

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**

# A Bill

**SENATE BILL**

4 **By: Senators Moore, Cassady, Miles and Keet**

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6

7

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS PROVISIONS OF ARKANSAS CODE TITLE  
9 11, CHAPTER 10, CITED AS THE ARKANSAS EMPLOYMENT SECURITY  
10 LAW; AND FOR OTHER PURPOSES."

11

12

## **Subtitle**

13 "AN ACT TO AMEND VARIOUS PROVISIONS OF ARKANSAS CODE TITLE  
14 11, CHAPTER 10, CITED AS THE ARKANSAS EMPLOYMENT SECURITY  
15 LAW."

16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18

19 SECTION 1. Arkansas Code Annotated §11-10-106(f) is amended to read as  
20 follows:

21 "(f) RETALIATION BY EMPLOYER OR AGENT OF EMPLOYER. Any employing unit  
22 or any officer or agent of any employing unit or any other person who  
23 retaliates in regard to the hiring or tenure of work or any term or condition  
24 of work of any individual on account of his participating in the preparation  
25 for or testifying in a proceeding under this chapter shall be punished by a  
26 fine of not less than twenty dollars (\$20.00) nor more than two hundred  
27 dollars (\$200) or by imprisonment for not longer than sixty (60) days, or both  
28 fine and imprisonment. Each act of retaliation shall constitute a separate  
29 offense."

30

31 SECTION 2. Arkansas Code Annotated §11-10-215(a) is amended to read as  
32 follows:

33 "(a) As used in this chapter, unless the context clearly requires  
34 otherwise, wages means all remuneration paid for personal services  
35 including, but not limited to, commissions and bonuses and cash value of all

1 remuneration paid, in any medium other than cash, the value of which shall be  
2 estimated and determined in accordance with regulations prescribed by the  
3 director, tips received while performing services which constitute employment  
4 and which are included in a written statement furnished to the employer  
5 pursuant to 26 U.S.C. § 6053(a), and all remuneration paid as back pay in  
6 settlement of a claim or grievance involving a discharge, provided that the  
7 term wages shall not include:

8 (1) (A) For the purposes of §§ 11-10-701 - 11-10-715:

9 (i) That part of remuneration paid to an individual by an employer with  
10 respect to employment during any calendar year prior to or ending December 31,  
11 1992, which exceeds eight thousand dollars (\$8,000);

12 (ii) For the calendar year beginning on and after January 1, 1993, that  
13 part of remuneration that exceeds eight thousand five hundred dollars  
14 (\$8,500); and

15 (iii) For any calendar year beginning on and after January 1, 1994,  
16 that part of remuneration that exceeds nine thousand dollars (\$9,000).

17 (B) For the purposes of this subsection:

18 (i) Wages paid within a calendar year by a predecessor employer may be  
19 counted as though paid by a successor as defined in §§ 11-10-701 - 11-10-715;  
20 and

21 (ii) The term employment includes services constituting employment  
22 under any unemployment insurance law of another state;

23 (2) The amount of any payment with respect to services made to, or on  
24 behalf of, an individual in its employ under a plan or system established by  
25 an employing unit which makes provision for its employees or for its employees  
26 and their dependents, including any amount paid by an employing unit for  
27 insurance or annuities, or into a fund, to provide for any payment, on account  
28 of:

29 (A) Retirement;

30 (B) (i) Sickness or accident disability, except payments made directly  
31 to the employee or his dependents;

32 (ii) However, payments made directly to an employee or his dependents  
33 under a workers' compensation law shall not be considered to be wages;

34 (C) Medical and hospitalization expenses in connection with sickness or  
35 accident disability; or

- 1 (D) Death, provided the individual in its employ does not have the:
- 2 (i) Option to receive, instead of provision for the death benefit, any
- 3 part of the payment, or if the death benefit is insured, any part of the
- 4 premiums or contributions to premiums paid by his employing unit; and
- 5 (ii) Right, under the provisions of the plan or system or policy of
- 6 insurance providing for the death benefit, to assign the benefit, or to
- 7 receive cash consideration in lieu of the benefit either upon his withdrawal
- 8 from the plan or system providing for the benefit or upon termination of the
- 9 plan or system or policy of insurance or of his services with the employing
- 10 unit;
- 11 (3) The payment by an employing unit, without deduction from the
- 12 remuneration of the individual in its employ, of the tax imposed by the
- 13 Federal Insurance Contributions Act upon an individual in its employ with
- 14 respect to services performed;
- 15 (4) Payments made by an employer under a cafeteria plan (within the
- 16 meaning of 26 U.S.C.A. Section 125) if such payment would not be treated as
- 17 wages without regard to such plan and it is reasonable to believe that (if
- 18 Section 125 applied for purposes of this section) Section 125 would not treat
- 19 any wages as constructively received; or
- 20 (5) Fees paid to corporate directors."

21

22 SECTION 3. Arkansas Code Annotated §11-10-301 is amended by adding

23 paragraphs (f) and (g) immediately following paragraph (e):

24 "(f)(1) The Director of the Employment Security Department shall have

25 the authority to institute and prosecute in his name as such all suits,

26 certificates of assessment and other proceedings necessary for the collection

27 of any taxes or overpayments collectible by him and which have become

28 delinquent.

29 (2) No deposits of advance cost shall be required of the director in

30 any suit or proceedings, nor shall he be required to give bond for cost,

31 indemnity, or stay as a condition to the institution of any suit or

32 proceedings, or to the issuance, service, or execution of any process therein,

33 or ancillary thereto, or the appeal from any adverse action.

34 (g)(1) The director shall not be required to advance or pay any court

35 costs to any court clerk for the institution or prosecution of any suit filed

1 in his official capacity.

2 (2) No bond shall be required of the director in obtaining restraining  
3 orders, injunctions, or any other cases where a bond is required to be made by  
4 a litigant, including supersedeas bond upon appeal."

5

6 SECTION 4. Arkansas Code Annotated §11-10-314(j) is amended to read as  
7 follows:

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

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

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

18 (B) The claims status of workers hired by employers under the Arkansas  
19 Industrial Development Commission's Arkansas Enterprise Zone program  
20 authorized by §§ 15-4-801 - 15-4-814 provided the commission submits a list of  
21 workers by name and social security number;

22 (2) The Revenue Division of the Department of Finance and  
23 Administration may be provided such information as required and necessary by  
24 §§15-4-801 - 15-4-814 and the net increase in employment at manufacturing and  
25 mining establishments, as defined in § 26-51-505, which are participating in  
26 the Manufacturing Jobs Tax Credit program created by § 26-51-505, if the  
27 division provides a list of employers by name, location, and the period of  
28 time for which the data is sought;

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

33

34 SECTION 5. Arkansas Code Annotated §11-10-507 is amended to read as  
35 follows:

1 "11-10-507 Eligibility - Conditions

2 An insured worker shall be eligible to receive benefits with respect to  
3 any week only if the director finds that:

4 (1) Claim for Benefit.. He has made a claim for benefits with respect  
5 to such week in accordance with such regulations as the director may  
6 prescribe;

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

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

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

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

33 (i) The claimant's skills must be obsolete, or the demands for his  
34 skills in his labor market must be minimal and not likely to improve;

35 (ii) The claimant must possess aptitudes or skills which can be

1 usefully supplemented within a short time by retraining;

2 (iii) The training must be for an occupation for which there is a  
3 substantial and recurring demand; and

4 (iv) The claimant must produce evidence of continued attendance and  
5 satisfactory progress.

6 (D) In the event of the death of an individual's immediate family  
7 member, the eligibility requirements of availability for that individual shall  
8 be waived for the day of the death and for six (6) consecutive calendar days  
9 thereafter. For the purposes of this subdivision, "immediate family member"  
10 means a spouse, child, parent, brother, sister, grandchild, or grandparent of  
11 the individual.

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

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

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

25 (4) Waiting Period. He has been unemployed for a waiting period of one  
26 (1) week. No week shall be counted as a week of unemployment for the purposes  
27 of this subsection:

28 (A) Unless it occurs within the benefit year which includes the week  
29 with respect to which he claims payment of benefits;

30 (B) If benefits have been paid with respect thereto;

31 (C) Unless the individual was eligible for benefits with respect  
32 thereto as provided in this section and §§ 11-10-512 - 11-10-519, except for  
33 the requirements of this subsection.

34 (5) (A) Qualifying Wages. For any benefit year, he has during his base  
35 period been paid wages in at least two (2) quarters of his base period for

1 insured work, and the total wages paid during his base period equal not less  
2 than twenty-seven (27) times his weekly benefit amount.

3 (B) Requalifying Wages. For all benefit years, no individual may  
4 requalify on a succeeding benefit year claim unless he has been paid wages for  
5 insured work equal to not less than twenty-seven (27) times his weekly benefit  
6 amount, and has wages paid for insured work in at least two (2) calendar  
7 quarters of his base period, and, subsequent to filing the claim which  
8 established his previous benefit year, he has had insured work and was paid  
9 wages for work equal to three (3) times his weekly benefit amount.

10 (C) With respect to weeks of unemployment, wages for insured work shall  
11 include wages paid for previously uncovered services. For the purposes of this  
12 section, the term previously uncovered services means services:

13 (i) Which were not employment as defined in § 11-10-210(a) and were not  
14 services covered pursuant to § 11-10-210(d), at any time during the one-year  
15 period; and

16 (ii) Which are:

17 (a) Agricultural labor, as defined in § 11-10-210(a)(5); or

18 (b) Services performed by an employee of a political subdivision of this  
19 state, as provided in § 11-10-210(a)(2)(B), or by an employee of a nonprofit  
20 educational institution which is not an institution of higher education, as  
21 provided in § 11-10-210(a)(4)(C), except to the extent that assistance under  
22 Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was  
23 paid on the basis of such services.

24 (D) For the purposes of this subdivision, wages shall be counted as  
25 wages for insured work for benefit purposes with respect to any benefit year  
26 only if the benefit year begins subsequent to the date on which the employing  
27 unit by which the wages were paid has satisfied the conditions of § 11-10-209  
28 with respect to becoming an employer."

29

30 SECTION 6. Arkansas Code Annotated §11-10-511(a) is amended to read as  
31 follows:

32 "(a) Benefits shall not be payable on the basis of services performed  
33 by an alien unless the alien is an individual who was lawfully admitted for  
34 permanent residence at the time the services were performed, was lawfully  
35 present for purposes of performing those services, or was permanently residing

1 in the United States under color of law at the time the services were  
2 performed, including an alien who was lawfully present in the United States as  
3 a result of the application of the provisions of § 212(d) (5) of the  
4 Immigration and Nationality Act."

5

6 SECTION 7. Arkansas Code Annotated §11-10-514 is amended to read as  
7 follows:

8 "11-10-514 Disqualification - Discharge for misconduct

9 (a) If so found by the director, an individual shall be disqualified for  
10 benefits if he is discharged from his last work for misconduct in connection  
11 with the work. In all cases of discharge for absenteeism, the individual's  
12 attendance record for the twelve-month period immediately preceding the  
13 discharge and the reasons for the absenteeism shall be taken into  
14 consideration for purposes of determining whether the absenteeism constitutes  
15 misconduct. Except as otherwise provided in this section, disqualification for  
16 misconduct shall be for eight (8) weeks of unemployment as defined in §  
17 11-10-512.

18 (b) If he is discharged from his last work for misconduct in connection  
19 with the work on account of dishonesty, drinking on the job, reporting for  
20 work while under the influence of intoxicants including a controlled  
21 substance, or willful violation of the rules or customs of the employer  
22 pertaining to the safety of fellow employees or company property, he shall be  
23 disqualified from the date of filing his claim until he shall have ten (10)  
24 weeks of employment in each of which he shall have earned wages equal to at  
25 least his weekly benefit amount.

26 (c) If so found by the director, an individual shall be disqualified for  
27 benefits if he is suspended from his last work for misconduct in connection  
28 with the work. Except as otherwise provided, the disqualification shall be for  
29 the duration of the suspension or eight (8) weeks, whichever is the lesser."

30

31 SECTION 8. Arkansas Code Annotated §11-10-517 is amended as follows:

32 "11-10-517 Disqualification - Receipt of other remunerations

33 If so found by the director, an individual shall be disqualified for  
34 benefits for any week with respect to which he receives or has received  
35 remuneration in the form of:



1           (1) Separation payments. However, separation payments in excess of  
2 those covering a period of eight (8) weeks and an armed services severance  
3 payment paid to a former member of the United States armed services shall not  
4 be disqualifying under the terms of this section. Separation payments  
5 provided in the form of a lump sum are disqualifying only for the week in  
6 which they are received. Remuneration paid as back pay in settlement of a  
7 claim or grievance, and supplemental unemployment benefits shall not be  
8 disqualifying;

9           (2) Unemployment benefits under an unemployment compensation law of  
10 another state or of the United States;

11           (3) Any governmental or other pension, retirement or retired pay,  
12 annuity, or any other similar periodic payment received with respect to the  
13 week and which is based on the previous work of any individual if payment is  
14 received under a plan maintained or contributed to by a base period employer.  
15 However, the amount of unemployment benefits payable to the individual for the  
16 week shall be reduced, but not below zero, by an amount equal to the amount of  
17 the pension, retirement or retired pay, annuity, or other payment which is  
18 reasonably attributable to the week. Any weekly benefit amount which is  
19 reduced because of the receipt of remuneration as defined under this section  
20 and which is not an even multiple of one dollar (\$1.00) shall be rounded to  
21 the next lower multiple of one dollar (\$1.00). If payments referred to in this  
22 paragraph are being received by any individual under the federal Social  
23 Security Act, the director shall take into account the individual's  
24 contribution and make no reduction in the weekly benefit amount;

25           (4) Training and retraining allowance provided for by appropriation of  
26 the Congress of the United States. However, this subdivision does not apply  
27 if the claimant has met the benefit eligibility conditions set out in §§  
28 11-10-507 - 11-10-511 and other sections of this chapter;

29           (5) Vacation payments. However, he shall be paid, with respect to the  
30 week in which the vacation period occurred, an amount equal to the weekly  
31 benefit amount less that part of the vacation pay, if any, payable to him or  
32 in which he has been paid or will be paid at a later date with respect to such  
33 week which is in excess of forty percent (40%) of his weekly benefit amount  
34 rounded to the nearest lower full dollar amount. For the purpose of this  
35 subsection, the employer shall promptly report the week or weeks involved in

1 the vacation period as well as the corresponding amount of vacation pay with  
2 respect to such week or weeks;

3 (6) Bonus payments. However, the receipt of such payments shall be  
4 deductible as earnings in accordance with A.C.A. §11-10-503 only for the week  
5 in which the payment is received."

6

7 SECTION 9. Arkansas Code Annotated §11-10-524(b) is amended to read as  
8 follows:

9 "(b) Unless the appeal is withdrawn with its permission or is removed to  
10 the Board of Review, the appeal tribunal, after affording the parties a  
11 reasonable opportunity for a fair hearing and on the basis of the record shall  
12 affirm, modify, reverse, or remand the determination. However, whenever an  
13 appeal involves a question as to whether services were performed by a claimant  
14 in employment or for an employing unit, the appeal tribunal shall give special  
15 notice of the issue and of the pendency of the appeal to the employing unit  
16 and to the director, both of whom shall be parties to the proceedings and be  
17 afforded a reasonable opportunity to present evidence bearing on the question  
18 in issue. The appeal tribunal shall grant upon request from any interested  
19 party in an intra-state claim an in-person hearing at a location convenient to  
20 all parties."

21

22 SECTION 10. Arkansas Code Annotated §11-10-532 is amended to read as  
23 follows:

24 "11-10-532 Claims - Recovery

25 (a) If the director finds that any person has made a false statement or  
26 misrepresentation of a material fact knowing it to be false or has knowingly  
27 failed to disclose a material fact and as a result of either action has  
28 received any amount as benefits under this chapter to which he was not  
29 entitled, then the person shall be liable to repay the amount to the fund or  
30 in lieu of requiring the repayment the director may recover the amount by  
31 deductions from any future benefits payable to the person under this chapter.  
32 However, the person shall not be liable to repay such amount to the fund nor  
33 shall recovery be made from any future benefits after five (5) years from the  
34 date the determination of the amount of the overpayment becomes final within  
35 the meaning of §11-10-527.

1 (b) (1) If the director finds that any person has received any amount as  
2 benefits under this chapter to which he was not entitled by reasons other than  
3 fraud, willful misrepresentation, or willful nondisclosure of facts, the  
4 person shall be liable to repay the amount to the fund. In lieu of requiring  
5 the repayment, the director may recover the amount by deduction from fifty  
6 percent (50%) of any future benefits payable to the person under this chapter  
7 unless the director finds that the overpayment was received without fault on  
8 the part of the recipient and that its recovery would be against equity and  
9 good conscience.

10 (2) Any person held liable to repay an amount to the fund or to have  
11 the amount deducted from any future benefits payable to him shall not be  
12 liable to repay the amount nor shall recovery be made from any future benefits  
13 after two (2) years from the date the determination of the amount of the  
14 overpayment becomes final within the meaning of the provisions of §  
15 11-10-527."

16

17 SECTION 11. Arkansas Code Annotated §11-10-536 of the Arkansas  
18 Employment Security Law is amended to read as follows:

19 "11-10-536 Extended benefits - Eligibility

20 An individual shall be eligible to receive extended benefits with  
21 respect to any week of unemployment in his eligibility period only if the  
22 director finds that with respect to that week:

23 (1) He is an exhaustee as defined in § 11-10-534(8);

24 (2) He has satisfied the requirements of this law for the receipt of  
25 regular benefits that are applicable to individuals claiming extended  
26 benefits, including not being subject to a disqualification for the receipt of  
27 benefits; and

28 (3) (a) He was paid wages which exceeded forty (40) times his weekly  
29 benefit amount during the base period which established his last benefit year  
30 for the receipt of regular benefits; or

31 (b) He has one and one-half (1 1/2) times his insured wages in the  
32 calendar quarter of the base period in which his insured wages were the  
33 highest; or

34 (c) He has provided evidence of twenty (20) weeks of full-time insured  
35 employment in the base period that served as the basis for his Extended

1 Benefits claim."

2

3 SECTION 12. Arkansas Code Annotated §11-10-539 is amended to read as  
4 follows:

5 "11-10-539 Extended benefits - Period and computations

6 (a) Whenever an extended benefit period is to become effective in this  
7 state as a result of a state \_on\_ indicator, or an extended benefit period is  
8 to be terminated in this state as a result of a state \_off\_ indicator, the  
9 director shall have published an appropriate notice in newspapers of general  
10 circulation in the state.

11 (b) Whenever, during a period when emergency unemployment compensation  
12 benefits are being paid under the provisions of the Emergency Unemployment  
13 Compensation Act of 1991, as amended, or under any subsequent extension or  
14 reenactment thereof, the state \_on\_ indicator, as defined in A.C.A. §11-10-  
15 534, triggers on a period of extended benefits, the governor of this state may  
16 elect not to implement the applicable state statutory provisions relative to  
17 unemployment compensation, including but not limited to A.C.A. §11-10-534  
18 through A.C.A. §11-10-544, and to continue the payment of benefits under the  
19 Emergency Unemployment Compensation Act of 1991, as amended, extended or  
20 reenacted, to those individuals who have exhausted their entitlement to  
21 regular unemployment compensation under state law.

22 (c) Computations required by the provisions of § 11-10-534(4) shall be  
23 made by the director, in accordance with regulations prescribed by the U.S.  
24 Secretary of Labor."

25

26 SECTION 13. Arkansas Code Annotated §11-10-706(b) is amended to read as  
27 follows:

28 "(b) The stabilization tax shall be determined as follows:

29 (1) If the assets of the fund on the computation date are equal to or  
30 greater than two percent (2%) but less than two and one-half percent (2.5%) of  
31 total payrolls for employment during the preceding calendar year, the  
32 stabilization tax shall be one-tenth of one percent (0.1%).

33 (2) If the assets of the fund on the computation date are greater than  
34 one and one-half percent (1 1/2%) but less than two percent (2%) of total  
35 payrolls for employment during the preceding calendar year, the stabilization

1 tax shall be two-tenths of one percent (0.2%).

2 (3) If the assets of the fund on the computation date are greater than  
3 one percent (1%) but less than one and one-half percent (1 1/2%) of total  
4 payrolls for employment during the preceding calendar year, the stabilization  
5 tax shall be three-tenths of one percent (0.3%).

6 (4) If the assets of the fund on the computation date are greater than  
7 one-half of one percent (1/2%) but less than one percent (1.0%) of total  
8 payrolls for employment during the preceding calendar year, the stabilization  
9 tax shall be four-tenths of one percent (0.4%).

10 (5) If the assets of the fund on the computation date are less than  
11 one-half of one percent (1/2%) of total payrolls for employment during the  
12 preceding calendar year, the stabilization tax shall be seven-tenths of one  
13 percent (0.7%). However, if the assets of the fund on the computation date  
14 are less than four-tenths of one percent (4/10%) of total payrolls for  
15 employment during the preceding calendar year, the stabilization tax shall be  
16 one and one-tenth percent (1.1%) for the calendar year 1993, nine-tenths of  
17 one percent (0.9%) for the calendar year 1994, and eight-tenths of one percent  
18 (0.8%) for the calendar year 1995 and thereafter.

19 (6) Each employer eligible for experience rating under § 11-10-705  
20 shall have his contribution rate reduced by one-tenth of one percent (0.1%)  
21 for any rate year when the assets of the Fund on the computation date are  
22 greater than five percent (5.0%) of total payrolls for employment during the  
23 preceding calendar year."

24

25 SECTION 14. Arkansas Code Annotated §11-10-706(e) is amended to read as  
26 follows:

27 "(e) For the purposes of §§ 11-10-703 - 11-10-708, the assets of the  
28 fund as of the computation date shall include only contributions which were  
29 paid on or before June 30, the computation date. Provided however, for the  
30 purposes of this section the computation date is defined as September 30 of  
31 the calendar year preceding the tax year. It shall include any accounts  
32 receivable from the United States for their share of extended benefit payments  
33 which have been paid from the fund and any accounts receivable from employers  
34 who have elected to reimburse the fund for benefits paid under § 11-10-404 or  
35 § 11-10-713. However, it shall exclude the assets of the Extended Benefit

1 Account and shall be reduced by any outstanding advances owed to the federal  
2 government."

3

4 SECTION 15. Arkansas Code Annotated §11-10-707(b) is amended to read as  
5 follows:

6 "(b) The director shall for each rate year:

7 (1) Periodically notify each employer of the regular benefits paid  
8 which are chargeable to his account. Such notification shall become conclusive  
9 and binding upon the employer unless within thirty (30) days after mailing of  
10 such notice, the employer files an application for review and redetermination  
11 as provided in subsection (c)(1) below; (2) Notify each employer of his  
12 rate of contribution as determined pursuant to this law."

13

14 SECTION 16. Arkansas Code Annotated §11-10-708(a)(1) is amended to read  
15 as follows:

16 "(a)(1) In addition to the contributions and any stabilization and  
17 extended benefits taxes levied under other provisions of §§ 11-10-703 -  
18 11-10-708, each employer, except employers that have made an election to  
19 reimburse the unemployment trust fund under § 11-10-713(c), shall pay a  
20 separate and additional tax, to be known as the advance interest tax, on wages  
21 paid by that employer with respect to employment . For rate years beginning on  
22 and after January 1, 1993, the advance interest tax shall be two tenths of one  
23 percent (0.2%) when the state has an outstanding interest bearing advance  
24 under Title XII of the Social Security Act. Such tax is effective the first  
25 month of the quarter following the state obtaining an interest bearing advance  
26 and shall remain until the quarter immediately following the repayment of the  
27 advancement and the Employment Security Advance Interest Trust Fund attains a  
28 balance of five million dollars (\$5,000,000);"

29 SECTION 17. Arkansas Code Annotated §11-10-803(d)(1) is amended to read  
30 as follows:

31 "(1) Money credited to the account of this state in the Unemployment  
32 Compensation Trust Fund by the Secretary of the Treasury of the United States  
33 of America pursuant to § 903 of the Social Security Act, as amended, may not  
34 be requisitioned from this state's account or used except for the payment of  
35 benefits and for the payment of expenses incurred for the administration of

1 the Employment Security Law. However, the money may not be used for Job  
2 Training Partnership Act (JTPA) programs and activities. The money may be  
3 requisitioned pursuant to the provisions of the Employment Security Law for  
4 the payment of benefits. The money may also be requisitioned and used for the  
5 payment of expenses incurred in the administration of the Employment Security  
6 Law. However, the money may not be used for Job Training Partnership Act  
7 programs and activities. The money may only be used pursuant to a specific  
8 appropriation by the General Assembly and only if the expenses are incurred  
9 and the money is requisitioned after the enactment of an appropriation law  
10 which:

11 (A) Specifies the purposes for which money is appropriated and the  
12 amounts appropriated therefor;

13 (B) Limits the period within which the money may be obligated to a  
14 period ending not more than two (2) years after the date of the enactment of  
15 the appropriation law; and

16 (C) The amount which may be obligated is limited to an amount which  
17 does not exceed the amount by which (I) the aggregate of the amounts  
18 transferred to the account of this state pursuant to section 903 of the Social  
19 Security Act exceeds, (II) the aggregate of the amounts used by this state  
20 pursuant to this Act and charged against the amounts transferred to the  
21 account of this state."

22

23 SECTION 18. All provisions of this act of a general and permanent  
24 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
25 Code Revision Commission shall incorporate the same in the Code.

26

27 SECTION 19. If any provision of this act or the application thereof to  
28 any person or circumstance is held invalid, such invalidity shall not affect  
29 other provisions or applications of the act which can be given effect without  
30 the invalid provision or application, and to this end the provisions of this  
31 act are declared to be severable.

32

33 SECTION 20. All laws and parts of laws in conflict with this act are  
34 hereby repealed.

35

1           SECTION 21. EMERGENCY. It is hereby found and determined by the  
2 General Assembly that in order to correct certain inequities in the payment  
3 and in the denial of benefits to unemployed workers, to make needed technical  
4 corrections and to bring the Arkansas Employment Security Law into conformity  
5 with the Federal Unemployment Tax Act, as amended, so that Arkansas employers  
6 may continue to receive the tax credits accorded by the Federal Unemployment  
7 Tax Act and that Arkansas workers may receive unemployment benefits when they  
8 are unemployed, an emergency is hereby declared to exist and this act being  
9 necessary for the immediate preservation of the public peace, health and  
10 safety shall be in full force and effect from and after its passage and  
11 approval.

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