

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

# A Bill

HOUSE BILL 1982

5 By: Representative Napper  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE SETOFF AGAINST STATE TAX  
10 REFUND ACT TO ALLOW FOR THE EMPLOYMENT BENEFITS  
11 DIVISION OF THE DEPARTMENT OF FINANCE AND  
12 ADMINISTRATION TO BE A CLAIMANT AGENCY; TO AMEND  
13 THE SETOFF AGAINST STATE TAX REFUND ACT; AND FOR  
14 OTHER PURPOSES.

## Subtitle

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16  
17 TO AMEND THE SETOFF AGAINST STATE TAX  
18 REFUND ACT.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code § 26-36-303 is amended to read as follows:  
24 26-36-303. Definitions.

25 As used in this subchapter, unless the context otherwise requires:

26 (1) "Claimant agencies" means:

- 27 (A) State-supported colleges, universities, and technical  
28 institutes;  
29 (B) The Department of Human Services;  
30 (C) The Arkansas Student Loan Authority;  
31 (D) The Student Loan Guarantee Foundation;  
32 (E) The Auditor of State;  
33 (F) The Department of Higher Education;  
34 (G) The Office of Child Support Enforcement of the Revenue  
35 Division of the Department of Finance and Administration; ~~and~~  
36



1 (H) Arkansas circuit, ~~juvenile, and chancery~~ courts; and

2 (I) The Employee Benefits Division of the Department of  
3 Finance and Administration.

4 (2)(A) "Debt" means any liquidated sum due and owing any  
5 claimant agency, which has accrued through contract, subrogation, tort,  
6 operation of law, or any other legal theory, regardless of whether there is  
7 an outstanding judgment for that sum.

8 (B) "Debt" shall include accrued obligations due to an  
9 assignment of child support rights made to the state as a condition of  
10 eligibility for welfare assistance and those which have accrued from contract  
11 with the claimant agency by an individual who is not the recipient of welfare  
12 assistance.

13 (C) "Debt" shall also include the owing of money to a  
14 claimant agency as a result of a debtor's cashing both the original and the  
15 duplicate state warrants+.

16 (D) "Debt" shall also include the owing of money to a  
17 claimant agency for all costs as a result of debtor's use of state medical  
18 and pharmacy benefits for which he is not entitled;

19 (3) "Debtor" means any individual owing money to or having a  
20 delinquent account with any claimant agency, which obligation has not been  
21 adjudicated, satisfied by court order, set aside by court order, or  
22 discharged in bankruptcy;

23 (4) "Division" means the Revenue Division of the Department of  
24 Finance and Administration;

25 (5) "Refund" means the Arkansas income tax refund which the  
26 division determines to be due any individual taxpayer, less any amounts  
27 determined by the division to be due to the division for payment of any state  
28 tax as defined in the Arkansas Tax Procedure Act, as amended, § 26-18-101 et  
29 seq.; and

30 (6) "Setoff" means the withholding of part or all of income tax  
31 refunds due individuals who owe debts to the State of Arkansas.

32

33 SECTION 2. Arkansas Code § 21-5-415 is amended to read as follows:

34 21-5-415. Nonpayment of premiums and failure to file reports by agency  
35 or school district.

36 (a) If any participating agency or school district does not remit

1 insurance premiums to the ~~State and Public School Employees Insurance Section~~  
 2 Employee Benefits Division of the Department of Finance and Administration by  
 3 twenty (20) calendar days after the pay period ending date, the ~~State and~~  
 4 ~~Public School Employees Insurance Section~~ Employee Benefits Division shall  
 5 have the right to impose interest of ten percent (10%) per annum on the  
 6 moneys due.

7 (1) Interest will be computed on the actual days of delinquency,  
 8 with a minimum charge being billed when appropriate.

9 (2) Interest payable will be determined using the date the  
 10 delinquent funds are received, and an invoice for the interest shall be sent  
 11 to the agency or school district.

12 (b)(1) Payment shall be payable to the group insurance trust funds and  
 13 must be received by the ~~State and Public School Employees Insurance Section~~  
 14 Employee Benefits Division no later than the last calendar day of the month  
 15 following billing.

16 (2) If payment is not received by the ~~State and Public School~~  
 17 ~~Employees Insurance Section~~ Employee Benefits Division by the last calendar  
 18 day of the month following billing, the following collection methods may be  
 19 used:

20 (A) The Chief Fiscal Officer of the State may cause the  
 21 interest payable to be transferred to the ~~State and Public School Employees~~  
 22 ~~Insurance Section~~ Employee Benefits Division from funds the agency has on  
 23 deposit with the Treasurer of State or any funds the school district is due  
 24 from the state. If a transfer must be made, a transfer penalty of twenty  
 25 dollars (\$20.00) per transfer may be assessed each agency or school district  
 26 fund and included in the transfer;

27 (B) The agency director or school district superintendent  
 28 may be required to appear before the State and Public School Life and Health  
 29 Insurance Board to report the reasons for nonpayment. In addition, the Chief  
 30 Fiscal Officer of the State may use his powers outlined in § 19-4-301 et seq.  
 31 to aid in collection.

32 (c) Nonpayment of premiums could also result in a lapse of health and  
 33 life insurance coverage for employees of the school district, agency, or the  
 34 agency assuming responsibility for paying health and life claims for its  
 35 employees.

36 (d)(1) In the event any participating agency or school district fails

1 to file the necessary reports with the ~~State and Public School Employees~~  
 2 ~~Insurance Section~~ Employee Benefits Division by twenty (20) calendar days  
 3 after the due date, the ~~State and Public School Employees Insurance Section~~  
 4 Employee Benefits Division shall have the right to impose a penalty of fifty  
 5 dollars (\$50.00) per ~~report overdue~~ insured.

6 (2) An additional penalty of fifty dollars (\$50.00) per insured  
 7 will be assessed for each subsequent reporting period the overdue report  
 8 remains in arrears.

9 (e)(1) An invoice for this penalty will be sent to the agency or  
 10 school district, and payment shall be payable to the group insurance trust  
 11 funds and must be received by the ~~State and Public School Employees Insurance~~  
 12 ~~Section~~ Employee Benefits Division no later than the last calendar day of the  
 13 month following billing.

14 (2) If payment is not received by the ~~State and Public School~~  
 15 ~~Employees Insurance Section~~ Employee Benefits Division by the last calendar  
 16 day of the month following billing, the following collection methods may be  
 17 used:

18 (A) The Chief Fiscal Officer of the State may cause the  
 19 interest payable to be transferred to the State and Public School Employees  
 20 Insurance Section from funds the agency has on deposit with the Treasurer of  
 21 State or from any funds the school district is due from the state. If a  
 22 transfer must be made, a transfer penalty of twenty dollars (\$20.00) per  
 23 transfer may be assessed each agency fund and included in the transfer;

24 (B) The agency director or school district superintendent  
 25 may be required to appear before the State and Public School Life and Health  
 26 Insurance Board to report the reasons for nonpayment;

27 (C) In addition, the Chief Fiscal Officer of the State may  
 28 use his powers as outlined in § 19-4-301 et seq. to aid in collection.

29 (f) If any participating agency or school district fails to notify the  
 30 Employee Benefits Division of an insured's leave without pay, family medical  
 31 leave, or military leave status or provides incorrect benefit information,  
 32 processes unauthorized benefit changes, including system entries that result  
 33 in unreimbursed expenses to the State Employees Benefits Trust Fund of the  
 34 State and Public School Employees Insurance Fund, the Employee Benefits  
 35 Division shall have the right to require the agency to pay the total amount  
 36 of the insured's premium and shall have the right to impose a penalty of

1 fifty dollars (\$50.00) per insured. The Chief Fiscal Officer of the State  
2 may cause the amount sought to be transferred from funds the agency has on  
3 deposit with the Treasurer of the State or any funds the school district is  
4 due from the state. If a transfer is made, a transfer penalty of twenty  
5 (\$20.00) per transfer may be assessed each agency or school district fund and  
6 included in the transfer.

7 (g) Employee Benefits Division may correct any error regarding an  
8 insured benefit according to existing documentation without authorization.

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10 SECTION 3. Arkansas Code § 21-5-416 is amended as follows:

11 21-5-416. Annual performance audits.

12 The Legislative Joint Auditing Committee shall annually conduct a  
13 performance audit of the entity administering claims and of the ~~State~~  
14 ~~Employees Insurance Section~~ Employee Benefits Division of the Department of  
15 Finance and Administration.

16  
17 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
18 General Assembly of the State of Arkansas that unreimbursed expenses are  
19 being withdrawn from the State Employees Benefits Trust Fund of the State and  
20 Public School Employees Insurance Fund; that this act is needed to prevent  
21 confusion and uncertainty concerning these funds; and that this act is  
22 immediately necessary to recover costs to the State Employees Benefits Trust  
23 Fund of the State and Public School Employees Insurance Fund as required by  
24 law. Therefore, an emergency is declared to exist and this act being  
25 necessary for the preservation of the public peace, health, and safety shall  
26 become effective on July 1, 2003.