT ARE  
43 ATTRIBUTABLE TO SERVICE IN THE EMPLOYMENT OF THE TRIBE IF THE EXTENDED  
44 BENEFITS ARE NOT REIMBURSED BY THE FEDERAL GOVERNMENT.

45 I. FOR THE PURPOSES OF THIS SECTION:

1 1. "EMPLOYMENT BY AN INDIAN TRIBE" MEANS EMPLOYMENT BY AN INDIAN TRIBE  
2 AS DEFINED IN 26 UNITED STATES CODE SECTION 3306(u) OR BY A TRIBAL UNIT  
3 EXCEPT THAT EMPLOYMENT BY AN INDIAN TRIBE DOES NOT INCLUDE THE EXCLUSIONS  
4 FROM EMPLOYMENT PRESCRIBED IN SECTION 23-615, PARAGRAPH 6, SUBDIVISION (d),  
5 ITEM (iii), SUBITEMS (B) AND (E) AND SECTION 23-615, PARAGRAPH 6, SUBDIVISION  
6 (d), ITEM (v).

7 2. "TRIBAL UNIT" MEANS A SUBDIVISION OR SUBSIDIARY OF AN INDIAN TRIBE  
8 OR A BUSINESS ENTERPRISE THAT IS WHOLLY OWNED BY AN INDIAN TRIBE.

9 Sec. 2. Section 23-769, Arizona Revised Statutes, is amended to read:  
10 23-769. Job training employer tax

11 A. Beginning on January 1, 2001, a tax equal to one-tenth of one per  
12 cent of taxable wages as provided and defined in section 23-622 and that are  
13 paid to an employee each year is imposed on each employer in this state--  
14 EXCEPT EMPLOYERS DESCRIBED IN SUBSECTION B OR C OF THIS SECTION.

15 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO EMPLOYERS WHO HAVE  
16 ELECTED TO BECOME LIABLE FOR PAYMENT IN LIEU OF CONTRIBUTIONS PURSUANT TO  
17 SECTION 23-750.

18 C. UNTIL THE AMOUNT OF THE EXCISE TAX IMPOSED PURSUANT TO 26 UNITED  
19 STATES CODE SECTION 3301 IS REDUCED TO SIX PER CENT OR LESS, SUBSECTION A OF  
20 THIS SECTION DOES NOT APPLY TO EMPLOYERS:

21 1. WITH A POSITIVE RESERVE RATIO OF AT LEAST THIRTEEN PER CENT  
22 PURSUANT TO SECTION 23-730.

23 2. WITH A POSITIVE RESERVE RATIO OF AT LEAST TWELVE PER CENT BUT LESS  
24 THAN THIRTEEN PER CENT.

25 3. THAT ARE ASSIGNED THE CONTRIBUTION RATE OF TWO AND SEVEN-TENTHS PER  
26 CENT PURSUANT TO SECTIONS 23-729 OR 23-730.

27 4. WITH A NEGATIVE RESERVE RATIO PURSUANT TO SECTION 23-730.

28 D. The department of economic security shall collect this tax on a  
29 quarterly basis and shall deposit, pursuant to sections 35-146 and 35-147,  
30 the monies collected pursuant to this section in the Arizona job training  
31 fund established by section 41-1544. Monies collected pursuant to this  
32 section shall not be commingled in any manner with monies collected pursuant  
33 to articles 4, 5 and 5.1 of this chapter.

34 Sec. 3. Emergency

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

APPROVED BY THE GOVERNOR FEBRUARY 28, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 28, 2001.

Passed the House February 19, 2001,

Passed the Senate February 21, 2001,

by the following vote: 58 Ayes,

by the following vote: 26 Ayes,

0 Nays, 2 Not Voting

3 Nays, 1 Not Voting

*with emergency*

*with Emergency*

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmine Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

22 day of February, 2001,

at 3:40 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 28 day of

February, 2001,

at 1:02 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 28<sup>th</sup> day of February, 2001,

at 1:45 o'clock P M.

[Signature]  
Secretary of State

H.B. 2151