

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 234 OF 1997
SENATE BILL 74

4
5 By: Senators Bell and Hopkins
6
7

For An Act To Be Entitled

8
9 "AN ACT TO AMEND VARIOUS PROVISIONS OF ARKANSAS CODE TITLE
10 11, CHAPTER 10, CITED AS THE ARKANSAS EMPLOYMENT SECURITY
11 LAW; AND FOR OTHER PURPOSES."
12

Subtitle

13
14 "AMEND VARIOUS PROVISIONS OF ARKANSAS
15 CODE TITLE 11, CHAPTER 10, CITED AS THE
16 ARKANSAS EMPLOYMENT SECURITY LAW."
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Subchapter 1, Chapter 10, Title 11 of the Arkansas Code is
21 amended by adding the following new section as follows:

22 "§ 11-10-111. Protection of rights and benefits - Exception for
23 Withholding Food Stamp Overages.

24 (a) An individual filing a new claim for unemployment compensation
25 shall, at the time of filing such claim, disclose whether or not he or she
26 owes an uncollected overissuance (as defined in Section 13(c)(1) of the Food
27 Stamp Act of 1977) of food stamp coupons. The director shall notify the state
28 food stamp agency enforcing such obligation of any individual who discloses
29 that he or she owes a food stamp overage obligation and who is determined to
30 be eligible for unemployment compensation.

31 (b) The director shall deduct and withhold from any unemployment
32 compensation payable to an individual who owes an uncollected overissuance:

33 (A) the amount specified by the individual to the director to be
34 deducted and withheld under this section;

35 (B) the amount (if any) determined pursuant to an agreement
36 submitted to the state food stamp agency under Section 13(c)(3)(A) of the Food

1 Stamp Act of 1977; or

2 (C) any amount otherwise required to be deducted and withheld
3 from unemployment compensation pursuant to Section 13(c)(3)(B) of such act.

4 (c) Any amount deducted and withheld under this section shall be paid
5 by the director to the Arkansas Department of Human Services, Division of
6 County Operations, Food Stamp Program.

7 (d) Any amount deducted and withheld under subsection (b) shall for all
8 purposes be treated as if it were paid to the individual as unemployment
9 compensation and paid by such individual to the Department of Human Services
10 as repayment of the individuals uncollected food stamp overissuance.

11 (e) For purposes of this section, the term unemployment compensation
12 means any compensation payable under this act including amounts payable by the
13 director pursuant to an agreement under any federal law providing for
14 compensation, assistance, or allowances with respect to unemployment.

15 (f) This section applies only after an agreement has been made for
16 reimbursement by the Department of Human Services for the administrative costs
17 incurred by the director under this section which are attributable to the
18 repayment of uncollected food stamp overissuances."

19

20 SECTION 2. Arkansas Code 11-10-201 is amended to read as follows:

21 "11-10-201. Base period.

22 (a) As used in this chapter, unless the context clearly requires
23 otherwise, base period means the first four (4) of the last five (5)
24 completed calendar quarters immediately preceding the first day of the benefit
25 year. For claims involving wages of several states, the base period shall be
26 that which is applicable under the unemployment insurance laws of the paying
27 state.

28 (b) If an individual lacks sufficient base period wages because of a
29 job related injury for which he received workers compensation, an extended
30 base period will be substituted for the current base period on a quarter-by-
31 quarter basis as needed to establish a valid claim upon written application by
32 the claimant. Extended base period means the four (4) quarters prior to the
33 claimants base period. These four (4) quarters may be substituted for base
34 period quarters on a quarter-by-quarter basis to establish a valid claim
35 regardless of whether the wages have been used to establish a prior claim,
36 except any wages earned that would render the Employment Security Department

1 out of compliance with applicable federal law will be excluded if used in a
2 prior claim. Benefits paid on the basis of an extended base period, which
3 would not otherwise be payable, shall be noncharged."

4

5 SECTION 3. Arkansas Code 11-10-208 is amended by adding the following
6 new paragraphs 3 through 14 at the end thereof:

7 "(3) Any employer may on or before December 1 prior to the year the
8 application is to become effective make application in writing to the
9 Department to participate in a joint account with one (1) or more other
10 employers.

11 (4) The department shall approve those applications that meet the
12 requirements of this subsection.

13 (5) Any application to participate in a joint account may be filed on
14 or before December 1 prior to the year the membership is to become effective,
15 provided, however, all contributions, interest and penalties due from the
16 applicant-employer must be paid prior to the effective date of the employers
17 membership in the joint account.

18 (6) All such applications shall be accepted only on the condition that
19 the applicant waives all rights he has in his individual employer account
20 under the law when the department approves his application and merges his
21 individual account in a joint account for experience rating purposes.

22 (7) Each applicant-employer shall agree to assume joint and several
23 liability for any contributions, interest and penalties accruing on the part
24 of any one of the employers participating in the joint account during the
25 duration of the account in consideration for the department granting him the
26 right to participate in it.

27 (8) Each employer participating in a joint account agrees to maintain a
28 sufficient record of his own employment in order that he can furnish the
29 department with information necessary to enable the department to make proper
30 certification to the Bureau of Internal Revenue of the United States Treasury
31 under the Federal Unemployment Tax Act and to enable the department to
32 determine any benefit charges against his separate account.

33 (9) No reduced rate of contributions shall be established for any joint
34 account until each participating employer is individually eligible for the
35 calculation of a contribution rate.

36 (10) All joint accounts will be maintained only on a calendar year

1 basis and such accounts must be maintained for a minimum period of two (2)
2 calendar years unless terminated sooner by action of the department.

3 (11) All contribution credits for all employers in a joint account will
4 be calculated together. All benefit payments chargeable against all employers
5 in a joint account will be calculated together. The average annual payroll of
6 the joint account will be the average of the annual payrolls of all employers
7 participating in the account.

8 (12) If any individual, type of organization, or employing unit
9 succeeds to the business of an employer participating in a joint account under
10 conditions which would require the transfer of any separate account of that
11 employer to the successor, such successor shall be ipso facto a member of such
12 joint account.

13 (13) Withdrawal from a joint account by any participating employer may
14 be approved if the request for withdrawal is made in writing to the department
15 on or before September 30 of the the year prior to the year for which the
16 withdrawal is to be effective. The withdrawing employer shall, as of the
17 effective date of withdrawal, be treated in all respects as a newly liable
18 employer, regardless of all prior contributions or benefit payment experience.
19 The remaining employer or employers shall continue to constitute the joint
20 account. The withdrawal or termination of all except one member shall not
21 dissolve such joint account, unless and until such last member shall withdraw
22 or terminate.

23 (14) Participation in a joint account shall not affect the right of any
24 employer to terminate his liability, but after termination, such employer
25 shall in all respects be treated as a withdrawing employer under this
26 subsection."

27

28 SECTION 4. Arkansas Code 11-10-210(f)(16)(A) is amended to read as
29 follows:

30 "(A) Service performed by an individual in the delivery or distribution
31 of newspapers or shopping news, not including delivery or distribution to any
32 point for subsequent delivery or distribution provided that such service does
33 not constitute employment performed by an employee under the Federal
34 Unemployment Tax Act;"

35

36 SECTION 5. Arkansas Code 11-10-305(e) is amended to read as follows:

1 "(e) The members of the advisory council shall be paid ~~not to exceed~~
 2 ~~the sum of forty-five dollars (\$45.00) a day~~ in accordance with Section 25-16-
 3 903 when attending meetings in connection with their duties as members and
 4 shall be reimbursed for any travel or other expense incurred in accordance
 5 with the travel regulations applicable to the employees of the Arkansas
 6 Employment Security Department."

7

8 SECTION 6. Arkansas Code 11-10-308 is amended by adding the following
 9 new paragraph (f):

10 "(f) Any party appealing a determination of the department to the Board
 11 of Review or the Court of Appeals shall be required to file quarterly reports
 12 and pay all contributions, penalty or interest due and owing during the appeal
 13 process. Upon finalization of the appeal if it is found that no tax is owed
 14 or a lesser tax, penalty or interest is owed then such amount shall be
 15 refunded or credited to the employers account."

16

17 SECTION 7. Arkansas Code 11-10-314(i)(2)(B) is amended to read as
 18 follows:

19 "(B) Payment of ~~ten dollars (\$10.00)~~ fifty dollars (\$50.00) for the
 20 costs of producing the information is paid or tendered at the time of service
 21 of the order or within three (3) work days of service of the order."

22

23 SECTION 8. Arkansas Code 11-10-314(j) is amended to read as follows:

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

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

30 (A) The employer's name, mailing address, business location
 31 in Arkansas; name of the owner, chief executive officer, or plant manager;
 32 current number of employees; and the standard industrial classification code
 33 for each employer classified by the agency in Standard Industrial
 34 Classification Codes 20-~~39~~87;

35 (B) The claims status of workers hired by employers under
 36 the Arkansas Industrial Development Commission's Arkansas Enterprise Zone

1 Program authorized by ~~§§ 15-4-801 - 15-4-814 [expired]~~, 15-4-1701, et seq. and
 2 15-4-1901, et seq. provided the commission submits a list of workers by name
 3 and social security number;

4 (2) The Revenue Division of the Department of Finance and
 5 Administration may be provided:

6 (A) Such information as is required and necessary by ~~§§~~
 7 ~~15-4-801 - 15-4-815 [expired]~~ 15-4-1701, et seq. and 15-4-1901, et seq.; and

8 (B) The net increase in employment at manufacturing and
 9 mining establishments, as defined in § 26-51-505, which are participating in
 10 the manufacturing jobs tax credit program created by § 26-51-505, if the
 11 division provides a list of employers by name, location, and the period of
 12 time for which the data is sought; and

13 (C) Such information necessary for the effective operation
 14 of their respective programs, to allow cooperation between the Revenue
 15 Division of the Department of Finance and Administration and the Employment
 16 Security Department.

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

21 (4) The Department of Education, Division of Vocational and
 22 Technical Education, Arkansas Rehabilitation Services may be provided employer
 23 quarterly wage reports, employer name, address and phone number."

24
 25 SECTION 9. Arkansas Code 11-10-314(k) is amended to read as follows:

26 "(k)(1) The ~~three (3)~~four (4) state entities specified in subsection
 27 (j) of this section are strictly prohibited from making any disclosure or
 28 redisclosure of the confidential information which may be made available to
 29 them under provisions of subsection (j) of this section.

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

34 (3) The governmental agency or entity requesting any information
 35 under subsection (j) of this section shall reimburse the department for any
 36 and all costs incurred by the agency in making the requested information

1 available.

2 (4) Information requested by the four (4) state entities
 3 specified in subsection (j) shall be released to the appropriate entities in
 4 accordance with an agreement between these entities and the Arkansas
 5 Employment Security Department."

6

7 SECTION 10. Arkansas Code 11-10-314(n)(1) is amended to read as
 8 follows:

9 "(n)(1) Beginning on and after January 1, 1995, the Workers' Health and
 10 Safety Division of the Workers' Compensation Commission, may be furnished, for
 11 production of the extra hazardous employer identification formula, the
 12 following data to the extent such data is maintained in the department's
 13 computer data base:

- 14 (A) Employer name;
 15 (B) Federal employer identification number;
 16 (C) Employer address and plant locations in Arkansas;
 17 (D) Employer telephone number;
 18 (E) Employer standard industrial classification code; ~~and~~
 19 (F) Maximum number of employees by calendar year-~~i~~
 20 (G) UI account number; and
 21 (H) Reporting unit number."

22

23 SECTION 11. Arkansas Code 11-10-314 is amended to read as follows by
 24 adding a new subsection (o) at the end thereof:

25 "(o)(1) Effective July 1, 1997, the director may provide information or
 26 take other actions necessitated by The Personal Responsibility and Work
 27 Opportunity Reconciliation Act of 1996 (P.L. 104-193).

28 (2) The director may furnish wage and claim information to the
 29 State and National New Hire Directories created by P.L. 104-193 for the
 30 purposes of locating individuals to establish paternity and to establish,
 31 modify or enforce child support orders. The director may authorize state and
 32 local child support enforcement agencies to disclose unemployment compensation
 33 data to an agent and permit state and local child support enforcement agencies
 34 to access such data for establishing paternity and other purposes.

35 (3) Information requested pursuant to P.L. 104-193 shall only be
 36 released in accordance with an agreement between the department and the

1 appropriate state or federal agency. Safeguards protecting the
2 confidentiality of such data and reimbursement of costs for providing such
3 information will be made part of the agreement."

4
5 SECTION 12. Arkansas Code 11-10-513(a) is amended to read as follows:

6 "(a)(1) If so found by the Director of the Arkansas Employment Security
7 Department, an individual shall be disqualified for benefits if he,
8 voluntarily and without good cause connected with the work, left his last
9 work.

10 (2)(A) An individual working as a temporary employee will be deemed to
11 have voluntarily quit employment and will be disqualified for benefits under
12 this subsection if, upon conclusion of his latest assignment, the temporary
13 employee, without good cause, failed to contact the temporary help firm for
14 reassignment, provided that the employer advised the temporary employee at the
15 time of hire that he must report for reassignment upon conclusion of each
16 assignment and that unemployment benefits may be denied for failure to do so.

17 (B) As used in this subsection Temporary help firm means a firm
18 that hires its own employees and assigns them to clients to support or
19 supplement the clients workforce in work situations such as employees
20 absences, temporary skill shortages, seasonal workloads, and special
21 assignments and projects. The term does not include employee leasing
22 companies regulated under A.C.A. 11-10-717(e) of this law.

23 (C) Temporary employee means an employee assigned to work for
24 the clients of a temporary help firm.

25 ~~——(2)(3)~~ The disqualification shall continue until, subsequent to filing
26 a claim, he has had at least thirty (30) days of employment covered by an
27 unemployment compensation law of this state, another state, or the United
28 States."

29
30 SECTION 13. Arkansas Code 11-10-515(a)(1) is amended by adding the
31 following new paragraphs (C) and (D) at the end thereof:

32 "(C) To appear for a Department of Transportation (D.O.T.) qualified
33 drug screen after having received a bona fide job offer of suitable work
34 subject to passage of said drug screen.

35 (D) To pass a Department of Transportation (D.O.T.) qualified drug
36 screen by testing positive for illegal drugs after having received a bona fide

1 job offer of suitable work."

2

3 SECTION 14. Arkansas Code 11-10-522(d)(2)(B) is amended to read as
4 follows:

5 "(B) Effective January 1, 1998, A notice of this nonmonetary
6 determination shall be promptly mailed to the last employer ~~who responded to~~
7 ~~the request for pertinent information when notified of the filing of an~~
8 ~~initial or additional claim."~~

9

10 SECTION 15. Arkansas Code 11-10-523(c)(2) is amended to read as
11 follows:

12 "(2) The members of the board other than the chairman shall ~~receive as~~
13 ~~their compensation the sum of forty-five dollars (\$45.00) a day and necessary~~
14 ~~expenses, to be paid from the Employment Security Administration Fund, when~~
15 ~~actually engaged in performing duties of the board as above prescribed. be~~
16 paid in accordance with Section 25-16-905 when attending meetings in
17 connection with their duties as members and shall be reimbursed for any travel
18 or other expense incurred in accordance with the travel regulations applicable
19 to the employees of the Arkansas Employment Security Department."

20

21 SECTION 16. Arkansas code 11-10-524(c) is amended to read as follows:

22 "(c)(1) The parties shall be promptly notified of the tribunal's
23 decision and shall be furnished a copy of the decision and the findings and
24 conclusions in support thereof.

25 (2)~~(A)~~ The decision shall become final unless, within twenty (20)
26 days after the date of mailing of said notice to the parties' last known
27 addresses, an appeal is initiated pursuant to § 11-10-525 or, ~~in the case of a~~
28 ~~party appellant failing to appear at a hearing, a written request for~~
29 ~~reopening shall be made~~ a request for reopening is made pursuant to subsection
30 (d) of this section.

31 ~~————— (B) Reopening shall be granted upon a showing of good cause~~
32 ~~for not appearing at the scheduled hearing."~~

33

34 SECTION 17. Arkansas Code 11-10-524 is amended by adding the following
35 new paragraph (d) at the end thereof:

36 "(d)(1)(A) A party which files an appeal pursuant to subsection (a) of

1 this section and fails to appear at the initial tribunal hearing scheduled as
 2 a result of that appeal may request that the matter be reopened by the
 3 tribunal.

4 (B) No other request for reopening shall be considered by
 5 the tribunal.

6 (2) Requests for reopening shall be made in writing and shall be
 7 granted by the tribunal only upon a showing of good cause for failing to
 8 appear at the initial tribunal hearing.

9 (3)(A)(i) If a request for reopening is granted, the tribunal
 10 shall schedule another hearing, after which it will issue a new decision.

11 (ii) If a request for reopening is not granted, the
 12 tribunal's initial decision shall stand as issued.

13 (B)(i) In either event, the parties shall be promptly notified of
 14 the tribunal's decision and shall be furnished a copy of the decision and the
 15 findings and conclusions in support thereof.

16 (ii) The decision shall become final unless, within twenty
 17 (20) days after the date of its mailing to the parties last known addresses,
 18 an appeal is initiated pursuant to Section 11-10-525."

19

20 SECTION 18. Arkansas Code 11-10-524(b)(3) is amended to read as
 21 follows:

22 "(3) The appeal tribunal shall grant upon request from any interested
 23 party in an intrastate claim an in-person hearing ~~at a location convenient to~~
 24 ~~all parties."~~

25

26 SECTION 19. Arkansas Code 11-10-526(a)(2) is amended to read as
 27 follows:

28 "(2) ~~The~~ In like manner as provided at 11-10-307(a) for the adopting,
 29 amending or rescinding of general rules by the director, the board shall adopt
 30 reasonable regulations governing the manner of filing appeals and the conduct
 31 of hearings and ~~appeals~~ other appellate procedure, consistent with the
 32 provisions of this law."

33

34 SECTION 20. Arkansas Code 11-10-529(b)(2)(A) is amended to read as
 35 follows:

36 "(2)(A) Upon the filing of a petition for review by the director or

1 upon the service of the petition on him, the director shall forthwith send by
2 ~~registered~~certified mail to each of the parties to the proceeding a copy of
3 the petition."
4

5 SECTION 21. Arkansas Code 11-10-532(b)(2) is amended to read as
6 follows:

7 "(2) Any person held liable to repay an amount to the fund or to have
8 the amount deducted from any future benefits payable to him shall not be
9 liable to repay the amount nor shall recovery be made from any future benefits
10 after ~~two (2)~~four (4) years from the date the determination of the amount of
11 the overpayment becomes final within the meaning of the provisions of § 11-10-
12 527."
13

14 SECTION 22. Arkansas Code 11-10-703(a)(2)(A) is amended to read as
15 follows:

16 "(2)(A)(1) Regular benefits paid to an eligible individual based on an
17 initial claim ~~filed on or after July 1, 1963,~~ shall be charged to the separate
18 account of each employer in the base period in the proportion to which wages
19 paid by each employer to the individual during the base period bears to total
20 wages paid by all such employers to such individual within the base period.

21 (2) Provided, however, and beginning on and after January 1,
22 1998, regular benefits paid to an eligible individual after such individual
23 has established a benefit year against a base period employer under qualifying
24 conditions whose employment continued with such employer but subsequently left
25 such employment under conditions which would have been a non-charge under this
26 Section 703(a)(3) and (4), shall not be charged to the separate account of the
27 said base period employer."
28

29 SECTION 23. Arkansas Code 11-10-705(c)(2)(A) is amended to read as
30 follows:

31 "(2)(A) Upon the payment of the voluntary payment to the fund within
32 thirty (30) days from the date of mailing to the employer of a notice of his
33 contribution rate as provided in regulations of the Director of the Arkansas
34 Employment Security Department, the director shall cancel the regular benefits
35 equal to the payment so voluntarily made to the fund and compute a new
36 experience rate for the employer. However, effective January 1, 1998, and

1 thereafter, an employer shall have a period of ninety (90) days from the
2 beginning of the rate year to make such voluntary payment to the department."

3

4 SECTION 24. Arkansas Code 11-10-706 is amended by adding the following
5 new paragraph (f) at the end thereof:

6 "(f) Provided however, the proceeds of the stabilization tax in the
7 amount of 1/20 of one percent (.05%) of taxable wages collected during the
8 period January 1, 1997 through December 31, 1998 shall be deposited and
9 credited to the Employment Security Special Fund as set out in Section 11-10-
10 716."

11

12 SECTION 25. Arkansas Code 11-10-717(e) is amended to read as follows:

13 "(e)(1)(A) Notwithstanding any other provisions of this chapter, any
14 employer or any individual, organization, partnership, corporation, or other
15 legal entity that meets the definition of lessor employing unit as set forth
16 in subdivision (e)(4) of this section shall be liable for contributions on
17 wages paid by the lessor employing unit to individuals performing services for
18 client lessees of the lessor employing unit.

19 (B) Unless the lessor employing unit has timely complied
20 with the provisions of subdivision (e)(2) of this section, any employer,
21 individual, organization, partnership, corporation, or other legal entity
22 leasing employees from any lessor employing unit shall be jointly and
23 severally liable for any unpaid contributions, interest, and penalties due
24 under this chapter from any lessor employing unit attributable to wages for
25 services performed for the client lessee entity by employees leased to the
26 client lessee entity.

27 (C) Beginning on or after January 1, 1998, the lessor
28 employer shall keep separate records and submit separate quarterly
29 contribution and wage reports for each of its client lessee entities using the
30 client lessees account number, and unemployment contribution rate.

31 (2)(A)(i) In order to relieve client lessees from joint and
32 several liability and the separate reporting requirements imposed under
33 subdivision (e)(1) of this section, any lessor employing unit as defined in
34 subdivision (e)(4) of this section may post and maintain a surety bond issued
35 by a corporate surety authorized to do business in Arkansas in the amount of
36 one hundred thousand dollars (\$100,000) to ensure prompt payment of

1 contributions, interest, and penalties for which the lessor employing unit may
 2 be, or becomes, liable under this chapter. Beginning on or after January 1,
 3 1998, the lessor employer shall report all clients wages on the lessor
 4 employers quarterly contribution and wage report using its contribution rate,
 5 account number, Federal Identification number.

6 (ii) If after three (3) years, throughout which the
 7 lessor employing unit as defined in subdivision (e)(4) of this section has
 8 paid all contributions due in a timely manner, the bond shall be reduced to
 9 thirty-five thousand dollars (\$35,000) and shall remain at thirty-five
 10 thousand dollars (\$35,000) so long as the lessor employing unit continues to
 11 report and pay all contributions due in a timely manner.

12 (B) In lieu of a surety bond, the lessor employing unit may
 13 deposit in a depository designated by the director securities with marketable
 14 value equivalent to the amount required for a surety bond. The securities so
 15 deposited shall include authorization to the director to sell any such
 16 securities in an amount sufficient to pay any contributions which the lessor
 17 employing unit fails to promptly pay when due.

18 ~~(3)(A) Any lessor employing unit, as defined in subdivision~~
 19 ~~(e)(4) of this section, which is currently engaged in the business of leasing~~
 20 ~~employees to client lessees shall comply with the provisions of subdivision~~
 21 ~~(e)(2) of this section by August 1, 1987.~~

22 ~~—— (B) Lessor employing units not currently engaged in the business of~~
 23 ~~leasing employees to client lessees shall comply with subdivision (e)(2) of~~
 24 ~~this section before entering into lease agreements with client lessees.~~

25 (4) The term lessor employing unit is defined as an
 26 independently established business entity which engages in the business of
 27 providing leased employees to any other employer, individual, organization,
 28 partnership, corporation, or other legal entity, referred to herein as a
 29 client lessee. Any legal entity determined to be engaged in the business of
 30 outsourcing shall be considered a lessor employing unit under this section.
 31 Additionally, the licensing requirements of the Arkansas Employee Leasing Act
 32 (A.C.A. 23-92-301 et seq.) as administered by the Arkansas Insurance
 33 Department must be satisfied.

34 (5) The provisions of this subsection shall not be applicable to
 35 private employment agencies who provide their employees to employers on a
 36 temporary help basis, provided that the private employment agencies are liable

1 as employers for the payment of contributions on wages paid to temporary
2 workers so employed."

3

4 SECTION 26. Arkansas Code 11-10-719(a) is amended to read as follows:

5 "(a)(1) If not later than three (3) years after the date of payment of
6 any amount as contributions, interest, or penalties pursuant to this law, any
7 employer who has made such a payment ~~shall~~may make application for an
8 adjustment thereof in connection with a subsequent contribution, interest, or
9 penalty payment, or for a refund because the adjustment cannot be made, and
10 the Director of the Arkansas Employment Security Department ~~shall~~may determine
11 that payment of the contributions, interest, or penalties, or any portion
12 thereof, was erroneous, the director ~~shall~~may allow the employer to make an
13 adjustment of the amount erroneously paid, without interest, in connection
14 with subsequent contribution, interest, or penalty payments by him.

15 (2) If the adjustment cannot be made, the director ~~shall~~may refund,
16 without interest, from the fund, or from the Employment Security Special Fund,
17 as applicable, the amount erroneously paid."

18

19 SECTION 27. Arkansas Code 11-10-801(b) is amended by adding the
20 following paragraph (10):

21 "(10) All monies received from the Stabilization Tax under A.C.A. 11-
22 10-706, except the proceeds of subparagraph (f)."

23

24 SECTION 28. Arkansas Code 11-10-802(b)(1) is amended by adding the
25 following paragraph (C):

26 "(C) All monies received in the clearing account as proceeds of A.C.A.
27 11-10-706(f) shall be deposited and credited to the Employment Security
28 Special Fund at A.C.A. 11-10-716."

29

30 SECTION 29. All provisions of this act of a general and permanent
31 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
32 Code Revision Commission shall incorporate the same in the Code.

33

34 SECTION 30. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect
36 other provisions or applications of the act which can be given effect without

1 the invalid provision or application, and to this end the provisions of this
2 act are declared to be severable.

3

4 SECTION 31. All laws and parts of laws in conflict with this act are
5 hereby repealed.

6

7 SECTION 32. EMERGENCY. It is found and determined by the General
8 Assembly of the State of Arkansas that in order to correct certain inequities
9 in the payment and in the denial of benefits to unemployed workers, to make
10 needed technical corrections and to bring the Arkansas Employment Security Law
11 into conformity with the Federal Unemployment Tax Act, as amended, so that
12 Arkansas employers may continue to receive the tax credits accorded by the
13 Federal Unemployment Tax Act and the Arkansas workers may receive unemployment
14 benefits when they are unemployed. Therefore an emergency is declared to
15 exist and this act being immediately necessary for the preservation of the
16 public peace, health and safety shall become effective on the date of its
17 approval by the Governor. If the bill is neither approved nor vetoed by the
18 Governor, it shall become effective on the expiration of the period of time
19 during which the Governor may veto the bill. If the bill is vetoed by the
20 Governor and the veto is overridden, it shall become effective on the date the
21 last house overrides the veto.

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APPROVED: 2-21-97

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