| 1 | INTERIM STUDY PROPOSAL 2011-1/2 | |
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| 2 | State of Arkansas As Engrossed: H3/24/11 | |
| 3 | 88th General Assembly A B1II | |
| 4 | Regular Session, 2011 HOUSE BILL 1881 | 1 |
| 5 | | |
| 6 | By: Representative Leding | |
| 7 | Filed with: Interim House Committee on Public Health, Welfare a | nd Laboi |
| 8 | pursuant to A.C.A. §1 | 0-3-217. |
| 9 | For An Act To Be Entitled | |
| 10 | AN ACT TO PROVIDE FOR PAYMENT OF WAGES AFTER | |
| 11 | TERMINATION OF EMPLOYMENT WITHIN 7 DAYS OR THE NEXT | |
| 12 | REGULAR PAYDAY; TO PROHIBIT UNAUTHORIZED DEDUCTIONS | |
| 13 | FROM EMPLOYEES' PAY; AND FOR OTHER PURPOSES. | |
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| 16 | Subtitle | |
| 17 | AN ACT TO PROVIDE FOR PAYMENT OF WAGES | |
| 18 | AFTER TERMINATION OF EMPLOYMENT AND TO | |
| 19 | PROHIBIT UNAUTHORIZED DEDUCTIONS FROM | |
| 20 | PAY. | |
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| 23 | BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS: | |
| 24 | | |
| 25 | SECTION 1. Arkansas Code § 11-4-405 is amended to read as follows | s: |
| 26 | 11-4-405. Payment on discharge after termination of employment. | |
| 27 | (a)(1) Whenever any railroad company or corporation or any receiv | ver |
| 28 | operating any railroad engaged in the business of operating or construc | ting |
| 29 | any railroad or railroad bridge shall discharge, with or without cause, | -or |
| 30 | refuse to further employ any servant or employee thereof, the unpaid was | ges of |
| 31 | the servant or employee then earned at the contract rate, without abates | ment |
| 32 | or deduction, shall be and become due and payable on the day of the dis- | charge |
| 33 | or refusal to longer employ. | |
| 34 | (2) Any servant or employee may request of his foreman or | the |
| 35 | keeper of his or her time to have the money due him or her, or a valid | check |
| 36 | therefor, sent to any station where a regular agent is kept. If the mone | e y or |

- 1 a valid check therefor does not reach the station within seven (7) days from 2 the date it is so requested, then, as a penalty for the nonpayment, the wages of the servant or employee shall continue from the date of the discharge or 3 4 refusal to further employ at the same rate until paid. However, the wages 5 shall not continue more than sixty (60) days unless an action therefor shall 6 be commenced within that time. An employer shall pay in full all wages owed 7 an employee who is discharged from employment not later than the seventh day after the date the employee is discharged, or the next regularly scheduled TO 8 9 payday for the pay period worked.
- 10 (b) This section shall apply to all companies and corporations doing business in this state and to all servants and employees thereof. Any 12 servants or employees who shall hereafter be discharged or refused further employment may request or demand the payment of any wages due and, if not paid within seven (7) days from discharge or refusal to longer employ, then 15 the penalties provided in subdivision (a)(2) of this section for railway employees shall attach. An employer shall pay in full all wages owed an 17 employee who leaves employment other than by discharge no later than the next regularly scheduled payday for the pay period worked after the employee 18 19 leaves employment.

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- (c) Any servant or employee whose employment is for a definite period of time and who is discharged without cause before the expiration of that time may, in addition to the penalties prescribed by this section, have an action against any employer for any damages he or she may have sustained by reason of the wrongful discharge, and the action may be joined with an action for unpaid wages and penalty. Wages paid on commission and bonuses are due under subsection (a) or (b) of this section, unless a different time period is provided by:
- (1) A written agreement between the employee and employer; or (2) A collective bargaining agreement or a state law or written policy of the State of Arkansas and any political subdivision of the state.
- (d) No servant or employee who secretes or absents himself to avoid payment to him or her, or refuses to receive payment when fully tendered, shall be entitled to any benefit under this section for the time as he or she so avoids payment. Accrued vacation payable upon termination of employment by agreement of the parties is due under subsection (a) or (b) of this section, unless a different time period is provided by:

| 1 | (1) A written agreement between the employee and employer; or |
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| 2 | (2) A collective bargaining agreement or a state law or written |
| 3 | policy of the State of Arkansas and any political subdivision of the state. |
| 4 | (e) An employer may pay wages after termination of employment by: |
| 5 | (1) Delivering the wages to the employee at a place and in a |
| 6 | manner agreed upon by the employer and employee; |
| 7 | (2) Mailing the wages to the employee by certified mail, |
| 8 | restricted delivery, to the employee's last known address; |
| 9 | (3) Delivering the wages by any means or manner authorized by |
| 10 | the employee in writing; or |
| 11 | (4) Delivering the wages by direct deposit to the employee's |
| 12 | account in the same manner that previous wage payments had been made to the |
| 13 | <pre>employee.</pre> |
| 14 | (f) An employer who fails to pay wages under this section is liable |
| 15 | for a civil penalty to the employee, or the Department of Labor for the |
| 16 | benefit of the employee, in an amount equal to the final wages, or one |
| 17 | hundred dollars (\$100), whichever is greater. |
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| 19 | SECTION 2. Arkansas Code Title 11, Chapter 4, Subchapter 4 is amended |
| 20 | to add an additional section to read as follows: |
| 21 | 11-4-406. Deduction from wages. |
| 22 | An employer shall not withhold or divert any part of an employee's |
| 23 | wages unless the employer: |
| 24 | (1) Is ordered to do so by a court of competent jurisdiction; |
| 25 | (2) Is authorized to do so by state or federal law; or |
| 26 | (3) Has written authorization from the employee to deduct part |
| 27 | of the wages for a lawful purpose and a deduction under this subdivision is |
| 28 | not otherwise prohibited by state or federal law. |
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| 30 | /s/Leding |
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| 3 | Referral | requested | by: | Representative | Greg | Leding |
| 4 | Prepared | by: MGF/CI | OS | | | |
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