

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Senator Dowd**

**A BILL ACT 100 OF 1991**  
**SENATE BILL 114**

**For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS  
9 EMPLOYMENT SECURITY LAW TO RENAME THE ARKANSAS EMPLOYMENT  
10 SECURITY DIVISION AS THE ARKANSAS EMPLOYMENT SECURITY  
11 DEPARTMENT; AND FOR OTHER PURPOSES."

12  
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Arkansas Code Annotated § 11-10-106(d) and (e) are hereby  
16 amended to read as follows:

17 "(d) Disclosure of Information. If any employee or member of the  
18 Board of Review, the director, or any employee of the director, in violation  
19 of the provisions of 11-10-314, makes any disclosure of information obtained  
20 from any employing unit or individual in the administration of this chapter;  
21 if any person who has obtained any list of applicants for work, or of  
22 claimants or recipients of benefits, under this chapter shall use or permit  
23 the use of the list for any political purpose; or if any person who has  
24 lawfully obtained information from the Employment Security Department which  
25 was obtained from any employing unit or individual pursuant to the  
26 administration of this chapter makes an unlawful use or disclosure of such  
27 information or uses or discloses such information in a manner inconsistent  
28 with the purposes for which it was lawfully obtained, then that person shall  
29 be fined not less than twenty dollars (\$20.00) nor more than two hundred  
30 dollars (\$200) or imprisoned for not longer than ninety (90) days, or both.

31 (e) Prosecution and Appeal. Prosecutions for the violation of any of  
32 the provisions of this act may be begun by the filing of information in any  
33 court having jurisdiction, without bond for costs, by the director, any field  
34 auditor, or other duly authorized agent of the director. Appeals may be  
35 prosecuted from any verdicts or rulings contrary to the state, without appeal  
36 bonds, by the filing of a petition for appeal by any director, auditor, or

1 agent."

2

3 SECTION 2. Arkansas Code Annotated § 11-10-206 is hereby amended to  
4 read as follows:

5 "11-10-206. Director.

6 As used in this chapter, unless the context clearly requires otherwise,  
7 'director' means the Director of the Arkansas Employment Security Department."

8

9 SECTION 3. Arkansas Code Annotated § 11-10-207 is hereby amended to read as follows:

10 "11-10-207. Regulations.

11 All regulations previously promulgated under this chapter shall be enforceable by the Director of the Employment Security  
12 Department and shall remain in full force and effect unless or until such time as amended by the Director of the Employment Security  
13 Department."

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15 SECTION 4. Arkansas Code Annotated § 11-10-214(c) is hereby amended to read as follows:

16 "(c) An individual's week of unemployment shall be deemed to commence the day on which he registers at an Employment Security  
17 Department Office, except as the director may, by regulation, otherwise prescribe."

18

19 SECTION 5. Arkansas Code Annotated § 11-10-301 is hereby amended to read as follows:

20 "11-10-301. Employment Security Department - Creation - Director.

21 (a) There is created a department to be known as the Arkansas Employment Security Department which shall be administered by  
22 a full-time salaried director who shall be appointed by and serve at the pleasure of the Governor. The director shall have resided in the state for  
23 at least five (5) years and shall be a qualified elector.

24 (b) Before entering upon his duties, the director shall take and subscribe, and file in the Office of the Secretary of State, an oath  
25 to support the Constitution of the United States and the Constitution of the State of Arkansas and to faithfully perform the duties of the office  
26 upon which he is about to enter.

27 (c) The director shall have such power and authority as he deems reasonable and proper for the effective administration of this  
28 chapter and will faithfully perform his duties and properly account for all funds received and disbursed by him under authority of this chapter.

29 (d) The director shall be agent for service of process for all legal actions arising under this chapter or to which the Employment  
30 Security Department shall be named a party.

31 (e) The Director of the Employment Security Department shall procure an official seal, and every paper executed by the director in  
32 pursuance of law and sealed with the seal of his office shall be received in evidence in any court or other tribunal in this state and may be  
33 recorded in the same manner and with like effect as instruments regularly acknowledged."

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35 SECTION 6. Arkansas Code Annotated § 11-10-302 is hereby amended to read as follows:

1            "11-10-302. Reporting.

2            (a)(1) To ensure that job-finding assistance is being adequately provided to food stamp applicants and recipients, the Employment  
3 Security Department shall periodically station appropriate staff for some portion of a work day in each county or district office of the  
4 appropriate division of the Department of Human Services as determined by the director of the department.

5            (2) The director of the Employment Security Department and the deputy director of the appropriate division of the Department of  
6 Human Services shall enter into a written agreement regarding the provision of the services to food stamp applicants, provided the Employment  
7 Security Department has federal funds available and specifically identified for use in providing such services.

8            (b)(1) The Employment Security Department shall report quarterly to the Arkansas Legislative Council the number of registrants  
9 or recipients of food stamps interviewed, the number of job referrals made, and the number of registrants or recipients of food stamps placed in  
10 jobs.

11           (2) This report shall be made for each county or district office; provided the Employment Security Department has federal funds  
12 available and specifically identified for use in providing such services."

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14            SECTION 7. Arkansas Code Annotated § 11-10-303(a) is hereby amended to read as follows:

15            "(a) The Director of the Employment Security Department is authorized to formulate, adopt, and administer plans to provide the  
16 regular employees of the Employment Security Department, as an incident of their employment, with group life insurance or insurance against  
17 the payment of medical and hospital expenses or any similar type of insurance."

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19            SECTION 8. Arkansas Code Annotated § 11-10-303(c) is hereby amended to read as follows:

20            "(c) If any plan adopted requires contributions by the employees, the director may provide for the withholding of the amount of the  
21 employees' contribution from their salaries. However, the contributing share of funds paid by the Employment Security Department as the  
22 employer shall come from funds granted to the agency by the United States Department of Labor for such purposes."

23

24            SECTION 9. Arkansas Code Annotated § 11-10-303(f) is hereby amended to read as follows:

25            "(f) Participation by any employee of the Employment Security Department in any plan adopted shall be on a voluntary basis at  
26 the option of the employee."

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28            SECTION 10. Arkansas Code Annotated § 11-10-304(a) is hereby amended to read as follows:

29            "(a) The Arkansas State Employment Service is established in the Employment Security Department."

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31            SECTION 11. Arkansas Code Annotated § 11-10-304(c) is hereby amended to read as follows:

32            "(c) The provisions of that act of Congress are accepted by this state, and the Employment Security Department is designated and  
33 constituted the agency of this state for the purposes of that act."

34

35            SECTION 12. Arkansas Code Annotated § 11-10-304(f) is hereby amended to read as follows:

1           "(f) In addition to the services and activities otherwise authorized by this law, the Employment Security Department may perform,  
2 or contract for the performance of, such other services and activities as shall be specified in contracts for payment or reimbursement of the costs  
3 thereof made with the United States Secretary of Labor, with any federal, state, or local public agency, or administrative entity, or with any  
4 employer or private for-profit or nonprofit organization under, in accordance with, and in furtherance of the purposes of the Job Training  
5 Partnership Act, Public Law 97-500, as amended."

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7           SECTION 13. Arkansas Code Annotated § 11-10-305 is hereby amended to read as follows:

8           "11-10-305. Employment Security Advisory Council - Creation.

9           (a) The Governor shall appoint a state Employment Security Advisory Council, composed of men and women, including an equal  
10 number of employer representatives and employee representatives, who may be fairly regarded as representative because of their vocation,  
11 employment, or affiliations, and of such members representing the general public as the Governor may designate.

12           (b) The council shall aid the Director in reviewing the unemployment insurance and the employment service programs as to their  
13 content, adequacy, and effectiveness and to make recommendations for their improvement.

14           (c) The advisory council shall meet at least once each calendar quarter and, in addition, as frequently as the Director deems  
15 necessary.

16           (d) The advisory council shall make reports of its meetings which shall include a record of its discussions and its recommendations.  
17 The Director shall make the reports available to any interested persons or groups.

18           (e) The members of the advisory council shall be paid not to exceed the sum of forty-five dollars (\$45.00) a day when attending  
19 meetings in connection with their duties as members and shall be reimbursed for any travel or other expense incurred in accordance with the travel  
20 regulations applicable to the employees of the Employment Security Department."

21

22           SECTION 14. Arkansas Code Annotated § 11-10-306(g) is hereby amended to read as follows:

23           "(g) The director, in addition to other provisions of this chapter, is authorized to set up and maintain in the Employment Security  
24 Department a unit known as 'the enforcement unit'.

25           (1) The unit may be maintained by a staff adequate to make investigations, hold hearings, and take testimony in connection with the  
26 enforcement of this chapter to the end that fraudulent claims on the part of claimants and the violation of this chapter on the part of employers  
27 may be curtailed to the minimum possible.

28           (2) The employees of the enforcement unit shall have authority to make audits, investigations of records and books of employers; hold  
29 hearings; administer oaths; and subpoena witnesses, papers, books, and records in connection with the investigations.

30           (3) The subpoena shall be effective in any part of this state, and any circuit court either in term time or vacation may by order  
31 require additional witnesses or the production of other relevant evidence subpoenaed by the director or any other person duly authorized by the  
32 director. The court may compel obedience to its order by procedure of contempt."

33

34           SECTION 15. Arkansas Code Annotated § 11-10-311 is hereby amended to read as follows:

35           "11-10-311. Employment stabilization.

1           *The Director, with the advice and aid of the Employment Security Advisory Council, shall take all appropriate steps to reduce and*  
 2 *prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance;*  
 3 *to investigate, recommend, advise, and assist in the establishment and operation by municipalities, counties, planning districts, school districts,*  
 4 *and the state of programs for public works to be used in times and places of economic downturn and high unemployment for the purpose of*  
 5 *promoting the employment of unemployed and underemployed workers throughout the state; and to these ends, to carry on research and such*  
 6 *investigations as he shall deem necessary and to publish the results thereof."*

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8           *SECTION 16. Arkansas Code Annotated § 11-10-313(b) is hereby amended to read as follows:*

9           *"(b) Any and all wage and employment information necessary for the carrying out of the arrangements shall be promptly provided by*  
 10 *employers upon request by the director. Willful failure to promptly provide the information shall subject an employer to the penalties set forth in*  
 11 *11-10-106(b)."*

12

13           *SECTION 17. Arkansas Code Annotated § 11-10-314(a)(2) is hereby amended to read as follows:*

14           *"(2) The information shall not be used in any action or proceeding before any court, administrative tribunal, or body, except those*  
 15 *created by this law, unless the Employment Security Department is a party, a real party in interest, or a complainant therein or unless the*  
 16 *litigation involves criminal actions brought under provisions of this law. This information shall not be otherwise disclosed or be open to public*  
 17 *inspection in any manner revealing the individual's or employing unit's identity."*

18

19           *SECTION 18. Arkansas Code Annotated § 11-10-314(b) is hereby amended to read as follows:*

20           *"(b)(1) Information from the records of the Employment Security Department which concerns a claim for benefits shall be available*  
 21 *for inspection and copying by any interested party or his legal representative to the extent necessary for the proper representation of his position*  
 22 *in any proceeding under this law.*

23           *(2) Notwithstanding any other provision of this law or any other law, any claimant may be supplied, subject to such restrictions as*  
 24 *the director may by regulation prescribe, with any information contained in his unemployment insurance benefit payment record or on his most*  
 25 *recent monetary determination, any individual or employer may be provided any information from the records of the Employment Security*  
 26 *Department to the extent that the information was provided by him, and any job applicant may be provided with evidence of his registration for*  
 27 *work."*

28

29           *SECTION 19. Arkansas Code Annotated § 11-10-314(e)(1) is hereby amended to read as follows:*

30           *"(e)(1) Upon request of a public agency administering or supervising the administration of a state plan of Aid to Families with*  
 31 *Dependent Children approved under Part A of Title IV of the Social Security Act, the administration of a state plan of medical assistance*  
 32 *approved under Title XIX of the Social Security Act, the administration of a state plan of Food Stamps approved under the Federal Food*  
 33 *Stamp Act, Public Law 95-113, or a public agency charged with any duty or responsibility authorized or required under the Child Support*  
 34 *and Establishment of Paternity Program provisions of Part D of Title IV of the Social Security Act, or by officers or employees of the U. S.*  
 35 *Department of Agriculture, the director shall furnish to the public agency information contained in the files of the Employment Security*

1 Department with respect to any individual specified in the request as to whether the individual is receiving, has received, or has made  
2 application for unemployment compensation, the date the individual was determined eligible or ineligible, the date the individual's claim was  
3 exhausted, the weekly benefit amount actually paid and the date paid, the individual's weekly benefit amount, whether such individual is  
4 receiving or has received wages, the name and address of the employer from whom the wages have been received, and the amount of any wages  
5 received by the individual, the current or most recent home address of the individual, whether the individual has refused an offer of employment  
6 and, if so, a description of the employment so offered including, but not limited to, the terms, conditions, and rate of pay therefor. The  
7 requesting agency shall reimburse the Employment Security Department for costs incurred in providing the requested information."

8

9 SECTION 20. Arkansas Code Annotated § 11-10-314(c)(3) and (4) are hereby amended to read as follows:

10 "(3) Information requested by the Department of Human Services under this subsection shall be released to the appropriate division  
11 of the Department of Human Services on a basis in accordance with a plan to be developed between the appropriate division of the Department  
12 of Human Services and the Employment Security Department.

13 (4) In addition to the above, wage information contained in the records of the Employment Security Department shall be made  
14 available to the extent necessary for purposes of determining an individual's eligibility for aid or services or the amount of the aid or services that  
15 an individual may be entitled to under a state plan for aid and services to needy families with children approved under Part A of Title IV of  
16 the Social Security Act to a state or political subdivision thereof charged with the responsibility of making the determinations when the  
17 information is specifically requested on an individual by name and social security number by the state or political subdivision for those purposes.  
18 The governmental agency or entity requesting any information under this subsection shall reimburse the Employment Security Department of the  
19 State of Arkansas for any and all costs incurred by the agency in making the requested information available."

20

21 SECTION 21. Arkansas Code Annotated § 11-10-314(f), (g), (h), (i), (j), and (k) are hereby amended to read as follows:

22 "(f)(1) All records, files, and documents of the Employment Security Department pertaining to claims, benefit payments,  
23 assessments, contributions, disqualifications for benefits, removals of disqualifications for benefits, charges and credits to accounts, and  
24 classification of employers, wherever located, which relate in any way to an employer or an employee of the employer, shall be made available at  
25 all times for examination by an affected employer, a claimant, or their duly authorized representative, but no record, file, or document shall be  
26 removed from the custody of the Employment Security Department. Any information made available under this provision to a claimant shall be  
27 information pertaining only to that claimant. Any information made available under this provision to an affected employer shall be information  
28 pertaining only to that employer.

29 (2) No finding of fact or conclusion of law contained in a decision of the Employment Security Department, an appeals referee, the  
30 board of review, or a court, obtained under this law, shall have a preclusive effect in any other action or proceeding except proceedings under this  
31 law.

32 (g) To the extent necessary for the proper verification of transactions affecting his account as provided in §§ 11-10-701 -  
33 11-10-715, upon receipt by the director of a request from an affected employer for information concerning benefits paid to a claimant who has  
34 been a base period employee of such employer, the director shall, as promptly as possible, furnish information regarding the periods of time for  
35 which benefits were paid and the amount of benefits chargeable to the employer which have been paid to the claimant up to the date of the

1 employer request for each worker the employer properly identifies in his request by social security account number and name. However,  
2 information regarding benefits, charged more than one (1) year prior to the last computation date, may not be given.

3 (k) Notwithstanding any other provisions of this law, information obtained in the administration of this law and in the  
4 administration of and concerning Job Training Partnership Act (JTPA) programs by the Employment Security Department shall be disclosed  
5 to the extent permitted and in accordance with the JTPA, Act of 1982, Public Law 97-300 as amended, and implementing regulations  
6 promulgated thereunder by the United States Department of Labor and shall be made available to persons and agencies for purposes  
7 appropriate to the Employment Security Department's operation and administration of the Job Training Partnership Act program.

8 (i)(1) Upon receipt of a subpoena of a Workers' Compensation Commission Administrative Law Judge by the director, information  
9 from an individual's claim record or from his application for work may be made available to the Workers' Compensation Commission for use in  
10 making administrative determinations under the Workers' Compensation Law, 11-9-101 et seq., in court proceedings under that law, or in other  
11 actions reasonably necessary for the proper administration of the Workers' Compensation Law. Photocopies of Employment Security  
12 Department records containing the information shall be received in evidence in any court or administrative proceeding had under the Workers'  
13 Compensation Law, provided the copies have been sealed with the official seal of the director of the Employment Security Department.

14 (2) The director shall not be obligated to make the information available unless:

15 (A) The subpoena is delivered at least five (5) work days prior to the date the information is required; and

16 (B) Payment of ten dollars (\$10.00) for the costs of producing the information is paid or tendered at the time of service of the  
17 order or within three (3) work days of service of the order.

18 (j) For use in furthering the economic development of the State of Arkansas, the director may provide, to the extent that it is  
19 available, the following information obtained in the administration of this chapter to the state agencies specified:

20 (1) The Arkansas Industrial Development Commission may be provided:

21 (A) The employer name, mailing address, business location in Arkansas, name of the owner, chief executive officer, or plant  
22 manager, current number of employees, and standard industrial classification code for each employer classified by the agency in standard  
23 industrial classification codes 20 through 39;

24 (B) The claims status of workers hired by employers under the Arkansas Industrial Development Commission's Arkansas  
25 Enterprise Zone program authorized by SS 15-4-801 - 15-4-810 provided the commission submits a list of workers by name and social  
26 security number;

27 (2) The Revenue Division of the Department of Finance and Administration may be provided the net increase in employment at  
28 manufacturing and mining establishments, as defined in 26-51-505, which are participating in the Manufacturing Jobs Tax Credit program  
29 created by 26-51-505 if the division provides a list of employers by name, location, and the period of time for which the data is sought;

30 (3) The University of Arkansas at Little Rock, Center for Information Services, may be provided covered wage and employment  
31 data by two-digit Office of Management and Budget standard industrial classifications by county on a quarterly basis.

32 (k)(1) The three (3) state entities specified in subsection (j) of this section are strictly prohibited from making any disclosure or  
33 redisclosure of the confidential information which may be made available to them under provisions of subsection (j) of this section.

34 (2) Any publication of employer data by these entities shall be done in strict accordance with the rules used by the agency and as  
35 prescribed by the United States Department of Labor, Bureau of Labor Statistics, to prevent the disclosure of individual employer information.

1           (3) *The governmental agency or entity requesting any information under subsection (j) of this section shall reimburse the*  
 2 *Employment Security Department of the state of Arkansas for any and all costs incurred by the agency in making the requested information*  
 3 *available."*

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 5           *SECTION 22. Arkansas Code Annotated § 11-10-321(c) is hereby amended to read as follows:*

6           "*(c) All money in this fund, except money received pursuant to the authorization in 903 of the Social Security Act, as amended,*  
 7 *shall be expended solely for the purpose and in the amounts found necessary by the United States Secretary of Labor for the proper and efficient*  
 8 *administration of the employment security program."*

9  
 10           *SECTION 23. Arkansas Code Annotated § 11-10-322(a) is hereby amended to read as follows:*

11           "*(a) If any money in the Employment Security Administration Fund, paid to this state under Title 999 of the Social Security*  
 12 *Act or the Wagner-Peyser Act, as amended, is found by the United States Secretary of Labor, because of any action or contingency, to have*  
 13 *been lost or to have been expended for purposes other than, or in amounts in excess of, those found necessary by the United States Secretary of*  
 14 *Labor for the proper administration of the Employment Security program, it is the policy of this state that the money shall be replaced by*  
 15 *money appropriated for that purpose by the state to the Employment Security Administration Fund for expenditure as provided in this law."*

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 17           *SECTION 24. Arkansas Code Annotated § 11-10-403 is hereby amended to read as follows:*

18           "*11-10-403. Election.*

19           "*(a) An employing unit, not otherwise subject to this chapter, which filed with the director its written election to become an employer*  
 20 *subject hereto for not less than two (2) calendar years shall, with the written approval of the election by the director, become an employer subject*  
 21 *hereto to the same extent as all other employers, as of the date stated in the approval. That employing unit shall cease to be subject hereto as of*  
 22 *January 1 of any calendar year subsequent to two (2) calendar years, only if during January of each year, it has filed with the director a*  
 23 *written notice to that effect.*

24           "*(b)(1) An employing unit, for which services that do not constitute employment, as defined in this chapter, are performed, may file*  
 25 *with the director a written election that all services performed by individuals in its employ in one (1) or more distinct establishments or places of*  
 26 *business shall be deemed to constitute employment for all the purposes of this chapter for not less than two (2) calendar years.*

27           "*(2) Upon the written approval of the election by the director, such services shall be deemed to constitute employment subject to this*  
 28 *chapter from and after the date stated in the approval.*

29           "*(3) The services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two (2)*  
 30 *calendar years, only if during January of such year the employing unit has filed with the director a written notice to that effect."*

31  
 32           *SECTION 25. Arkansas Code Annotated § 11-10-501 is hereby amended to read as follows:*

33           "*11-10-501. Payment.*

34           "*All benefits provided herein shall be payable from the Unemployment Compensation Trust Fund. All benefits shall be paid through*  
 35 *Employment Security Department offices, in accordance with such regulations as the director may prescribe."*



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*SECTION 26. Arkansas Code Annotated § 11-10-506(a)(2) is hereby amended to read as follows:*

*"(2) After a study of previous employment records, and after investigation and hearing, the director shall determine the normal seasonal period or periods during which workers are ordinarily employed for the purpose of carrying on seasonal operations in each seasonal industry. Until the determination by the director, no industry shall be deemed to be seasonal. The director may initiate a study of an industry upon his own motion or upon a request filed with the director by any employing unit or person that would be affected by any determination made as a result of such a study. If a study is made, it shall be mandatory for the director to make his determination and report thereon within ninety (90) days after written application for the determination has been filed. If the director initiates the study of an industry upon his own motion and finds that the industry meets the seasonal requirements set forth herein, he shall make his determination and report within ninety (90) days after the study is initiated. In either event, the industry shall be classified as a seasonal industry effective on the January 1 immediately following the date of the director's determination. Provided that, any employer who is classified as a seasonal employer under these provisions may make a written request to the Director asking not to be treated as a seasonal employer. If the request is approved, treatment as a seasonal employer will cease effective January 1 of the following calendar year."*

*SECTION 27. Arkansas Code Annotated § 11-10-507(2) and (3) are hereby amended to read as follows:*

*"(2) Registration and Reporting. He has registered for work at, and thereafter continued to report at, an Employment Security Department office in accordance with such regulations as the director may prescribe. The director may, by regulation, waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with these requirements would be oppressive or would be inconsistent with the purpose of this chapter. However, no such regulations shall conflict with 11-10-501:*

*(3)(A) Able to Work and Available for Work. The worker is unemployed, is physically and mentally able to perform suitable work, and is available for such work. Mere registration and reporting at a local employment office shall not be conclusive evidence of ability to work, availability for work, or willingness to accept work unless the individual is doing those things which a reasonably prudent individual would be expected to do to secure work.*

*(B) Persons who are on layoff and who are attending a state vocational school for the purpose of upgrading or improving their job skills shall be considered available for employment so long as they make reasonable efforts to secure employment unless, or until, they refuse suitable employment or referral or recall to suitable work. However, no otherwise eligible individual shall be denied benefits with respect to any week in which he is in training with the approval of the director by reason of the application of the provisions of subdivision (3)(A) of this section relating to availability for work.*

*(C) For the purpose of subdivision (3), the approval by the director of training for an individual shall be based on the following considerations:*

- (i) The claimant's skills must be obsolete, or the demands for his skills in his labor market must be minimal and not likely to improve;*
- (ii) The claimant must possess aptitudes or skills which can be usefully supplemented within a short time by retraining;*
- (iii) The training must be for an occupation for which there is a substantial and recurring demand; and*

1           (iii) *The claimant must produce evidence of continued attendance and satisfactory progress.*

2           (D) *In the event of the death of an individual's immediate family member, the eligibility requirements of availability for that*  
 3 *individual shall be waived for the day of the death and for six (6) consecutive calendar days thereafter. For the purposes of subdivision (E) of*  
 4 *this section, 'immediate family member' means a spouse, child, parent, brother, sister, grandchild, or grandparent of the individual.*

5           (E) *An individual on short-term layoff who expects to be recalled by his employer to a full-time job and whose employer intends to*  
 6 *recall the individual to a full-time job within eight (8) weeks after the initial date of his layoff shall not be required during the layoff to*  
 7 *register for work at an Employment Security Department office or to seek other work.*

8           (F) *Any individual who is not actively engaged in seeking work because he is before any court of the United States or of any state*  
 9 *pursuant to a lawfully issued summons to appear for jury duty shall not be disqualified under subdivision (E) of this section.*

10          (G) *No individual shall be considered unavailable for work under this subdivision during the entire week if he is required to*  
 11 *withdraw from the labor market for less than four (4) days of the week because of a compelling personal emergency."*

12

13          SECTION 28. *Arkansas Code Annotated § 11-10-515(a) and (b) are hereby amended to read as follows:*

14          "(a)(1) *If so found by the director, an individual shall be disqualified for benefits if he has failed without good cause:*

15           (A) *To apply for available suitable work when so directed by an Employment Security Department office; or*

16           (B) *To accept available suitable work when offered.*

17          (2) *The disqualification shall be for eight (8) weeks of unemployment as defined in 11-10-512 and shall begin with the week in*  
 18 *which the failure to apply for or accept available suitable work occurred.*

19          (b)(1) *No individual shall be disqualified from the receipt of benefits with respect to any week in which he is in training with the*  
 20 *approval of the director by reason of the application of provisions in subsection (a) of this section.*

21          (2) *For the purpose of this subsection the approval of the director shall be based on the following considerations:*

22           (A) *The claimant's skills must be either obsolete or the demands for his skills in his labor market must be such as to make*  
 23 *employment opportunities for him in that labor market minimal and not likely to improve; and*

24           (B) *The claimant must possess aptitudes or skills which can be usefully supplemented within a short time by retraining; and*

25           (C) *The training must be for an occupation for which there is a substantial and recurring demand; and*

26           (D) *The claimant must produce evidence of continued attendance and satisfactory progress."*

27

28          SECTION 29. *Arkansas Code Annotated § 11-10-522(b) is hereby amended to read as follows:*

29          "(b) *COMBINATION OF CLAIM. Whenever any claim involves the same issue for more than one (1) claimant, the cases will*  
 30 *be combined for the purpose of a hearing if a request to do so is received. If the request is made by any interested party, the director shall refer*  
 31 *those cases to a hearing examiner designated by the Board of Review."*

32

33          SECTION 30. *Arkansas Code Annotated § 11-10-523(f) is hereby amended to read as follows:*

34          "(f) *The chairman of the Board of Review, the members, and the examiner and reporter, as provided for above, shall all receive*  
 35 *their actual and necessary expenses incurred, in accordance with the regulations of the Employment Security Department of the State of*

1 Arkansas."

2

3 SECTION 31. Arkansas Code Annotated § 11-10-523(g)(2)(C) is hereby amended to read as follows:

4 "(C) The Director shall provide the Board of Review and appeal tribunals with proper facilities and assistance for the execution of  
5 their functions."

6

7 SECTION 32. Arkansas Code Annotated § 11-10-524(a) and (b) are hereby amended to read as follows:

8 "(a) The claimant, the Director, or any other party entitled to notice may appeal a determination made by the agency by filing a  
9 written notice of appeal with the appeal tribunal or at any office of the Employment Security Department within twenty (20) days after the  
10 date of mailing of the notice to his last known address, or if the notice is not mailed, within twenty (20) days after the date of delivery of the  
11 notice. If mailed, an appeal shall be considered to have been filed as of the date of the postmark on the envelope. However, if it is determined  
12 by an appeals tribunal or the Board of Review that the appeal is not perfected within the twenty-day period as a result of circumstances beyond  
13 the appellant's control, the appeal may be considered as having been filed timely.

14 "(b) Unless the appeal is withdrawn with its permission or is removed to the Board of Review, the appeal tribunal, after affording  
15 the parties a reasonable opportunity for a fair hearing and on the basis of the record shall affirm, modify, reverse, or remand the determination.  
16 However, whenever an appeal involves a question as to whether services were performed by a claimant in employment or for an employing unit,  
17 the appeal tribunal shall give special notice of the issue and of the pendency of the appeal to the employing unit and to the Director, both of  
18 whom shall be parties to the proceedings and be afforded a reasonable opportunity to present evidence bearing on the question in issue."

19

20 SECTION 33. Arkansas Code Annotated § 11-10-533(a) is hereby amended to read as follows:

21 "(a) The Employment Security Department shall investigate all claims for benefits filed by state employees whether or not the  
22 employing state agency lodges a protest to the payment of the benefits."

23

24 SECTION 34. Arkansas Code Annotated § 11-10-601(2) is hereby amended to read as follows:

25 "(2) 'Approved plan' means an employer's voluntary written plan for reducing unemployment under which a specified group of  
26 employees shares the work remaining after their normal weekly hours of work are reduced, which plan meets the requirements of 11-10-604, and  
27 which plan has been approved in writing by the director:"

28

29 SECTION 35. Arkansas Code Annotated § 11-10-604(a) is hereby amended to read as follows:

30 "(a) An employer wishing to participate in a shared work program shall submit a signed written shared work compensation plan to  
31 the director for approval."

32

33 SECTION 36. Arkansas Code Annotated § 11-10-604(b) is hereby amended to read as follows:

34 "(b) The director shall approve a shared work unemployment compensation plan only if the following criteria are met:

35 (1) The plan applies to and identifies the specified affected group:

1           (2) *The employees in the affected group or groups are identified by name, social security number, and by any other information*  
 2 *required by the director:*

3           (3) *The usual weekly hours of work for employees in the affected group or groups are reduced by not less than ten percent (10%)*  
 4 *and not more than forty percent (40%):*

5           (4) *Health benefits and retirement benefits under defined benefit pension plans, as defined in Section 3(35) of the Employee*  
 6 *Retirement Income Security Act of 1974, and other fringe benefits will continue to be provided to employees in the affected group or groups as*  
 7 *though their work weeks had not been reduced:*

8           (5) *The plan certifies that the aggregate reduction in work hours is in lieu of temporary layoffs which would have affected at least*  
 9 *ten percent (10%) of the employees in the affected group or groups to which the plan applies and which would have resulted in an equivalent*  
 10 *reduction in work hours:*

11           (6) *During the previous four (4) months the work force in the affected group has not been reduced by temporary layoffs of more than*  
 12 *ten percent (10%) of the workers:*

13           (7) *The plan applies to at least ten percent (10%) of the employees in the affected group. If the plan applies to all employees in*  
 14 *the affected group, the plan provides equal treatment to all employees of the group. If the affected group is divided into subgroups, the plan*  
 15 *provides equal treatment to employees within each subgroup:*

16           (8) *In the case of employees represented by an exclusive bargaining representative, the plan is approved in writing by the collective*  
 17 *bargaining agent. In the event that the certification of an exclusive bargaining representative has been appealed, such bargaining representative*  
 18 *shall be considered to be the exclusive bargaining representative for work sharing plan purposes. In the absence of any bargaining representative,*  
 19 *the plan must contain a certification by the employer that he has made the proposed plan, or a summary thereof, available to each employee in*  
 20 *the affected group for inspection:*

21           (9) *The plan includes a certified statement by the employer that each employee in the affected group would be eligible for normal*  
 22 *unemployment compensation under 11-10-507(5). Any employee who joins an affected group after the approval of the shared work plan is*  
 23 *automatically covered under the previously approved plan, effective the week that the director receives written notice from the shared work*  
 24 *employer that the employee has joined and certification that the employee meets the requirements of 11-10-507(5):*

25           (10) *On the most recent computation date preceding the date of submittal of the shared work plan for approval, the total of all*  
 26 *contributions paid on the employing unit's own behalf and credited to his account for all previous periods equaled or exceeded the regular benefits*  
 27 *charged to his account for all previous periods:*

28           (11) *The plan will not serve as a subsidy of seasonal employment during the off season, nor as a subsidy of temporary part-time or*  
 29 *intermittent employment:*

30           (12) *The employer agrees to furnish reports relating to the proper conduct of the plan and agrees to allow the director or his*  
 31 *authorized representatives access to all records necessary to verify the plan prior to approval and, after approval, to monitor and evaluate*  
 32 *application of the plan."*

33

34           **SECTION 37.** *Arkansas Code Annotated § 11-10-605(a) is hereby amended to read as follows:*

35           "*a) The director shall approve or reject a plan in writing within thirty (30) days of its receipt."*

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*SECTION 38. Arkansas Code Annotated § 11-10-606 is hereby amended to read as follows:*

*"11-10-606. Effective date and duration of plan.*

*(a) A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by the employer and the director but no earlier than the date of approval of the plan by the director.*

*(b)(1) It shall expire at the end of the twelfth full calendar month after its effective date or on the date specified in the plan if the date is earlier, provided that the plan is not previously revoked by the director.*

*(2) If a plan is revoked by the director, it shall terminate on the date specified in the director's written order of revocation."*

*SECTION 39. Arkansas Code Annotated § 11-10-607 is hereby amended to read as follows:*

*"11-10-607. Revocation of approval.*

*(a) The director may revoke approval of a plan for good cause.*

*(1) The revocation order shall be in writing and shall specify the date the revocation is effective and the reasons therefor.*

*(2) Good cause shall include, but not be limited to, failure to comply with the assurances given in the plan, unreasonable revision of productivity standards for the affected group, conduct or occurrences tending to defeat the intent and effective operation of the plan, and violation of any criteria on which approval of the plan was based.*

*(b) The action may be taken at any time by the director on his own motion, on the motion of any of the affected group's employees, or on the motion of the appropriate collective bargaining agent.*

*(c) However, the director shall review the operation of each qualified employer plan at least once during the twelve-month period the plan is in effect to assure its compliance with the requirements of these provisions.*

*(d) Revocation of a plan for good cause by the director shall preclude approval of any subsequent plan submitted by the revoked plan employer during the twelve-month period beginning on the date of the revocation order."*

*SECTION 40. Arkansas Code Annotated § 11-10-608 is hereby amended to read as follows:*

*"11-10-608. Modification of an approved plan.*

*(a) An operational, approved, shared work plan may be modified by the employer with the acquiescence of employee representatives if the modification is not substantial and is in conformity with the plan approved by the director, but the modifications must be reported promptly to the director.*

*(b)(1) If the hours of work are increased or decreased substantially beyond the level in the original plan, or any other conditions are changed substantially, the director shall approve or disapprove the modifications, without changing the expiration date of the original plan.*

*(2) If the substantial modifications do not meet the requirements for approval, the director shall disallow that portion of the plan in writing as specified in 11-10-607."*

*SECTION 41. Arkansas Code Annotated § 11-10-610(d) is hereby amended to read as follows:*

*"(d) Claims for shared work unemployment compensation benefits shall be filed in the same manner as claims for unemployment*

1 compensation or as prescribed in regulations by the director."

2

3 *SECTION 42. Arkansas Code Annotated § 11-10-708(b) is hereby amended to read as follows:*

4 *"(b) Receipts from this advance interest tax and any penalty and interest collected on overdue advance interest taxes shall be*  
 5 *deposited into the unemployment compensation fund clearing account. At least once each month deposits which have been established as advance*  
 6 *interest tax payments and any interest and penalty payments applicable to such advance interest payments shall be paid over to the State*  
 7 *Treasurer and credited by the State Treasurer to the Employment Security Advance Interest Trust Fund created and established in the State*  
 8 *Treasury. All income from investment of the Employment Security Advance Interest Trust Fund shall be deposited and credited to that*  
 9 *Advance Interest Trust Fund. All withdrawals shall be upon voucher warrants issued, or caused to be issued, by the director as authorized by*  
 10 *legislative appropriation and, except as otherwise provided herein, shall be used only for the purpose of:*

11 *(1) Paying interest incurred by the state on advances obtained from the Federal Unemployment Trust Fund, under Title X99 of the*  
 12 *Social Security Act, as amended;*

13 *(2) Making refunds of the aforementioned advance interest tax and interest and penalty payments attributed to the advance interest*  
 14 *tax which were erroneously paid; and*

15 *(3) Returning monies to the unemployment compensation fund clearing account which may have been incorrectly identified and*  
 16 *erroneously transferred to the Employment Security Advance Interest Fund in the State Treasury."*

17

18 *SECTION 43. Arkansas Code Annotated § 11-10-710(b) is hereby amended to read as follows:*

19 *"(b)(1) However, notwithstanding any other provision of this law, if any individual, legal entity, or other employing unit acquires a*  
 20 *segregable and identifiable portion of the business of any employer, whether the acquisition is the result of reorganization, purchase, inheritance,*  
 21 *receivership, or for any other cause, and if the successor desires to obtain any benefit of his predecessor's experience, the successor must file with*  
 22 *the director a petition, signed by all interested parties, within thirty (30) days after the transfer setting out the percentage of the predecessor's*  
 23 *experience that should be transferred to the successor's account of the actual contributions, regular benefit experience, annual payrolls, payment of*  
 24 *contributions, and otherwise as if no change with respect to the segregable and identifiable portion of the separate account had occurred with the*  
 25 *same effect and the purposes as if the operation of the employer had at all times been carried on by the predecessor employing unit, and it is*  
 26 *found by the director that all contributions due by the predecessor employing unit have been paid.*

27 *(2) If the director finds the facts substantially as represented, he shall transfer from the predecessor to the successor the*  
 28 *proportionate share of the predecessor's experience."*

29

30 *SECTION 44. Arkansas Code Annotated § 11-10-713(c)(1)(C) is hereby amended to read as follows:*

31 *"(C) The Employment Security Department shall bill and the Chief Fiscal Officer of the State shall promptly reimburse the*  
 32 *Employment Security Department for such benefit payments in accordance with the provisions of subsection (d) of this section;"*

33

34 *SECTION 45. Arkansas Code Annotated § 11-10-716(b)(1) is hereby amended to read as follows:*

35 *"(b)(1) Not later than July 31, 1965, and the end of each month thereafter deposits in the clearing account which have been*

1 established as interest and penalty payments collected pursuant to SS 11-10-716 - 11-10-722 shall be paid over to the State Treasurer and  
2 credited by him to the Employment Security Special Fund created and established in the State Treasury. All withdrawals therefrom shall be  
3 upon voucher warrants issued, or caused to be issued, by the director for any one or more of the following purposes as authorized by legislative  
4 appropriation:

- 5 (A) Refunds of the aforementioned interest and penalties erroneously paid;
- 6 (B) Replacements of money lost or erroneously expended, as provided by 11-10-322; and
- 7 (C) Such other and additional purposes necessary to the proper administration of this law as determined by the director."

8  
9 *SECTION 46. Arkansas Code Annotated § 11-10-717(a)(1) is hereby amended to read as follows:*

10 "(a)(1) If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be  
11 collected by civil action in the name of the Director of the Employment Security Department. The employer adjudged in default shall pay the  
12 costs of the action, including reasonable attorney's fee for prosecution of the action."

13  
14 *SECTION 47. Arkansas Code Annotated § 11-10-717(c)(1) is hereby amended to read as follows:*

15 "(c)(1) The courts of this state shall recognize and enforce liability for unemployment contributions, penalties, interest, benefit  
16 overpayments, court costs, and reasonable attorney's fees imposed by other states which extend a like comity to this state. The director is  
17 empowered to effect collection of unemployment contributions, penalties, interest, benefit overpayments, court costs, and reasonable attorney's fees  
18 due the Employment Security Department of this state in any jurisdiction which extends such comity. In no instance shall this state or any  
19 other state exceed the collection procedures as provided by the laws of the state in which collections are effected."

20  
21 *SECTION 48. Arkansas Code Annotated § 11-10-718(b)(1) is hereby amended to read as follows:*

22 "(b)(1) If any person liable for the payment of any tax or contributions due under this chapter neglects or refuses to pay the tax or  
23 contribution after a demand, the amount, including any interest, penalty, additional amount, or additions to such tax, together with any costs  
24 that may accrue in addition thereto, shall be a lien in favor of the State of Arkansas upon all property and rights to property, whether real or  
25 personal, belonging to the person. The proceedings for enforcing the lien herein provided for shall be brought in the name of the Director of the  
26 Employment Security Department of the State of Arkansas. All liens issued under this chapter by the Director of Labor shall remain in full  
27 force and effect and shall be fully enforceable by the Director of the Employment Security Department."

28  
29 *SECTION 49. Arkansas Code Annotated § 11-10-718(c) is hereby amended to read as follows:*

30 "(c)(1) Upon written application by any person, the director or his designee may release from a lien any property or part of the  
31 property subject to the lien described in subdivision (b)(1) provided that:

32 (A) The director or his designee determines at any time that the interest of the Arkansas Employment Security Department has no  
33 value; or

34 (B) The director or his designee determines that the lien is clouding the title of the property because of an error in the description of  
35 properties or similarity in names.

1           (2) In determining the value of the interest of the Arkansas Employment Security Department in the property to be released, the  
2 director or his designee shall give consideration to the value of the property and to the liens thereon having priority over the lien of the Arkansas  
3 Employment Security Department. "

4  
5           SECTION 50. Arkansas Code Annotated § 11-10-720(a) is hereby amended to read as follows:

6           "(a)(1) If any person, firm, or corporation shall become delinquent in the payment of any contribution, interest, or penalties required  
7 to be paid by this law, it shall be the duty of the director, when the amount of the contribution, interest, and penalties is determined, either by  
8 the report of the employer or by such investigations as the director may have made, to assess the contributions, interest, and penalties so  
9 determined against the delinquent employer, and to certify the amount of the contributions, interest, and penalties, and mail or otherwise deliver  
10 a copy of the assessment to the delinquent employer.

11           (2) At the end of ten (10) days thereafter, the assessment shall become prima facie correct, and the director shall certify the amount  
12 of the delinquent contributions, interest, and penalties to the clerk of the circuit court of the county wherein the employer is domiciled or has a  
13 place of business, and it shall be the duty of the clerk to file the certificate of record and to enter it in the record of the circuit court for judgment  
14 and decree under the procedure prescribed for filing transcripts of judgments by § 16-19-1011. Thereupon the assessment shall have the force  
15 and effect of a judgment of the circuit court and shall bear interest at the rate of ten percent (10%) a year.

16           (3) Execution shall be issuable, at the request of the director, his agent or attorney, or any other employee of the Employment  
17 Security Department of the State of Arkansas, forthwith by the clerk of the circuit court, directed to the sheriff, who shall make a levy on any  
18 property, assets, or effects of the employer against whom the contribution is assessed. "

19  
20           SECTION 51. Arkansas Code Annotated § 11-10-720(d) is hereby amended to read as follows:

21           "(d) An aggrieved employer may have a review of the action of the director in making an assessment for contributions, interest, or  
22 penalties, by filing, within ten (10) days after the filing of the assessment with the clerk, a petition for such review in the chancery court having  
23 jurisdiction. All actions for review shall have precedence on the docket of the court where filed and all appeals from the action of any court on  
24 the review shall be prosecuted within thirty (30) days after the final order of the court is made. "

25  
26           SECTION 52. Arkansas Code Annotated § 11-10-722(b) is hereby amended to read as follows:

27           "(b) Any bank or savings and loan institution served with notice of impoundment shall be required to recognize the Arkansas  
28 Employment Security Department's lien on any deposit subject thereto by withholding payment of any deposit in an amount not to exceed the  
29 amount of the delinquent contributions, interest, and penalty, to the depositor or to his order for a period not to exceed thirty (30) days. "

30  
31           SECTION 53. Arkansas Code Annotated § 11-10-802(a) is hereby amended to read as follows:

32           "(a) The director shall be ex officio treasurer and custodian of the fund and disbursing officer of the Employment Security  
33 Department. The director shall administer the fund and shall maintain within the fund three (3) separate accounts:

- 34           (1) A clearing account;  
35           (2) An Unemployment Compensation Trust Fund Account; and





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