

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Senators Cassady and Walker

# A Bill

SENATE BILL 191

## For An Act To Be Entitled

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

### Subtitle

"AMEND VARIOUS PROVISIONS OF ARKANSAS CODE TITLE II, CHAPTER 10, CITED AS THE ARKANSAS EMPLOYMENT SECURITY LAW."

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

SECTION 1. Arkansas Code Annotated 11-10-215(a) is amended to read as follows:

"(a) As used in this chapter, unless the context clearly requires otherwise, wages means all remuneration paid for personal services including, but not limited to, commissions and bonuses and cash value of all remuneration paid, in any medium other than cash, the value of which shall be estimated and determined in accordance with regulations prescribed by the director, tips received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to 26 U.S.C. § 6053(a), provided that the term wages shall not include:

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

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

(ii) For the calendar year beginning on and after

1 January 1, 1993, that part of remuneration that exceeds eight thousand five  
2 hundred dollars (\$8,500); and

3 (iii) For any calendar year beginning on and after  
4 January 1, 1994, that part of remuneration that exceeds nine thousand dollars  
5 (\$9,000).

6 (B) For the purposes of this subsection:

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

10 (ii) The term employment includes services

11 constituting employment under any unemployment insurance law of another  
12 state;

13 (2) The amount of any payment with respect to services  
14 made to, or on behalf of, an individual in its employ under a plan or system  
15 established by an employing unit which makes provision for its employees or  
16 for its employees and their dependents, including any amount paid by an  
17 employing unit for insurance or annuities, or into a fund, to provide for any  
18 payment, on account of:

18 (A) Retirement;

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

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

24 (C) Medical and hospitalization expenses in connection  
25 with sickness or accident disability; or

26 (D) Death, provided the individual in its employ does not  
27 have the:

28 (i) Option to receive, instead of provision for the  
29 death benefit, any part of the payment, or if the death benefit is insured,  
30 any part of the premiums or contributions to premiums paid by his employing  
31 unit; and

32 (ii) Right, under the provisions of the plan or  
33 system or policy of insurance providing for the death benefit, to assign the  
34 benefit, or to receive cash consideration in lieu of the benefit either upon  
35 his withdrawal from the plan or system providing for the benefit or upon

1 termination of the plan or system or policy of insurance or of his services  
2 with the employing unit;

3           (3) The payment by an employing unit, without deduction from the  
4 remuneration of the individual in its employ, of the tax imposed by the  
5 Federal Insurance Contributions Act upon an individual in its employ with  
6 respect to services performed;

7           (4) Payments made by an employer under a cafeteria plan, within  
8 the meaning of 26 U.S.C. § 125, if such payment would not be treated as wages  
9 without regard to such plan and it is reasonable to believe that, if 26  
10 U.S.C. § 125 applied for purposes of this section, 26 U.S.C. § 125 would not  
11 treat any wages as constructively received; or

12           (5) Fees paid to corporate directors."  
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14           SECTION 2. Arkansas Code Annotated 11-10-306(b) is amended to read as  
15 follows:

16           "(b)(1) He shall have power and authority to adopt, amend, or rescind  
17 such rules and regulations, employ such persons, make such expenditures,  
18 require such reports, make such investigations, and take such other action as  
19 he deems necessary or suitable to that end.

20           (2) Beginning on and after January 1, 1995, he shall have power  
21 and authority to equitably resolve issues involving employers or claimants if  
22 the issues are found to be the result of, or due to, agency error."  
23

24           SECTION 3. Arkansas Code Annotated 11-10-314(e) is amended to read as  
25 follows:

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

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

16           (2) The director shall promulgate regulations establishing such  
17 safeguards as are necessary to ensure that information disclosed, as  
18 authorized in this section to state and local child support enforcement  
19 agency officers and employees, is used only for purposes of establishing and  
20 collecting child support obligations from, and locating individuals owing the  
21 obligations, and to ensure that information disclosed, as authorized in this  
22 section, to officers and employees of the U.S. Department of Agriculture and  
23 to officers and employees of any state food stamp agency is used only for  
24 purposes of determining an individual's eligibility for benefits, or the  
25 amount of benefits under the food stamp program established under the Food  
26 Stamp Act of 1977.

27           (3) Information requested by the Department of Human Services  
28 and the Department of Finance and Administration under this subsection shall  
29 be released to the appropriate divisions of the respective departments on a  
30 basis in accordance with a plan to be developed between the appropriate  
31 division of each department and the Arkansas Employment Security Department.

32  
33           (4) In addition to the above, wage information contained in the  
34 records of the Arkansas Employment Security Department shall be made  
35 available to the extent necessary for purposes of determining an individual's

1 eligibility for aid or services or the amount of the aid or services that an  
2 individual may be entitled to under a state plan for aid and services to  
3 needy families with children approved under Part A of Title IV of the Social  
4 Security Act to a state or political subdivision thereof charged with the  
5 responsibility of making the determinations when the information is  
6 specifically requested on an individual by name and social security number by  
7 the state or political subdivision for those purposes. The governmental  
8 agency or entity requesting any information under this subsection shall  
9 reimburse the Arkansas Employment Security Department for any and all costs  
10 incurred by the agency in making the requested information available.

11           (5) Officers or employees of the United States Department of  
12 Housing and Urban Development and representatives of a public housing agency  
13 shall be entitled to certain wage and unemployment compensation information  
14 with respect to individuals applying for or participating in any housing  
15 assistance program administered by the Department of Housing and Urban  
16 Development as provided for in Section 303 of the Social Security Act at 42  
17 U.S.C. 503, but only as and to the extent mandated by Section 904(c) of  
18 Public Law 100-628, the McKinney Homeless Act, and implementing regulations.  
19 The provisions of this subdivision shall cease to be effective on and after  
20 October 1, 1994, unless otherwise extended by federal law."

21

22           SECTION 4. Arkansas Code Annotated 11-10-314 is amended by adding the  
23 following two new paragraphs (m) and (n) at the end thereof:

24           "(m) Beginning on and after January 1, 1995, the Insurance Department  
25 *may be provided with a record containing the name and address of any lessor*  
26 *employing unit as defined at A.C.A 11-10-717(e). The Insurance Department*  
27 *shall be strictly prohibited from making any disclosure or redisclosure of*  
28 *any record containing confidential information provided by the Employment*  
29 *Security Department under this subsection.*

30           (n) Beginning on and after January 1, 1995, the Workers\_ Compensation  
31 Commission, Health and Safety Division may be furnished for production of the  
32 Extra Hazardous Employer Identification Formula the following data to the  
33 extent such data is maintained in the department\_s computer database:  
34 Employer Name, Federal Employer Identification Number, Employer Address and  
35 Plant Locations in Arkansas, Employer Telephone Number, Employer Standard

1 Industrial Classification Code, Maximum Number of Employees by Calendar Year.  
2 *The Workers' Compensation Commission shall use the data provided to it under*  
3 *this subsection only for production of the Extra Hazardous Employer*  
4 *Identification Formula and shall take the steps necessary to protect the*  
5 *confidentiality of the data. Additionally, the Workers' Compensation*  
6 *Commission shall reimburse the Employment Security Department for any and all*  
7 *costs incurred by the department in making the information available."*

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9 SECTION 5. Arkansas Code Annotated 11-10-507(3) is amended by adding  
10 the following additional paragraph (H):

11 "(H) The individual participates in reemployment services, such as job  
12 search assistance services, if the individual has been determined to be  
13 likely to exhaust regular benefits and to need reemployment services pursuant  
14 to a profiling system established by the director, as provided for in Section  
15 4 of Public Law 103-152, unless the director determines that:

- 16 (i) the individual has completed such services; or  
17 (ii) there is justifiable cause for the claimant\_s failure to  
18 participate in such services."

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20 SECTION 6. Arkansas Code Annotated 11-10-523(c) is amended to read as  
21 follows:

22 "(c)(1) The other two (2) members of the Board of Review are to serve  
23 when requested to serve by the chairman of the board at his own discretion.  
24 If any interested party requests in writing a review by the full board, then  
25 the chairman shall direct board members to attend and review the matters as  
26 requested by the petitioner.

27 (2) The members of the Board of Review other than the chairman  
28 shall receive as their compensation the sum of forty-five dollars (\$45.00) a  
29 day and necessary expenses to be paid from the Employment Security  
30 Administration Fund, when actually engaged in performing duties of the board  
31 as above prescribed."

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33 SECTION 7. Arkansas Code Annotated 11-10-611(a) is amended to read as  
34 follows:

35 "(a) If an individual works in the same week for an employer other

1 than the shared work employer and his combined hours of work for both  
2 employers are greater than ninety percent (90%) of the normal hours of work  
3 with the shared work employer, he or she shall not be entitled to benefits  
4 under these shared work provisions or the unemployment compensation  
5 provisions."

6

7 SECTION 8. Arkansas Code Annotated 11-10-703(a)(4) is amended to read  
8 as follows:

9 "(4) Benefits paid to an individual who continues to remain in the  
10 employ of a base-period employer without a reduction in the number of hours  
11 worked or wages paid shall not be charged to the separate account of such  
12 employer provided such individual is not employed on an as needed or on call  
13 basis."

14

15 SECTION 9. Arkansas Code Annotated 11-10-708(c) is amended to read as  
16 follows:

17 "(c) On November 10 of each calendar year, the director shall transfer  
18 all assets of the Employment Security Advance Interest Trust Fund which  
19 exceed five million dollars (\$5,000,000) to the Unemployment Compensation  
20 Trust Fund provided the state has no interest-bearing advances obtained from  
21 the Federal Unemployment Trust Fund under Title XII of the Social Security  
22 Act outstanding. Notwithstanding any other provision of this section, all  
23 income from investment of the Employment Security Advance Interest Trust Fund  
24 earned during calendar years 1995 and 1996 shall be deposited and credited to  
25 the Employment Security Special Fund as set out in Section 11-10-716 of this  
26 law."

27 SECTION 10. Arkansas Code Annotated 11-10-803(a) is amended to read as  
28 follows:

29 "(a)(1) Money requisitioned from this state's account in the  
30 Unemployment Compensation Trust Fund shall be used exclusively for the  
31 payment of benefits and for refunds from the Unemployment Compensation Fund  
32 authorized by this chapter except that money credited to this state's account  
33 pursuant to § 903 of the Social Security Act, as amended, shall be used  
34 exclusively as herein provided. The director shall, from time to time,  
35 requisition from the Unemployment Compensation Trust Fund such amounts, not

1 exceeding the amounts standing to this state's account therein, as he deems  
2 necessary for the payment of benefits and refunds for a reasonable future  
3 period. Upon receipt thereof, the money shall be deposited in the benefit  
4 account.

5 (2) For payments beginning on and after January 1, 1997, nothing in  
6 subsection (a)(1) shall be construed to prohibit deducting an amount from  
7 unemployment compensation otherwise payable to an individual and using the  
8 amount so deducted to pay for the withholding of federal individual income  
9 tax if the individual elected to have such deduction made and such deduction  
10 was made in accordance with Public Law 103-465 and under a program approved  
11 by the Secretary of Labor."

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13 SECTION 11. All provisions of this act of a general and permanent  
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
15 Code Revision Commission shall incorporate the same in the Code.

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17 SECTION 12. If any provision of this act or the application thereof to  
18 any person or circumstance is held invalid, such invalidity shall not affect  
19 other provisions or applications of the act which can be given effect without  
20 the invalid provision or application, and to this end the provisions of this  
21 act are declared to be severable.

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23 SECTION 13. All laws and parts of laws in conflict with this act are  
24 hereby repealed.

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26 SECTION 14. EMERGENCY. It is hereby found and determined by the  
27 General Assembly that in order to correct certain inequities in the payment  
28 and in the denial of benefits to unemployed workers, to make needed technical  
29 corrections and to bring the Arkansas Employment Security Law into conformity  
30 with the Federal Unemployment Tax Act, as amended, so that Arkansas employers  
31 may continue to receive the tax credits accorded by the Federal Unemployment  
32 Tax Act and the Arkansas workers may receive unemployment benefits when they  
33 are unemployed. Therefore, an emergency is hereby declared to exist and  
34 this act being necessary for the immediate preservation of the public peace,  
35 health and safety shall be in full force and effect from and after July 1,



1 1995.

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*/s/Cassady*

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