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2011 Legislature

1 A bill to be entitled
2 An act relating to unemployment compensation; amending s.
3 213.053, F.S.; increasing the number of employer payroll
4 service providers who qualify for access to unemployment
5 tax information by filing a memorandum of understanding;
6 amending s. 443.031, F.S.; revising provisions relating to
7 statutory construction; amending s. 443.036, F.S.;
8 revising the definitions for "available for work,"
9 "misconduct," and "unemployment"; adding definitions for
10 "individual in continued reporting status" and "initial
11 skills review"; amending s. 443.091, F.S.; revising
12 requirements for making continued claims for benefits;
13 requiring that an individual claiming benefits report
14 certain information and participate in an initial skills
15 review; providing an exception; specifying criteria for
16 determining an applicant's availability for work; amending
17 s. 443.101, F.S.; clarifying "good cause" for voluntarily
18 leaving employment; disqualifying a person for benefits
19 due to the receipt of severance pay; revising provisions
20 relating to the effects of criminal acts on eligibility
21 for benefits; amending s. 443.111, F.S.; taking effect
22 August 1, 2011; reducing the amount and revising the
23 manner in which benefits are payable; eliminating payment
24 by mail; providing an exception; conforming provisions to
25 changes made by the act; amending s. 443.111, F.S.; taking
26 effect January 1, 2012; defining the term "Florida average
27 unemployment rate"; revising the number of available weeks
28 of unemployment benefits available; amending s. 443.041,

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29 F.S.; conforming a cross-reference; amending s. 443.141,
30 F.S.; providing an employer payment schedule for 2012,
31 2013, and 2014 contributions; requiring an employer to pay
32 a fee for paying contributions on a quarterly schedule;
33 providing penalties, interest, and fees on delinquent
34 contributions; amending s. 443.151, F.S.; requiring claims
35 to be submitted by electronic means; revising allowable
36 forms of evidence in benefit appeals; revising the
37 judicial venue for reviewing commission orders; amending
38 s. 443.171, F.S.; specifying that evidence of mailing an
39 agency document is based on the date stated on the
40 document; reviving, readopting, and amending s. 443.1117,
41 F.S., relating to temporary extended benefits; providing
42 for retroactive application; establishing temporary state
43 extended benefits for weeks of unemployment; revising
44 definitions; providing for state extended benefits for
45 certain weeks and for periods of high unemployment;
46 providing severability; providing applicability; creating
47 s. 443.17161, F.S.; requiring the Agency for Workforce
48 Innovation to contract with one or more consumer-reporting
49 agencies to provide creditors, employers, and other
50 entities with a permissible purpose with secured
51 electronic access to employer-provided information
52 relating to the quarterly wages reports; providing
53 conditions; requiring consent from the applicant for
54 credit, employment, or other permitted purpose;
55 prescribing information that must be included in the
56 written consent; providing for confidentiality; limiting

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57 use of the information released; providing for termination
 58 of contracts under certain circumstances; requiring the
 59 agency to establish minimum audit, security, net worth,
 60 and liability insurance standards and other requirements
 61 it considers necessary; providing that any revenues
 62 generated from a contract with a consumer reporting agency
 63 must be used to pay the entire cost of providing access to
 64 the information; providing that any additional revenues
 65 generated must be paid into the Administrative Trust Fund
 66 of the Agency for Workforce Innovation or used for program
 67 purposes; providing restrictions on the release of
 68 information under the act; defining the terms "consumer-
 69 reporting agency," "creditor," and "user"; providing
 70 appropriations for purposes of implementation; providing
 71 that the act fulfills an important state interest;
 72 providing effective dates.

73
 74 Be It Enacted by the Legislature of the State of Florida:

75
 76 Section 1. Subsection (4) of section 213.053, Florida
 77 Statutes, is amended to read:

78 213.053 Confidentiality and information sharing.—

79 (4) The department, while providing unemployment tax
 80 collection services under contract with the Agency for Workforce
 81 Innovation through an interagency agreement pursuant to s.
 82 443.1316, may release unemployment tax rate information to the
 83 agent of an employer who, ~~which agent~~ provides payroll services
 84 for more than 100 ~~500~~ employers, pursuant to the terms of a

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85 memorandum of understanding. The memorandum of understanding
 86 must state that the agent affirms, subject to the criminal
 87 penalties contained in ss. 443.171 and 443.1715, that the agent
 88 will retain the confidentiality of the information, that the
 89 agent has in effect a power of attorney from the employer which
 90 permits the agent to obtain unemployment tax rate information,
 91 and that the agent shall provide the department with a copy of
 92 the employer's power of attorney upon request.

93 Section 2. Section 443.031, Florida Statutes, is amended
 94 to read:

95 443.031 Rule of liberal construction.—This chapter shall
 96 be liberally construed to accomplish its purpose to promote
 97 employment security by increasing opportunities for reemployment
 98 and to provide, through the accumulation of reserves, for the
 99 payment of compensation to individuals with respect to their
 100 unemployment. The Legislature hereby declares its intention to
 101 provide for carrying out the purposes of this chapter in
 102 cooperation with the appropriate agencies of other states and of
 103 the Federal Government as part of a nationwide employment
 104 security program, and particularly to provide for meeting the
 105 requirements of Title III, the requirements of the Federal
 106 Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933,
 107 entitled "An Act to provide for the establishment of a national
 108 employment system and for cooperation with the states in the
 109 promotion of such system, and for other purposes," each as
 110 amended, in order to secure for this state and its citizens the
 111 grants and privileges available under such acts. All doubts in
 112 ~~favor of a claimant of unemployment benefits who is unemployed~~

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113 ~~through no fault of his or her own. Any doubt~~ as to the proper
 114 construction of any provision of this chapter shall be resolved
 115 in favor of conformity with such requirements ~~federal law,~~
 116 ~~including, but not limited to, the Federal Unemployment Tax Act,~~
 117 ~~the Social Security Act, the Wagner-Peyser Act, and the~~
 118 ~~Workforce Investment Act.~~

119 Section 3. Present subsections (26) through (45) of
 120 section 443.036, Florida Statutes, are renumbered as subsections
 121 (27) through (46), respectively, new subsection (26) is added to
 122 that section, and present subsections (6), (9), (29), and (43)
 123 of that section are amended, to read:

124 443.036 Definitions.—As used in this chapter, the term:

125 (6) "Available for work" means actively seeking and being
 126 ready and willing to accept suitable work ~~employment.~~

127 (9) "Benefit year" means, for an individual, the 1-year
 128 period beginning with the first day of the first week for which
 129 the individual first files a valid claim for benefits and,
 130 thereafter, the 1-year period beginning with the first day of
 131 the first week for which the individual next files a valid claim
 132 for benefits after the termination of his or her last preceding
 133 benefit year. Each claim for benefits made in accordance with s.
 134 443.151(2) is a valid claim ~~under this subsection~~ if the
 135 individual was paid wages for insured work in accordance with s.
 136 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at
 137 the time of filing the claim. However, the Agency for Workforce
 138 Innovation may adopt rules providing for the establishment of a
 139 uniform benefit year for all workers in one or more groups or
 140 classes of service or within a particular industry if the agency

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141 determines, after notice to the industry and to the workers in
 142 the industry and an opportunity to be heard in the matter, that
 143 those groups or classes of workers in a particular industry
 144 periodically experience unemployment resulting from layoffs or
 145 shutdowns for limited periods of time.

146 (26) "Initial skills review" means an online education or
 147 training program, such as that established under s. 1004.99,
 148 that is approved by the Agency for Workforce Innovation and
 149 designed to measure an individual's mastery level of workplace
 150 skills.

151 (31)(29) "Misconduct," irrespective of whether the
 152 misconduct occurs at the workplace or during working hours,
 153 includes, but is not limited to, the following, which may not be
 154 construed in pari materia with each other:

155 (a) Conduct demonstrating conscious ~~willful or wanton~~
 156 ~~disregard of an employer's interests and found to be a~~
 157 ~~deliberate violation or disregard of the~~ reasonable standards of
 158 behavior which the employer expects ~~has a right to expect~~ of his
 159 or her employee. ~~7 or~~

160 (b) Carelessness or negligence to a degree or recurrence
 161 that manifests culpability, ~~7 or~~ or wrongful intent, ~~or evil design~~
 162 or shows an intentional and substantial disregard of the
 163 employer's interests or of the employee's duties and obligations
 164 to his or her employer.

165 (c) Chronic absenteeism or tardiness in deliberate
 166 violation of a known policy of the employer or one or more
 167 unapproved absences following a written reprimand or warning
 168 relating to more than one unapproved absence.

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169 (d) A willful and deliberate violation of a standard or
 170 regulation of this state by an employee of an employer licensed
 171 or certified by this state, which violation would cause the
 172 employer to be sanctioned or have its license or certification
 173 suspended by this state.

174 (e) A violation of an employer's rule, unless the claimant
 175 can demonstrate that:

176 1. He or she did not know, and could not reasonably know,
 177 of the rule's requirements;

178 2. The rule is not lawful or not reasonably related to the
 179 job environment and performance; or

180 3. The rule is not fairly or consistently enforced.

181 (45)-(43) "Unemployment" or "unemployed" means:

182 (a) An individual is "totally unemployed" in any week
 183 during which he or she does not perform any services and for
 184 which earned income is not payable to him or her. An individual
 185 is "partially unemployed" in any week of less than full-time
 186 work if the earned income payable to him or her for that week is
 187 less than his or her weekly benefit amount. The Agency for
 188 Workforce Innovation may adopt rules prescribing distinctions in
 189 the procedures for unemployed individuals based on total
 190 unemployment, part-time unemployment, partial unemployment of
 191 individuals attached to their regular jobs, and other forms of
 192 short-time work.

193 (b) An individual's week of unemployment commences only
 194 after ~~his or her~~ registration with the Agency for Workforce
 195 Innovation as required in s. 443.091, ~~except as the agency may~~
 196 ~~otherwise prescribe by rule.~~

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197 Section 4. Effective August 1, 2011, paragraphs (b), (c),
 198 (d), and (f) of subsection (1) of section 443.091, Florida
 199 Statutes, are amended to read:

200 443.091 Benefit eligibility conditions.—

201 (1) An unemployed individual is eligible to receive
 202 benefits for any week only if the Agency for Workforce
 203 Innovation finds that:

204 (b) She or he has registered with the agency for work and
 205 subsequently reports to the one-stop career center as directed
 206 by the regional workforce board for reemployment services. This
 207 requirement does not apply to persons who are:

- 208 1. Non-Florida residents;
- 209 2. On a temporary layoff, ~~as defined in s. 443.036(42);~~
- 210 3. Union members who customarily obtain employment through
 211 a union hiring hall; or
- 212 4. Claiming benefits under an approved short-time
 213 compensation plan as provided in s. 443.1116.

214 (c) To make continued claims for benefits, she or he is
 215 reporting to the Agency for Workforce Innovation in accordance
 216 with this paragraph and agency its rules, and participating in
 217 an initial skills review as directed by the agency. Agency These
 218 rules may not conflict with s. 443.111(1)(b), which requires
 219 ~~including the requirement~~ that each claimant continue to report
 220 regardless of any pending appeal relating to her or his
 221 eligibility or disqualification for benefits.

- 222 1. For each week of unemployment claimed, each report
 223 must, at a minimum, include the name, address, and telephone
 224 number of each prospective employer contacted, or the date the

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225 claimant reported to a one-stop career center, pursuant to
 226 paragraph (d).

227 2. The administrator or operator of the initial skills
 228 review shall notify the agency when the individual completes the
 229 initial skills review and report the results of the review to
 230 the regional workforce board or the one-stop career center as
 231 directed by the workforce board. The workforce board shall use
 232 the initial skills review to develop a plan for referring
 233 individuals to training and employment opportunities. The
 234 failure of the individual to comply with this requirement will
 235 result in the individual being determined ineligible for
 236 benefits for the week in which the noncompliance occurred and
 237 for any subsequent week of unemployment until the requirement is
 238 satisfied. However, this requirement does not apply if the
 239 individual is able to affirmatively attest to being unable to
 240 complete such review due to illiteracy or a language impediment.

241 (d) She or he is able to work and is available for work.
 242 In order to assess eligibility for a claimed week of
 243 unemployment, the agency shall develop criteria to determine a
 244 claimant's ability to work and availability for work. A claimant
 245 must be actively seeking work in order to be considered
 246 available for work. This means engaging in systematic and
 247 sustained efforts to find work, including contacting at least
 248 five prospective employers for each week of unemployment
 249 claimed. The agency may require the claimant to provide proof of
 250 such efforts to the one-stop career center as part of
 251 reemployment services. The agency shall conduct random reviews
 252 of work search information provided by claimants. As an

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253 alternative to contacting at least five prospective employers
 254 for any week of unemployment claimed, a claimant may, for that
 255 same week, report in person to a one-stop career center to meet
 256 with a representative of the center and access reemployment
 257 services of the center. The center shall keep a record of the
 258 services or information provided to the claimant and shall
 259 provide the records to the agency upon request by the agency.

260 However:

261 1. Notwithstanding any other provision of this paragraph
 262 or paragraphs (b) and (e), an otherwise eligible individual may
 263 not be denied benefits for any week because she or he is in
 264 training with the approval of the agency, or by reason of s.
 265 443.101(2) relating to failure to apply for, or refusal to
 266 accept, suitable work. Training may be approved by the agency in
 267 accordance with criteria prescribed by rule. A claimant's
 268 eligibility during approved training is contingent upon
 269 satisfying eligibility conditions prescribed by rule.

270 2. Notwithstanding any other provision of this chapter, an
 271 otherwise eligible individual who is in training approved under
 272 s. 236(a)(1) of the Trade Act of 1974, as amended, may not be
 273 determined ineligible or disqualified for benefits due to ~~her or~~
 274 ~~his~~ enrollment in such training or because of leaving work that
 275 is not suitable employment to enter such training. As used in
 276 this subparagraph, the term "suitable employment" means work of
 277 a substantially equal or higher skill level than the worker's
 278 past adversely affected employment, as defined for purposes of
 279 the Trade Act of 1974, as amended, the wages for which are at
 280 least 80 percent of the worker's average weekly wage as

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281 determined for purposes of the Trade Act of 1974, as amended.

282 3. Notwithstanding any other provision of this section, an
 283 otherwise eligible individual may not be denied benefits for any
 284 week because she or he is before any state or federal court
 285 pursuant to a lawfully issued summons to appear for jury duty.

286 (f) She or he has been unemployed for a waiting period of
 287 1 week. A week may not be counted as a week of unemployment
 288 under this subsection unless:

289 1. ~~Unless~~ It occurs within the benefit year that includes
 290 the week for which she or he claims payment of benefits.

291 2. ~~If~~ Benefits have been paid for that week.

292 3. ~~Unless~~ The individual was eligible for benefits for
 293 that week as provided in this section and s. 443.101, except for
 294 the requirements of this subsection and ~~of~~ s. 443.101(5).

295 Section 5. Effective August 1, 2011, paragraph (a) of
 296 subsection (1) and subsections (2), (3), and (9) of section
 297 443.101, Florida Statutes, are amended, and subsection (12) is
 298 added to that section, to read:

299 443.101 Disqualification for benefits.—An individual shall
 300 be disqualified for benefits:

301 (1) (a) For the week in which he or she has voluntarily
 302 left work without good cause attributable to his or her
 303 employing unit or ~~in which the individual~~ has been discharged by
 304 the employing unit for misconduct connected with his or her
 305 work, based on a finding by the Agency for Workforce Innovation.
 306 As used in this paragraph, the term "work" means any work,
 307 whether full-time, part-time, or temporary.

308 1. Disqualification for voluntarily quitting continues for

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309 the full period of unemployment next ensuing after the
 310 individual has left his or her full-time, part-time, or
 311 temporary work voluntarily without good cause and until the
 312 individual has earned income equal to or greater than ~~in excess~~
 313 ~~of~~ 17 times his or her weekly benefit amount. As used in this
 314 subsection, the term "good cause" includes only that cause
 315 attributable to the employing unit which would compel a
 316 reasonable employee to cease working or attributable to ~~which~~
 317 ~~consists of~~ the individual's illness or disability requiring
 318 separation from his or her work. Any other disqualification may
 319 not be imposed. An individual is not disqualified under this
 320 subsection for voluntarily leaving temporary work to return
 321 immediately when called to work by the permanent employing unit
 322 that temporarily terminated his or her work within the previous
 323 6 calendar months, or. ~~An individual is not disqualified under~~
 324 ~~this subsection~~ for voluntarily leaving work to relocate as a
 325 result of his or her military-connected spouse's permanent
 326 change of station orders, activation orders, or unit deployment
 327 orders.

328 2. Disqualification for being discharged for misconduct
 329 connected with his or her work continues for the full period of
 330 unemployment next ensuing after having been discharged and until
 331 the individual is reemployed and has earned income of at least
 332 17 times his or her weekly benefit amount and for not more than
 333 52 weeks ~~that~~ immediately following ~~follow~~ that week, as
 334 determined by the agency in each case according to the
 335 circumstances ~~in each case~~ or the seriousness of the misconduct,
 336 under the agency's rules adopted for determinations of

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337 | disqualification for benefits for misconduct.

338 | 3. If an individual has provided notification to the
 339 | employing unit of his or her intent to voluntarily leave work
 340 | and the employing unit discharges the individual for reasons
 341 | other than misconduct before the date the voluntary quit was to
 342 | take effect, the individual, if otherwise entitled, shall
 343 | receive benefits from the date of the employer's discharge until
 344 | the effective date of his or her voluntary quit.

345 | 4. If an individual is notified by the employing unit of
 346 | the employer's intent to discharge the individual for reasons
 347 | other than misconduct and the individual quits without good
 348 | cause, ~~as defined in this section,~~ before the date the discharge
 349 | was to take effect, the claimant is ineligible for benefits
 350 | pursuant to s. 443.091(1)(d) for failing to be available for
 351 | work for the week or weeks of unemployment occurring before the
 352 | effective date of the discharge.

353 | (2) If the Agency for Workforce Innovation finds that the
 354 | individual has failed without good cause to apply for available
 355 | suitable work ~~when directed by the agency or the one-stop career~~
 356 | ~~center,~~ ~~to~~ accept suitable work when offered to him or her, or
 357 | ~~to~~ return to the individual's customary self-employment when
 358 | directed by the agency, the disqualification continues for the
 359 | full period of unemployment next ensuing after he or she failed
 360 | without good cause to apply for available suitable work, ~~to~~
 361 | accept suitable work, or ~~to~~ return to his or her customary self-
 362 | employment, ~~under this subsection,~~ and until the individual has
 363 | earned income of at least 17 times his or her weekly benefit
 364 | amount. The Agency for Workforce Innovation shall by rule adopt

CODING: Words **stricken** are deletions; words **underlined** are additions.

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365 criteria for determining the "suitability of work," as used in
 366 this section. ~~The Agency for Workforce Innovation~~ In developing
 367 these rules, the agency shall consider the duration of a
 368 claimant's unemployment in determining the suitability of work
 369 and the suitability of proposed rates of compensation for
 370 available work. Further, after an individual has received 25
 371 weeks of benefits in a single year, suitable work is a job that
 372 pays the minimum wage and is 120 percent or more of the weekly
 373 benefit amount the individual is drawing.

374 (a) In determining whether or not any work is suitable for
 375 an individual, the Agency ~~for Workforce Innovation~~ shall
 376 consider the degree of risk ~~involved to~~ the individual's ~~his or~~
 377 ~~her~~ health, safety, and morals; the individual's ~~his or her~~
 378 physical fitness, and prior training, ~~the individual's~~
 379 experience, and prior earnings, ~~his or her~~ length of
 380 unemployment, and prospects for securing local work in his or
 381 her customary occupation; and the distance of the available work
 382 from his or her residence.

383 (b) Notwithstanding any other provisions of this chapter,
 384 work is not deemed suitable and benefits may not be denied ~~under~~
 385 ~~this chapter~~ to any otherwise eligible individual for refusing
 386 to accept new work under any of the following conditions:

387 1. ~~If~~ The position offered is vacant due directly to a
 388 strike, lockout, or other labor dispute.

389 2. ~~If~~ The wages, hours, or other conditions of the work
 390 offered are substantially less favorable to the individual than
 391 those prevailing for similar work in the locality.

392 3. ~~If~~ As a condition of being employed, the individual is

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393 ~~would be~~ required to join a company union or to resign from or
 394 refrain from joining any bona fide labor organization.

395 (c) If the Agency ~~for Workforce Innovation~~ finds that an
 396 individual was rejected for offered employment as the direct
 397 result of a positive, confirmed drug test required as a
 398 condition of employment, the individual is disqualified for
 399 refusing to accept an offer of suitable work.

400 (3) For any week with respect to which he or she is
 401 receiving or has received remuneration in the form of:

402 (a) Wages in lieu of notice.

403 (b) Severance pay. The number of weeks that an
 404 individual's severance pay disqualifies the individual is equal
 405 to the amount of the severance pay divided by that individual's
 406 average weekly wage received from the employer that paid the
 407 severance pay, rounded down to the nearest whole number,
 408 beginning with the week the individual is separated from
 409 employment.

410 ~~(c)(b)1.~~ Compensation for temporary total disability or
 411 permanent total disability under the workers' compensation law
 412 of any state or under a similar law of the United States.

413
 414 ~~2. However,~~ If the remuneration referred to in this subsection
 415 ~~paragraphs (a) and (b)~~ is less than the benefits that would
 416 otherwise be due under this chapter, an individual who is
 417 otherwise eligible ~~he or she~~ is entitled to receive for that
 418 week, ~~if otherwise eligible,~~ benefits reduced by the amount of
 419 the remuneration.

420 (9) If the individual was terminated from his or her work

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421 ~~for violation of any criminal law punishable by imprisonment, or~~
422 ~~for any dishonest act, in connection with his or her work, as~~
423 follows:

424 (a) If the Agency for Workforce Innovation or the
425 Unemployment Appeals Commission finds that the individual was
426 terminated from ~~his or her~~ work for violation of any criminal
427 law, under any jurisdiction, which was punishable by
428 ~~imprisonment~~ in connection with his or her work, and the
429 individual was convicted ~~found guilty of the offense, made an~~
430 ~~admission of guilt in a court of law,~~ or entered a plea of
431 guilty or nolo contendere ~~no contest,~~ the individual is not
432 entitled to unemployment benefits for up to 52 weeks, pursuant
433 to ~~under~~ rules adopted by the agency ~~for Workforce Innovation,~~
434 and until he or she has earned income of at least 17 times his
435 or her weekly benefit amount. If, before an adjudication of
436 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~
437 ~~contest,~~ the employer proves by competent substantial evidence
438 to ~~shows~~ the agency ~~for Workforce Innovation~~ that the arrest was
439 due to a crime against the employer or the employer's business,
440 customers, or invitees ~~and, after considering all the evidence,~~
441 ~~the Agency for Workforce Innovation finds misconduct in~~
442 ~~connection with the individual's work,~~ the individual is not
443 entitled to unemployment benefits.

444 (b) If the Agency for Workforce Innovation or the
445 Unemployment Appeals Commission finds that the individual was
446 terminated from work for any dishonest act in connection with
447 his or her work, the individual is not entitled to unemployment
448 benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by

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449 the Agency ~~for Workforce Innovation~~, and until he or she has
 450 earned income of at least 17 times his or her weekly benefit
 451 amount. ~~In addition,~~ If the employer terminates an individual as
 452 a result of a dishonest act in connection with his or her work
 453 and the Agency ~~for Workforce Innovation~~ finds misconduct in
 454 connection with his or her work, the individual is not entitled
 455 to unemployment benefits.

456
 457 If ~~With respect to~~ an individual is disqualified for benefits,
 458 the account of the terminating employer, if the employer is in
 459 the base period, is noncharged at the time the disqualification
 460 is imposed.

461 (12) For any week in which the individual is unavailable
 462 for work due to incarceration or imprisonment.

463 Section 6. Effective August 1, 2011, subsection (1) of
 464 section 443.111, Florida Statutes, is amended to read:

465 443.111 Payment of benefits.—

466 (1) MANNER OF PAYMENT.—Benefits are payable from the fund
 467 in accordance with rules adopted by the Agency for Workforce
 468 Innovation, subject to the following requirements:

469 (a) Benefits are payable ~~by mail or~~ electronically, except
 470 that an individual being paid by paper warrant on July 1, 2011,
 471 may continue to be paid in that manner until the expiration of
 472 the claim. Notwithstanding s. 409.942(4), the agency may develop
 473 a system for the payment of benefits by electronic funds
 474 transfer, including, but not limited to, debit cards, electronic
 475 payment cards, or any other means of electronic payment that the
 476 agency deems to be commercially viable or cost-effective.

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477 Commodities or services related to the development of such a
 478 system shall be procured by competitive solicitation, unless
 479 they are purchased from a state term contract pursuant to s.
 480 287.056. The agency shall adopt rules necessary to administer
 481 this paragraph ~~the system~~.

482 (b) As required under s. 443.091(1), each claimant must
 483 ~~report in the manner prescribed by the agency for Workforce~~
 484 ~~Innovation to certify for benefits that are paid and must~~
 485 ~~continue to report~~ at least biweekly to receive unemployment
 486 benefits and to attest to the fact that she or he is able and
 487 available for work, has not refused suitable work, is seeking
 488 work and has contacted at least five prospective employers or
 489 reported in person to a one-stop career center for reemployment
 490 services for each week of unemployment claimed, and, if she or
 491 he has worked, to report earnings from that work. Each claimant
 492 must continue to report regardless of any appeal or pending
 493 appeal relating to her or his eligibility or disqualification
 494 for benefits.

495 Section 7. Effective January 1, 2012, subsection (5) of
 496 section 443.111, Florida Statutes, is amended to read:

497 443.111 Payment of benefits.—

498 (5) DURATION OF BENEFITS.—

499 (a) As used in this section, the term "Florida average
 500 unemployment rate" means the average of the 3 months for the
 501 most recent third calendar year quarter of the seasonally
 502 adjusted statewide unemployment rates as published by the Agency
 503 for Workforce Innovation.

504 (b)1. Each otherwise eligible individual is entitled

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505 during any benefit year to a total amount of benefits equal to
 506 25 percent of the total wages in his or her base period, not to
 507 exceed \$6,325 or the product arrived at by multiplying the
 508 weekly benefit amount with the number of weeks determined in
 509 paragraph (c), whichever is less \$7,150. However, the total
 510 amount of benefits, if not a multiple of \$1, is rounded downward
 511 to the nearest full dollar amount. These benefits are payable at
 512 a weekly rate no greater than the weekly benefit amount.

513 (c) For claims submitted during a calendar year, the
 514 duration of benefits is limited to:

515 1. Twelve weeks if this state's average unemployment rate
 516 is at or below 5 percent.

517 2. An additional week in addition to the 12 weeks for each
 518 0.5 percent increment in this state's average unemployment rate
 519 above 5 percent.

520 3. Up to a maximum of 23 weeks if this state's average
 521 unemployment rate equals or exceeds 10.5 percent.

522 (d)~~2~~. For the purposes of this subsection, wages are
 523 counted as "wages for insured work" for benefit purposes with
 524 respect to any benefit year only if the benefit year begins
 525 after the date the employing unit by whom the wages were paid
 526 has satisfied the conditions of this chapter for becoming an
 527 employer.

528 (e)~~(b)~~ If the remuneration of an individual is not based
 529 upon a fixed period or duration of time or if the individual's
 530 wages are paid at irregular intervals or in a manner that does
 531 not extend regularly over the period of employment, the wages
 532 for any week or for any calendar quarter for the purpose of

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533 computing an individual's right to employment benefits only are
 534 determined in the manner prescribed by rule. These rules, to the
 535 extent practicable, must secure results reasonably similar to
 536 those that would prevail if the individual were paid her or his
 537 wages at regular intervals.

538 Section 8. Effective January 1, 2012, paragraph (b) of
 539 subsection (2) of section 443.041, Florida Statutes, is amended
 540 to read:

541 443.041 Waiver of rights; fees; privileged
 542 communications.—

543 (2) FEES.—

544 (b) An attorney at law representing a claimant for
 545 benefits in any district court of appeal of this state or in the
 546 Supreme Court of Florida is entitled to counsel fees payable by
 547 the Agency for Workforce Innovation as set by the court if the
 548 petition for review or appeal is initiated by the claimant and
 549 results in a decision awarding more benefits than provided in
 550 the decision from which appeal was taken. The amount of the fee
 551 may not exceed 50 percent of the total amount of regular
 552 benefits permitted under s. 443.111(5) (b) ~~(a)~~ during the benefit
 553 year.

554 Section 9. Effective upon this act becoming a law, for tax
 555 rates effective on or after January 1, 2012, paragraphs (b) and
 556 (e) of subsection (3) of section 443.131, Florida Statutes, are
 557 amended to read:

558 443.131 Contributions.—

559 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 560 EXPERIENCE.—

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561 (b) *Benefit ratio.*—

562 1. As used in this paragraph, the term "annual payroll"
563 means the calendar quarter taxable payroll reported to the tax
564 collection service provider for the quarters used in computing
565 the benefit ratio. The term does not include a penalty resulting
566 from the untimely filing of required wage and tax reports. All
567 of the taxable payroll reported to the tax collection service
568 provider by the end of the quarter preceding the quarter for
569 which the contribution rate is to be computed must be used in
570 the computation.

571 2. As used in this paragraph, the term "benefits charged
572 to the employer's employment record" means the amount of
573 benefits paid to individuals multiplied by:

574 a. For benefits paid prior to July 1, 2007, 1.

575 b. For benefits paid during the period beginning on July
576 1, 2007, and ending March 31, 2011, 0.90.

577 c. For benefits paid after March 31, 2011, 1.

578 ~~3.2.~~ For each calendar year, the tax collection service
579 provider shall compute a benefit ratio for each employer whose
580 employment record was chargeable for benefits during the 12
581 consecutive quarters ending June 30 of the calendar year
582 preceding the calendar year for which the benefit ratio is
583 computed. An employer's benefit ratio is the quotient obtained
584 by dividing the total benefits charged to the employer's
585 employment record during the 3-year period ending June 30 of the
586 preceding calendar year by the total of the employer's annual
587 payroll for the 3-year period ending June 30 of the preceding
588 calendar year. The benefit ratio shall be computed to the fifth

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589 decimal place and rounded to the fourth decimal place.

590 4.3. The tax collection service provider shall compute a
591 benefit ratio for each employer who was not previously eligible
592 under subparagraph 3. 2, whose contribution rate is set at the
593 initial contribution rate in paragraph (2)(a), and whose
594 employment record was chargeable for benefits during at least 8
595 calendar quarters immediately preceding the calendar quarter for
596 which the benefit ratio is computed. The employer's benefit
597 ratio is the quotient obtained by dividing the total benefits
598 charged to the employer's employment record during the first 6
599 of the 8 completed calendar quarters immediately preceding the
600 calendar quarter for which the benefit ratio is computed by the
601 total of the employer's annual payroll during the first 7 of the
602 9 completed calendar quarters immediately preceding the calendar
603 quarter for which the benefit ratio is computed. The benefit
604 ratio shall be computed to the fifth decimal place and rounded
605 to the fourth decimal place and applies for the remainder of the
606 calendar year. The employer must subsequently be rated on an
607 annual basis using up to 12 calendar quarters of benefits
608 charged and up to 12 calendar quarters of annual payroll. That
609 employer's benefit ratio is the quotient obtained by dividing
610 the total benefits charged to the employer's employment record
611 by the total of the employer's annual payroll during the
612 quarters used in his or her first computation plus the
613 subsequent quarters reported through June 30 of the preceding
614 calendar year. Each subsequent calendar year, the rate shall be
615 computed under subparagraph 3. 2. The tax collection service
616 provider shall assign a variation from the standard rate of

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617 contributions in paragraph (c) on a quarterly basis to each
 618 eligible employer in the same manner as an assignment for a
 619 calendar year under paragraph (e).

620 (e) *Assignment of variations from the standard rate.*—

621 1. As used in this paragraph, the terms "total benefit
 622 payments," "benefits paid to an individual," and "benefits
 623 charged to the employment record of an employer" mean the amount
 624 of benefits paid to individuals multiplied by:

625 a. For benefits paid prior to July 1, 2007, 1.

626 b. For benefits paid during the period beginning on July
 627 1, 2007, and ending March 31, 2011, 0.90.

628 c. For benefits paid after March 31, 2011, 1.

629 2. For the calculation of contribution rates effective
 630 January 1, 2010, and thereafter:

631 ~~a.1.~~ The tax collection service provider shall assign a
 632 variation from the standard rate of contributions for each
 633 calendar year to each eligible employer. In determining the
 634 contribution rate, varying from the standard rate to be assigned
 635 each employer, adjustment factors computed under sub-sub-
 636 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ are added to the
 637 benefit ratio. This addition shall be accomplished in two steps
 638 by adding a variable adjustment factor and a final adjustment
 639 factor. The sum of these adjustment factors computed under sub-
 640 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ shall first
 641 be algebraically summed. The sum of these adjustment factors
 642 shall next be divided by a gross benefit ratio determined as
 643 follows: Total benefit payments for the 3-year period described
 644 in subparagraph (b)3. ~~(b)2.~~ are charged to employers eligible

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645 for a variation from the standard rate, minus excess payments
 646 for the same period, divided by taxable payroll entering into
 647 the computation of individual benefit ratios for the calendar
 648 year for which the contribution rate is being computed. The
 649 ratio of the sum of the adjustment factors computed under sub-
 650 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to the gross
 651 benefit ratio is multiplied by each individual benefit ratio
 652 that is less than the maximum contribution rate to obtain
 653 variable adjustment factors; except that if the sum of an
 654 employer's individual benefit ratio and variable adjustment
 655 factor exceeds the maximum contribution rate, the variable
 656 adjustment factor is reduced in order for the sum to equal the
 657 maximum contribution rate. The variable adjustment factor for
 658 each of these employers is multiplied by his or her taxable
 659 payroll entering into the computation of his or her benefit
 660 ratio. The sum of these products is divided by the taxable
 661 payroll of the employers who entered into the computation of
 662 their benefit ratios. The resulting ratio is subtracted from the
 663 sum of the adjustment factors computed under sub-sub-
 664 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to obtain the
 665 final adjustment factor. The variable adjustment factors and the
 666 final adjustment factor must be computed to five decimal places
 667 and rounded to the fourth decimal place. This final adjustment
 668 factor is added to the variable adjustment factor and benefit
 669 ratio of each employer to obtain each employer's contribution
 670 rate. An employer's contribution rate may not, however, be
 671 rounded to less than 0.1 percent.

672 (I)~~a.~~ An adjustment factor for noncharge benefits is

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673 | computed to the fifth decimal place and rounded to the fourth
 674 | decimal place by dividing the amount of noncharge benefits
 675 | during the 3-year period described in subparagraph (b) 3. ~~(b) 2.~~
 676 | by the taxable payroll of employers eligible for a variation
 677 | from the standard rate who have a benefit ratio for the current
 678 | year which is less than the maximum contribution rate. For
 679 | purposes of computing this adjustment factor, the taxable
 680 | payroll of these employers is the taxable payrolls for the 3
 681 | years ending June 30 of the current calendar year as reported to
 682 | the tax collection service provider by September 30 of the same
 683 | calendar year. As used in this sub-sub-subparagraph ~~sub-~~
 684 | ~~subparagraph~~, the term "noncharge benefits" means benefits paid
 685 | to an individual from the Unemployment Compensation Trust Fund,
 686 | but which were not charged to the employment record of any
 687 | employer.

688 | (II) ~~b.~~ An adjustment factor for excess payments is
 689 | computed to the fifth decimal place, and rounded to the fourth
 690 | decimal place by dividing the total excess payments during the
 691 | 3-year period described in subparagraph (b) 3. ~~(b) 2.~~ by the
 692 | taxable payroll of employers eligible for a variation from the
 693 | standard rate who have a benefit ratio for the current year
 694 | which is less than the maximum contribution rate. For purposes
 695 | of computing this adjustment factor, the taxable payroll of
 696 | these employers is the same figure used to compute the
 697 | adjustment factor for noncharge benefits under sub-sub-
 698 | subparagraph (I) ~~sub-subparagraph a.~~ As used in this sub-
 699 | subparagraph, the term "excess payments" means the amount of
 700 | benefits charged to the employment record of an employer during

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701 the 3-year period described in subparagraph (b)3. ~~(b)2.~~, less
 702 the product of the maximum contribution rate and the employer's
 703 taxable payroll for the 3 years ending June 30 of the current
 704 calendar year as reported to the tax collection service provider
 705 by September 30 of the same calendar year. As used in this sub-
 706 sub-subparagraph ~~sub-subparagraph~~, the term "total excess
 707 payments" means the sum of the individual employer excess
 708 payments for those employers that were eligible for assignment
 709 of a contribution rate different from the standard rate.

710 (III)e. With respect to computing a positive adjustment
 711 factor:

712 (A) ~~(I)~~ Beginning January 1, 2012, if the balance of the
 713 Unemployment Compensation Trust Fund on September 30 of the
 714 calendar year immediately preceding the calendar year for which
 715 the contribution rate is being computed is less than 4 percent
 716 of the taxable payrolls for the year ending June 30 as reported
 717 to the tax collection service provider by September 30 of that
 718 calendar year, a positive adjustment factor shall be computed.
 719 The positive adjustment factor is computed annually to the fifth
 720 decimal place and rounded to the fourth decimal place by
 721 dividing the sum of the total taxable payrolls for the year
 722 ending June 30 of the current calendar year as reported to the
 723 tax collection service provider by September 30 of that calendar
 724 year into a sum equal to one-third of the difference between the
 725 balance of the fund as of September 30 of that calendar year and
 726 the sum of 5 percent of the total taxable payrolls for that
 727 year. The positive adjustment factor remains in effect for
 728 subsequent years until the balance of the Unemployment

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729 Compensation Trust Fund as of September 30 of the year
 730 immediately preceding the effective date of the contribution
 731 rate equals or exceeds 5 percent of the taxable payrolls for the
 732 year ending June 30 of the current calendar year as reported to
 733 the tax collection service provider by September 30 of that
 734 calendar year.

735 (B) ~~(H)~~ Beginning January 1, 2015, and for each year
 736 thereafter, the positive adjustment shall be computed by
 737 dividing the sum of the total taxable payrolls for the year
 738 ending June 30 of the current calendar year as reported to the
 739 tax collection service provider by September 30 of that calendar
 740 year into a sum equal to one-fourth of the difference between
 741 the balance of the fund as of September 30 of that calendar year
 742 and the sum of 5 percent of the total taxable payrolls for that
 743 year. The positive adjustment factor remains in effect for
 744 subsequent years until the balance of the Unemployment
 745 Compensation Trust Fund as of September 30 of the year
 746 immediately preceding the effective date of the contribution
 747 rate equals or exceeds 4 percent of the taxable payrolls for the
 748 year ending June 30 of the current calendar year as reported to
 749 the tax collection service provider by September 30 of that
 750 calendar year.

751 (IV) ~~d.~~ If, beginning January 1, 2015, and each year
 752 thereafter, the balance of the Unemployment Compensation Trust
 753 Fund as of September 30 of the year immediately preceding the
 754 calendar year for which the contribution rate is being computed
 755 exceeds 5 percent of the taxable payrolls for the year ending
 756 June 30 of the current calendar year as reported to the tax

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757 collection service provider by September 30 of that calendar
 758 year, a negative adjustment factor must be computed. The
 759 negative adjustment factor shall be computed annually beginning
 760 on January 1, 2015, and each year thereafter, to the fifth
 761 decimal place and rounded to the fourth decimal place by
 762 dividing the sum of the total taxable payrolls for the year
 763 ending June 30 of the current calendar year as reported to the
 764 tax collection service provider by September 30 of the calendar
 765 year into a sum equal to one-fourth of the difference between
 766 the balance of the fund as of September 30 of the current
 767 calendar year and 5 percent of the total taxable payrolls of
 768 that year. The negative adjustment factor remains in effect for
 769 subsequent years until the balance of the Unemployment
 770 Compensation Trust Fund as of September 30 of the year
 771 immediately preceding the effective date of the contribution
 772 rate is less than 5 percent, but more than 4 percent of the
 773 taxable payrolls for the year ending June 30 of the current
 774 calendar year as reported to the tax collection service provider
 775 by September 30 of that calendar year. The negative adjustment
 776 authorized by this section is suspended in any calendar year in
 777 which repayment of the principal amount of an advance received
 778 from the federal Unemployment Compensation Trust Fund under 42
 779 U.S.C. s. 1321 is due to the Federal Government.

780 (V)~~e~~ The maximum contribution rate that may be assigned
 781 to an employer is 5.4 percent, except employers participating in
 782 an approved short-time compensation plan may be assigned a
 783 maximum contribution rate that is 1 percent greater than the
 784 maximum contribution rate for other employers in any calendar

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785 year in which short-time compensation benefits are charged to
786 the employer's employment record.

787 ~~(VI) f.~~ As used in this subsection, "taxable payroll" shall
788 be determined by excluding any part of the remuneration paid to
789 an individual by an employer for employment during a calendar
790 year in excess of the first \$7,000. Beginning January 1, 2012,
791 "taxable payroll" shall be determined by excluding any part of
792 the remuneration paid to an individual by an employer for
793 employment during a calendar year as described in s.
794 443.1217(2). For the purposes of the employer rate calculation
795 that will take effect in January 1, 2012, and in January 1,
796 2013, the tax collection service provider shall use the data
797 available for taxable payroll from 2009 based on excluding any
798 part of the remuneration paid to an individual by an employer
799 for employment during a calendar year in excess of the first
800 \$7,000, and from 2010 and 2011, the data available for taxable
801 payroll based on excluding any part of the remuneration paid to
802 an individual by an employer for employment during a calendar
803 year in excess of the first \$8,500.

804 ~~b.2.~~ If the transfer of an employer's employment record to
805 an employing unit under paragraph (f) which, before the
806 transfer, was an employer, the tax collection service provider
807 shall recompute a benefit ratio for the successor employer based
808 on the combined employment records and reassign an appropriate
809 contribution rate to the successor employer effective on the
810 first day of the calendar quarter immediately after the
811 effective date of the transfer.

812 Section 10. Present paragraph (f) of subsection (1) of

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813 section 443.141, Florida Statutes, is redesignated as paragraph
814 (g), and new paragraph (f) is added to that subsection to read:

815 443.141 Collection of contributions and reimbursements.-

816 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
817 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.-

818 (f) Payments for 2012, 2013, and 2014 Contributions.-For
819 an annual administrative fee not to exceed \$5, a contributing
820 employer may pay its quarterly contributions due for wages paid
821 in the first three quarters of 2012, 2013, and 2014 in equal
822 installments if those contributions are paid as follows:

823 1. For contributions due for wages paid in the first
824 quarter of each year, one-fourth of the contributions due must
825 be paid on or before April 30, one-fourth must be paid on or
826 before July 31, one-fourth must be paid on or before October 31,
827 and one-fourth must be paid on or before December 31.

828 2. In addition to the payments specified in subparagraph
829 1., for contributions due for wages paid in the second quarter
830 of each year, one-third of the contributions due must be paid on
831 or before July 31, one-third must be paid on or before October
832 31, and one-third must be paid on or before December 31.

833 3. In addition to the payments specified in subparagraphs
834 1. and 2., for contributions due for wages paid in the third
835 quarter of each year, one-half of the contributions due must be
836 paid on or before October 31, and one-half must be paid on or
837 before December 31.

838 4. The annual administrative fee assessed for electing to
839 pay under the installment method shall be collected at the time
840 the employer makes the first installment payment each year. The

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841 fee shall be segregated from the payment and deposited into the
 842 Operating Trust Fund of the Department of Revenue.

843 5. Interest does not accrue on any contribution that
 844 becomes due for wages paid in the first three quarters of each
 845 year if the employer pays the contribution in accordance with
 846 subparagraphs 1.-4. Interest and fees continue to accrue on
 847 prior delinquent contributions and commence accruing on all
 848 contributions due for wages paid in the first three quarters of
 849 each year which are not paid in accordance with subparagraphs
 850 1.-3. Penalties may be assessed in accordance with this chapter.
 851 The contributions due for wages paid in the fourth quarter of
 852 2012, 2013, and 2014 are not affected by this paragraph and are
 853 due and payable in accordance with this chapter.

854 Section 11. Effective August 1, 2011, paragraph (a) of
 855 subsection (2) and paragraphs (b) and (e) of subsection (4) of
 856 section 443.151, Florida Statutes, are amended to read:

857 443.151 Procedure concerning claims.—

858 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
 859 CLAIMANTS AND EMPLOYERS.—

860 (a) *In general.*—Initial and continued claims for benefits
 861 must be made by approved electronic means and in accordance with
 862 ~~the~~ rules adopted by the Agency for Workforce Innovation. The
 863 agency must notify claimants and employers regarding monetary
 864 and nonmonetary determinations of eligibility. Investigations of
 865 issues raised in connection with a claimant which may affect a
 866 claimant's eligibility for benefits or charges to an employer's
 867 employment record shall be conducted by the agency through
 868 written, telephonic, or electronic means as prescribed by rule.

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869 (4) APPEALS.—
 870 (b) *Filing and hearing.*—
 871 1. The claimant or any other party entitled to notice of a
 872 determination may appeal an adverse determination to an appeals
 873 referee within 20 days after the date of mailing of the notice
 874 to her or his last known address or, if the notice is not
 875 mailed, within 20 days after the date of delivering ~~delivery of~~
 876 the notice.
 877 2. Unless the appeal is untimely or withdrawn or review is
 878 initiated by the commission, the appeals referee, after mailing
 879 all parties and attorneys of record a notice of hearing at least
 880 10 days before the date of hearing, notwithstanding the 14-day
 881 notice requirement in s. 120.569(2)(b), may only affirm, modify,
 882 or reverse the determination. An appeal may not be withdrawn
 883 without the permission of the appeals referee.
 884 3. However, if ~~when~~ an appeal appears to have been filed
 885 after the permissible time limit, the Office of Appeals may
 886 issue an order to show cause to the appellant which requires,
 887 ~~requiring~~ the appellant to show why the appeal should not be
 888 dismissed as untimely. If ~~the appellant does not~~, within 15 days
 889 after the mailing date of the order to show cause, the appellant
 890 does not provide written evidence of timely filing or good cause
 891 for failure to appeal timely, the appeal shall be dismissed.
 892 4. If ~~When~~ an appeal involves a question of whether
 893 services were performed by a claimant in employment or for an
 894 employer, the referee must give special notice of the question
 895 and of the pendency of the appeal to the employing unit and to
 896 the Agency for Workforce Innovation, both of which become

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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897 parties to the proceeding.

898 5.a. Any part of the evidence may be received in written
 899 form, and all testimony of parties and witnesses shall be made
 900 under oath.

901 b. Irrelevant, immaterial, or unduly repetitious evidence
 902 shall be excluded, but all other evidence of a type commonly
 903 relied upon by reasonably prudent persons in the conduct of
 904 their affairs is admissible, whether or not such evidence would
 905 be admissible in a trial in state court.

906 c. Hearsay evidence may be used for the purpose of
 907 supplementing or explaining other evidence, or to support a
 908 finding if it would be admissible over objection in civil
 909 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may
 910 support a finding of fact if:

911 (I) The party against whom it is offered has a reasonable
 912 opportunity to review such evidence prior to the hearing; and

913 (II) The appeals referee or special deputy determines,
 914 after considering all relevant facts and circumstances, that the
 915 evidence is trustworthy and probative and that the interests of
 916 justice are best served by its admission into evidence.

917 ~~6.5.~~ The parties must be notified promptly of the
 918 referee's decision. The referee's decision is final unless
 919 further review is initiated under paragraph (c) within 20 days
 920 after the date of mailing notice of the decision to the party's
 921 last known address or, in lieu of mailing, within 20 days after
 922 the delivery of the notice.

923 (e) *Judicial review.*—Orders of the commission entered
 924 under paragraph (c) are subject to review only by notice of

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925 appeal in the district court of appeal in the appellate district
 926 in which a claimant resides or the job separation arose or in
 927 the appellate district where the order was issued ~~the issues~~
 928 ~~involved were decided by an appeals referee.~~ However, if the
 929 notice of appeal is filed solely with the commission, the appeal
 930 shall be filed in the district court of appeal in the appellate
 931 district in which the order was issued. Notwithstanding chapter
 932 120, the commission is a party respondent to every such
 933 proceeding. The Agency for Workforce Innovation may initiate
 934 judicial review of orders in the same manner and to the same
 935 extent as any other party.

936 Section 12. Section (10) is added to section 443.171,
 937 Florida Statutes, to read:

938 443.171 Agency for Workforce Innovation and commission;
 939 powers and duties; records and reports; proceedings; state-
 940 federal cooperation.-

941 (10) EVIDENCE OF MAILING.-A mailing date on any notice,
 942 determination, decision, order, or other document mailed by the
 943 Agency for Workforce Innovation or its tax collection service
 944 provider pursuant to this chapter creates a rebuttable
 945 presumption that such notice, determination, order, or other
 946 document was mailed on the date indicated.

947 Section 13. Notwithstanding the expiration date contained
 948 in section 1 of chapter 2010-90, Laws of Florida, operating
 949 retroactive to June 2, 2010, and expiring January 4, 2012,
 950 section 443.1117, Florida Statutes, is revived, readopted, and
 951 amended to read:

952 443.1117 Temporary extended benefits.-

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953 (1) APPLICABILITY OF EXTENDED BENEFITS STATUTE.—Except if
 954 the result is inconsistent with other provisions of this
 955 section, s. 443.1115(2), (3), (4), (6), and (7) apply to all
 956 claims covered by this section.

957 (2) DEFINITIONS.—As used in ~~For the purposes of~~ this
 958 section, the term:

959 (a) "Regular benefits" and "extended benefits" have the
 960 same meaning as in s. 443.1115.

961 (b) "Eligibility period" means the weeks in an
 962 individual's benefit year or emergency benefit period which
 963 begin in an extended benefit period and, if the benefit year or
 964 emergency benefit period ends within that extended benefit
 965 period, any subsequent weeks beginning in that period.

966 (c) "Emergency benefits" means Emergency Unemployment
 967 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.
 968 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, Pub. L. No. 111-
 969 118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L. No.
 970 111-205, and Pub. L. No. 111-312.

971 (d) "Extended benefit period" means a period that:

972 1. Begins with the third week after a week for which there
 973 is a state "on" indicator; and

974 2. Ends with any of the following weeks, whichever occurs
 975 later:

976 a. The third week after the first week for which there is
 977 a state "off" indicator; or

978 b. The 13th consecutive week of that period.

979

980 However, an extended benefit period may not begin by reason of a

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981 state "on" indicator before the 14th week after the end of a
 982 prior extended benefit period that was in effect for this state.

983 (e) "Emergency benefit period" means the period during
 984 which an individual receives emergency benefits ~~as defined in~~
 985 ~~paragraph (c)~~.

986 (f) "Exhaustee" means an individual who, for any week of
 987 unemployment in her or his eligibility period:

988 1. Has received, before that week, all of the regular
 989 benefits and emergency benefits, if any, available under this
 990 chapter or any other law, including dependents' allowances and
 991 benefits payable to federal civilian employees and ex-
 992 servicemembers under 5 U.S.C. ss. 8501-8525, in the current
 993 benefit year or emergency benefit period that includes that
 994 week. For the purposes of this subparagraph, an individual has
 995 received all of the regular benefits and emergency benefits, if
 996 any, available even if ~~although~~, as a result of a pending appeal
 997 for wages paid for insured work which were not considered in the
 998 original monetary determination in the benefit year, she or he
 999 may subsequently be determined to be entitled to added regular
 1000 benefits;

1001 2. Had a benefit year that ~~which~~ expired before that week,
 1002 and was paid no, or insufficient, wages for insured work on the
 1003 basis of which she or he could establish a new benefit year that
 1004 includes that week; and

1005 3.a. Has no right to unemployment benefits or allowances
 1006 under the Railroad Unemployment Insurance Act or other federal
 1007 laws as specified in regulations issued by the United States
 1008 Secretary of Labor; and

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1009 b. Has not received and is not seeking unemployment
 1010 benefits under the unemployment compensation law of Canada; but
 1011 if an individual is seeking those benefits and the appropriate
 1012 agency finally determines that she or he is not entitled to
 1013 benefits under that law, she or he is considered an exhaustee.

1014 (g) "State 'on' indicator" means, with respect to weeks of
 1015 unemployment ~~beginning on or after February 1, 2009,~~ and ending
 1016 on or before December 10, 2011 ~~May 8, 2010,~~ the occurrence of a
 1017 week in which the average total unemployment rate, seasonally
 1018 adjusted, as determined by the United States Secretary of Labor,
 1019 for the most recent 3 months for which data for all states are
 1020 published by the United States Department of Labor:

1021 1. Equals or exceeds 110 percent of the average of those
 1022 rates for the corresponding 3-month period ending in any or all
 1023 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

1024 2. Equals or exceeds 6.5 percent.

1025 (h) "High unemployment period" means, with respect to
 1026 weeks of unemployment ~~beginning on or after February 1, 2009,~~
 1027 ~~and~~ ending on or before December 10, 2011 ~~May 8, 2010,~~ any week
 1028 in which the average total unemployment rate, seasonally
 1029 adjusted, as determined by the United States Secretary of Labor,
 1030 for the most recent 3 months for which data for all states are
 1031 published by the United States Department of Labor:

1032 1. Equals or exceeds 110 percent of the average of those
 1033 rates for the corresponding 3-month period ending in any or all
 1034 ~~each~~ of the preceding 3 ~~2~~ calendar years; and

1035 2. Equals or exceeds 8 percent.

1036 (i) "State 'off' indicator" means the occurrence of a week

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1037 in which there is no state "on" indicator or which does not
 1038 constitute a high unemployment period.

1039 (3) TOTAL EXTENDED BENEFIT AMOUNT.—Except as provided in
 1040 subsection (4):

1041 (a) For any week for which there is an "on" indicator
 1042 pursuant to paragraph (2)(g), the total extended benefit amount
 1043 payable to an eligible individual for her or his applicable
 1044 benefit year is the lesser of:

1045 1. Fifty percent of the total regular benefits payable
 1046 under this chapter in the applicable benefit year; or

1047 2. Thirteen times the weekly benefit amount payable under
 1048 this chapter for a week of total unemployment in the applicable
 1049 benefit year.

1050 (b) For any high unemployment period, the total extended
 1051 benefit amount payable to an eligible individual for her or his
 1052 applicable benefit year is the lesser of:

1053 1. Eighty percent of the total regular benefits payable
 1054 under this chapter in the applicable benefit year; or

1055 2. Twenty times the weekly benefit amount payable under
 1056 this chapter for a week of total unemployment in the applicable
 1057 benefit year.

1058 (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any
 1059 other provision of this chapter, if the benefit year of an
 1060 individual ends within an extended benefit period, the number of
 1061 weeks of extended benefits the individual is entitled to receive
 1062 in that extended benefit period for weeks of unemployment
 1063 beginning after the end of the benefit year, except as provided
 1064 in this section, is reduced, but not to below zero, by the

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1065 number of weeks for which the individual received, within that
 1066 benefit year, trade readjustment allowances under the Trade Act
 1067 of 1974, as amended.

1068 Section 14. The provisions of s. 443.1117, Florida
 1069 Statutes, as revived, readopted, and amended by this act, apply
 1070 only to claims for weeks of unemployment in which an exhaustee
 1071 establishes entitlement to extended benefits pursuant to that
 1072 section which are established for the period between June 2,
 1073 2010, and January 4, 2012.

1074 Section 15. If any provision of this act or its
 1075 application to any person or circumstance is held invalid, the
 1076 invalidity does not affect other provisions or applications of
 1077 the act which can be given effect without the invalid provision
 1078 or application, and to this end the provisions of this act are
 1079 severable.

1080 Section 16. Section 443.17161, Florida Statutes, is
 1081 created to read:

1082 443.17161 Authorized electronic access to employer
 1083 information.-

1084 (1) Notwithstanding any other provision of this chapter,
 1085 the Agency for Workforce Innovation shall contract with one or
 1086 more consumer-reporting agencies to provide users with secured
 1087 electronic access to employer-provided information relating to
 1088 the quarterly wages report submitted in accordance with the
 1089 state's unemployment compensation law. The access is limited to
 1090 the wage reports for the appropriate amount of time for the
 1091 purpose the information is requested.

1092 (2) Users must obtain consent in writing or by electronic

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1093 signature from an applicant for credit, employment, or other
 1094 permitted purposes. Any written or electronic signature consent
 1095 from an applicant must be signed and must include the following:

1096 (a) Specific notice that information concerning the
 1097 applicant's wage and employment history will be released to a
 1098 consumer-reporting agency;

1099 (b) Notice that the release is made for the sole purpose
 1100 of reviewing the specific application for credit, employment, or
 1101 other permitted purpose made by the applicant;

1102 (c) Notice that the files of the Agency for Workforce
 1103 Innovation or its tax collection service provider containing
 1104 information concerning wage and employment history which is
 1105 submitted by the applicant or his or her employers may be
 1106 accessed; and

1107 (d) A listing of the parties authorized to receive the
 1108 released information.

1109 (3) Consumer-reporting agencies and users accessing
 1110 information under this section must safeguard the
 1111 confidentiality of the information. A consumer-reporting agency
 1112 or user may use the information only to support a single
 1113 transaction for the user to satisfy its standard underwriting or
 1114 eligibility requirements or for those requirements imposed upon
 1115 the user, and to satisfy the user's obligations under applicable
 1116 state or federal laws, rules, or regulations.

1117 (4) If a consumer-reporting agency or user violates this
 1118 section, the Agency for Workforce Innovation shall, upon 30 days
 1119 written notice to the consumer-reporting agency, terminate the
 1120 contract established between the Agency for Workforce Innovation

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1121 and the consumer-reporting agency or require the consumer-
 1122 reporting agency to terminate the contract established between
 1123 the consumer-reporting agency and the user under this section.

1124 (5) The Agency for Workforce Innovation shall establish
 1125 minimum audit, security, net-worth, and liability-insurance
 1126 standards, technical requirements, and any other terms and
 1127 conditions considered necessary in the discretion of the state
 1128 agency to safeguard the confidentiality of the information
 1129 released under this section and to otherwise serve the public
 1130 interest. The Agency for Workforce Innovation shall also
 1131 include, in coordination with any necessary state agencies,
 1132 necessary audit procedures to ensure that these rules are
 1133 followed.

1134 (6) In contracting with one or more consumer-reporting
 1135 agencies under this section, any revenues generated by the
 1136 contract must be used to pay the entire cost of providing access
 1137 to the information. Further, in accordance with federal
 1138 regulations, any additional revenues generated by the Agency for
 1139 Workforce Innovation or the state under this section must be
 1140 paid into the Administrative Trust Fund of the Agency for
 1141 Workforce Innovation for the administration of the unemployment
 1142 compensation system or be used as program income.

1143 (7) The Agency for Workforce Innovation may not provide
 1144 wage and employment history information to any consumer-
 1145 reporting agency before the consumer-reporting agency or
 1146 agencies under contract with the Agency for Workforce Innovation
 1147 pay all development and other startup costs incurred by the
 1148 state in connection with the design, installation, and

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1149 administration of technological systems and procedures for the
 1150 electronic-access program.

1151 (8) The release of any information under this section must
 1152 be for a purpose authorized by and in the manner permitted by
 1153 the United States Department of Labor and any subsequent rules
 1154 or regulations adopted by that department.

1155 (9) As used in this section, the term:

1156 (a) "Consumer-reporting agency" has the same meaning as
 1157 that set forth in the Federal Fair Credit Reporting Act, 15
 1158 U.S.C. s. 1681a.

1159 (b) "Creditor" has the same meaning as that set forth in
 1160 the Federal Fair Debt Collection Practices Act, 15 U.S.C. ss.
 1161 1692 et seq.

1162 (c) "User" means a creditor, employer, or other entity
 1163 with a permissible purpose that is allowed under the Federal
 1164 Fair Credit Reporting Act, 15 U.S.C. ss. 1681 et seq. to access
 1165 the data contained in the wage reports through a consumer-
 1166 reporting agency.

1167 Section 17. There is appropriated to the Department of
 1168 Revenue \$9,600 of nonrecurring funds from the Federal Grants
 1169 Trust Fund for Fiscal Year 2011-2012 to implement the provisions
 1170 of this act. There is appropriated to the Agency for Workforce
 1171 Innovation \$9,600 of nonrecurring funds from Employment Security
 1172 Trust Fund for Fiscal Year 2011-2012 to be used to contract with
 1173 the Department of Revenue for services as required to implement
 1174 this act. For the 2011-2012 fiscal year, the sum of \$242,300 in
 1175 nonrecurring funds is appropriated from the Operating Trust Fund
 1176 to the Administration of Unemployment Compensation Tax Special

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1177 Category in the Department of Revenue to be used to implement
1178 this act.

1179 Section 18. The Legislature finds that this act fulfills
1180 an important state interest.

1181 Section 19. Except as otherwise expressly provided in this
1182 act, this act shall take effect upon becoming a law.

1183