

1 A bill to be entitled
2 An act relating to unemployment compensation; amending s.
3 120.80, F.S.; providing an exemption for special deputies
4 from uniform rules of procedure; amending s. 443.071,
5 F.S.; providing penalties for false employer schemes;
6 providing the requirements for establishing prima facie
7 evidence; authorizing certain access to records relating
8 to investigations of unemployment fraud; amending s.
9 443.091, F.S.; clarifying benefit eligibility; amending s.
10 443.1216, F.S.; clarifying the persons that employee
11 leasing companies may lease to a client; clarifying the
12 exemption of certain service from the definition of
13 employment; amending s. 443.1217, F.S.; clarifying exempt
14 wages for the purpose of determining employer
15 contributions; amending s. 443.131, F.S.; revising the
16 definition of "total excess payments"; prohibiting the
17 transfer of unemployment experience by acquisition of a
18 business in certain cases; providing for calculation of
19 unemployment experience rating; providing penalties;
20 amending s. 443.151, F.S.; providing for dismissal of
21 untimely filed appeals; extending a deadline for
22 recoupment of benefits; amending s. 895.02, F.S.; revising
23 the definition of "racketeering activity"; reenacting ss.
24 16.56(1)(a) and 905.34(3), F.S., relating to the Office of
25 Statewide Prosecution and to the powers and duties of a
26 statewide grand jury, respectively, to incorporate the
27 amendment to s. 895.02, F.S., in a reference thereto;
28 providing an effective date.

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

Section 1. Paragraph (b) of subsection (10) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.--

(10) AGENCY FOR WORKFORCE INNOVATION.--

(b) Notwithstanding s. 120.54(5), the uniform rules of procedure do not apply to appeal proceedings conducted under chapter 443 by the Unemployment Appeals Commission, special deputies, or unemployment appeals referees.

Section 2. Subsection (4) of section 443.071, Florida Statutes, is renumbered as subsection (5) and amended, and new subsections (4), (6), (7), and (8) are added to said section, to read:

443.071 Penalties.--

(4) Any person who establishes a fictitious employing unit by submitting to the Agency for Workforce Innovation or its tax collection service provider fraudulent employing unit records or tax or wage reports by the introduction of fraudulent records into a computer system, the unauthorized use of computer facilities, the intentional or deliberate alteration or destruction of computerized information or files, or the stealing of financial instruments, data, and other assets, for the purpose of enabling herself or himself or any other person to receive benefits under this chapter to which such person is not entitled, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

57 ~~(5)~~(4) In any prosecution or action under this section,
 58 the entry into evidence of the signature of a person on a
 59 document, letter, or other writing constitutes prima facie
 60 evidence of the person's identity if the following conditions
 61 exist:

62 (a) The document includes the person's name, residence
 63 address, and social security number ~~person gives her or his~~
 64 ~~name, residence address, home telephone number, present or~~
 65 ~~former place of employment, gender, date of birth, social~~
 66 ~~security number, height, weight, and race.~~

67 (b) The signature of the person is witnessed by an agent
 68 or employee of the Agency for Workforce Innovation or its tax
 69 collection service provider at the time the document, letter, or
 70 other writing is filed.

71 (6) The entry into evidence of an application for
 72 unemployment benefits initiated by the use of the internet
 73 claims program or the interactive voice response system
 74 telephone claims program of the Agency for Workforce Innovation
 75 constitutes prima facie evidence of the establishment of a
 76 personal benefit account by or for an individual if the
 77 following information is provided: the applicant's name,
 78 residence address, date of birth, social security number, and
 79 present or former place of employment.

80 (7) The entry into evidence of a transaction history
 81 generated by a personal identification number (PIN) establishing
 82 that a certification or claim for one or more weeks of benefits
 83 was made against the benefit account of the individual, together
 84 with documentation that payment was paid by a state warrant made

85 to the order of the person or by direct deposit via electronic
 86 benefit transfer, constitutes prima facie evidence that the
 87 person claimed and received unemployment benefits from the
 88 state.

89 (8) All records relating to investigations of unemployment
 90 fraud in the custody of the Agency for Workforce Innovation are
 91 available for examination by the Department of Law Enforcement,
 92 the states attorneys, or the Office of the Statewide Prosecutor
 93 in the prosecution of offenses under s. 817.568 or in
 94 proceedings brought under this chapter.

95 Section 3. Paragraph (c) of subsection (1) of section
 96 443.091, Florida Statutes, is amended to read:

97 443.091 Benefit eligibility conditions.--

98 (1) An unemployed individual is eligible to receive
 99 benefits for any week only if the Agency for Workforce
 100 Innovation finds that:

101 (c)1. She or he is able to work and is available for work.
 102 In order to assess eligibility for a claimed week of
 103 unemployment, the Agency for Workforce Innovation shall develop
 104 criteria to determine a claimant's ability to work and
 105 availability for work.

106 2. Notwithstanding any other provision of this paragraph
 107 or paragraphs (b) and (d) ~~section~~, an otherwise eligible
 108 individual may not be denied benefits for any week because she
 109 or he is in training with the approval of the Agency for
 110 Workforce Innovation, and such an individual may not be denied
 111 benefits for any week in which she or he is in training with the
 112 approval of the Agency for Workforce Innovation by reason of

113 subparagraph 1. relating to availability for work, or s.
 114 443.101(2) relating to failure to apply for, or refusal to
 115 accept, suitable work. Training may be approved by the Agency
 116 for Workforce Innovation in accordance with criteria prescribed
 117 by rule. A claimant's eligibility during approved training is
 118 contingent upon satisfying eligibility conditions prescribed by
 119 rule.

120 3. Notwithstanding any other provision of this chapter, an
 121 individual who is in training approved under s. 236(a)(1) of the
 122 Trade Act of 1974, as amended, may not be determined to be
 123 ineligible or disqualified for benefits with respect to her or
 124 his enrollment in such training or because of leaving work that
 125 is not suitable employment to enter such training. As used in
 126 this subparagraph, the term "suitable employment" means, for a
 127 worker, work of a substantially equal or higher skill level than
 128 the worker's past adversely affected employment, as defined for
 129 purposes of the Trade Act of 1974, as amended, the wages for
 130 which are at least 80 percent of the worker's average weekly
 131 wage as determined for purposes of the Trade Act of 1974, as
 132 amended.

133 4. Notwithstanding any other provision of this section, an
 134 otherwise eligible individual may not be denied benefits for any
 135 week by reason of subparagraph 1. because she or he is before
 136 any court of the United States or any state under a lawfully
 137 issued summons to appear for jury duty.

138 Section 4. Subsections (1) and (13) of section 443.1216,
 139 Florida Statutes, are amended to read:

140 443.1216 Employment.--Employment, as defined in s.
 141 443.036, is subject to this chapter under the following
 142 conditions:

143 (1)(a) The employment subject to this chapter includes a
 144 service performed, including a service performed in interstate
 145 commerce, by:

146 1. An officer of a corporation.

147 2. An individual who, under the usual common-law rules
 148 applicable in determining the employer-employee relationship, is
 149 an employee. However, whenever a client, as defined in s.
 150 443.036(18), which would otherwise be designated as an employing
 151 unit has contracted with an employee leasing company to supply
 152 it with workers, those workers are considered employees of the
 153 employee leasing company. An employee leasing company may lease
 154 corporate officers of the client to the client and ~~to~~ other
 155 workers to the client, except as prohibited by regulations of
 156 the Internal Revenue Service. Employees of an employee leasing
 157 company must be reported under the employee leasing company's
 158 tax identification number and contribution rate for work
 159 performed for the employee leasing company.

160 3. An individual other than an individual who is an
 161 employee under subparagraph 1. or subparagraph 2., who performs
 162 services for remuneration for any person:

163 a. As an agent-driver or commission-driver engaged in
 164 distributing meat products, vegetable products, fruit products,
 165 bakery products, beverages other than milk, or laundry or
 166 drycleaning services for his or her principal.

167 b. As a traveling or city salesperson engaged on a full-
 168 time basis in the solicitation on behalf of, and the
 169 transmission to, his or her principal of orders from
 170 wholesalers, retailers, contractors, or operators of hotels,
 171 restaurants, or other similar establishments for merchandise for
 172 resale or supplies for use in their business operations. This
 173 sub-subparagraph does not apply to an agent-driver or a
 174 commission-driver and does not apply to sideline sales
 175 activities performed on behalf of a person other than the
 176 salesperson's principal.

177 4. The services described in subparagraph 3. are
 178 employment subject to this chapter only if:

179 a. The contract of service contemplates that substantially
 180 all of the services are to be performed personally by the
 181 individual;

182 b. The individual does not have a substantial investment
 183 in facilities used in connection with the services, other than
 184 facilities used for transportation; and

185 c. The services are not in the nature of a single
 186 transaction that is not part of a continuing relationship with
 187 the person for whom the services are performed.

188 (b) Notwithstanding any other provision of this section,
 189 service for which a tax is required to be paid under any federal
 190 law imposing a tax against which credit may be taken for
 191 contributions required to be paid into a state unemployment fund
 192 or which as a condition for full tax credit against the tax
 193 imposed by the Federal Unemployment Tax Act is required to be
 194 covered under this chapter.

195 (c) If the services performed during at least one-half of
196 a pay period by an employee for the person employing him or her
197 constitute employment, all of the services performed by the
198 employee during the period are deemed to be employment. If the
199 services performed during more than one-half of the pay period
200 by an employee for the person employing him or her do not
201 constitute employment, all of the services performed by the
202 employee during the period are not deemed to be employment. This
203 paragraph does not apply to services performed in a pay period
204 by an employee for the person employing him or her if any of
205 those services are exempted under paragraph (13)(g).

206 (d) If two or more related corporations concurrently
207 employ the same individual and compensate the individual through
208 a common paymaster, each related corporation is considered to
209 have paid wages to the individual only in the amounts actually
210 disbursed by that corporation to the individual and is not
211 considered to have paid the wages actually disbursed to the
212 individual by another of the related corporations.

213 1. As used in this paragraph, the term "common paymaster"
214 means a member of a group of related corporations that disburses
215 wages to concurrent employees on behalf of the related
216 corporations and that is responsible for keeping payroll records
217 for those concurrent employees. A common paymaster is not
218 required to disburse wages to all the employees of the related
219 corporations; however, this subparagraph does not apply to wages
220 of concurrent employees which are not disbursed through a common
221 paymaster. A common paymaster must pay concurrently employed
222 individuals under this subparagraph by one combined paycheck.

223 2. As used in this paragraph, the term "concurrent
 224 employment" means the existence of simultaneous employment
 225 relationships between an individual and related corporations.
 226 Those relationships require the performance of services by the
 227 employee for the benefit of the related corporations, including
 228 the common paymaster, in exchange for wages that, if deductible
 229 for the purposes of federal income tax, are deductible by the
 230 related corporations.

231 3. Corporations are considered related corporations for an
 232 entire calendar quarter if they satisfy any one of the following
 233 tests at any time during the calendar quarter:

234 a. The corporations are members of a "controlled group of
 235 corporations" as defined in s. 1563 of the Internal Revenue Code
 236 of 1986 or would be members if paragraph 1563(a)(4) and
 237 subsection 1563(b) did not apply.

238 b. In the case of a corporation that does not issue stock,
 239 at least 50 percent of the members of the board of directors or
 240 other governing body of one corporation are members of the board
 241 of directors or other governing body of the other corporation or
 242 the holders of at least 50 percent of the voting power to select
 243 those members are concurrently the holders of at least 50
 244 percent of the voting power to select those members of the other
 245 corporation.

246 c. At least 50 percent of the officers of one corporation
 247 are concurrently officers of the other corporation.

248 d. At least 30 percent of the employees of one corporation
 249 are concurrently employees of the other corporation.

250 4. The common paymaster must report to the tax collection
251 service provider, as part of the unemployment compensation
252 quarterly tax and wage report, the state unemployment
253 compensation account number and name of each related corporation
254 for which concurrent employees are being reported. Failure to
255 timely report this information shall result in the related
256 corporations being denied common paymaster status for that
257 calendar quarter.

258 5. The common paymaster also has the primary
259 responsibility for remitting contributions due under this
260 chapter for the wages it disburses as the common paymaster. The
261 common paymaster must compute these contributions as though it
262 were the sole employer of the concurrently employed individuals.
263 If a common paymaster fails to timely remit these contributions
264 or reports, in whole or in part, the common paymaster remains
265 liable for the full amount of the unpaid portion of these
266 contributions. In addition, each of the other related
267 corporations using the common paymaster is jointly and severally
268 liable for its appropriate share of these contributions. Each
269 related corporation's share equals the greater of:

270 a. The liability of the common paymaster under this
271 chapter, after taking into account any contributions made.

272 b. The liability under this chapter which, notwithstanding
273 this section, would have existed for the wages from the other
274 related corporations, reduced by an allocable portion of any
275 contributions previously paid by the common paymaster for those
276 wages.

277 (13) The following are ~~employment is~~ exempt from coverage
 278 under this chapter:

279 (a) Domestic service in a private home, local college
 280 club, or local chapter of a college fraternity or sorority,
 281 except as provided in subsection (6).

282 (b) Service performed on or in connection with a vessel or
 283 aircraft that is not an American vessel or American aircraft, if
 284 the employee is employed on and in connection with the vessel or
 285 aircraft while the vessel or aircraft is outside the United
 286 States.

287 (c) Service performed by an individual engaged in, or as
 288 an officer or member of the crew of a vessel engaged in, the
 289 catching, taking, harvesting, cultivating, or farming of any
 290 kind of fish, shellfish, crustacea, sponges, seaweeds, or other
 291 aquatic forms of animal and vegetable life, including service
 292 performed by an individual as an ordinary incident to engaging
 293 in those activities, except:

294 1. Service performed in connection with the catching or
 295 taking of salmon or halibut for commercial purposes.

296 2. Service performed on, or in connection with, a vessel
 297 of more than 10 net tons, determined in the manner provided for
 298 determining the registered tonnage of merchant vessels under the
 299 laws of the United States.

300 (d) Service performed by an individual in the employ of
 301 his or her son, daughter, or spouse, including step
 302 relationships, and service performed by a child, or stepchild,
 303 under the age of 21 in the employ of his or her father, mother,
 304 stepfather, or stepmother.

305 (e) Service performed in the employ of the Federal
 306 Government or of an instrumentality of the Federal Government
 307 which is:

- 308 1. Wholly or partially owned by the United States.
- 309 2. Exempt from the tax imposed by s. 3301 of the Internal
 310 Revenue Code under a federal law that specifically cites s.
 311 3301, or the corresponding section of prior law, in granting the
 312 exemption. However, to the extent that the United States
 313 Congress permits the state to require an instrumentality of the
 314 Federal Government to make payments into the Unemployment
 315 Compensation Trust Fund under this chapter, this chapter applies
 316 to that instrumentality, and to services performed for that
 317 instrumentality, in the same manner, to the same extent, and on
 318 the same terms as other employers, employing units, individuals,
 319 and services. If this state is not certified for any year by the
 320 Secretary of Labor under s. 3304 of the federal Internal Revenue
 321 Code, the tax collection service provider shall refund the
 322 payments required of each instrumentality of the Federal
 323 Government for that year from the fund in the same manner and
 324 within the same period as provided in s. 443.141(6) for
 325 contributions erroneously collected.

326 (f) Service performed in the employ of a public employer
 327 as defined in s. 443.036, except as provided in subsection (2),
 328 and service performed in the employ of an instrumentality of a
 329 public employer as described in s. 443.036(35)(b) or (c), to the
 330 extent that the instrumentality is immune under the United
 331 States Constitution from the tax imposed by s. 3301 of the
 332 Internal Revenue Code for that service.

333 (g) Service performed in the employ of a corporation,
334 community chest, fund, or foundation that is organized and
335 operated exclusively for religious, charitable, scientific,
336 testing for public safety, literary, or educational purposes or
337 for the prevention of cruelty to children or animals. This
338 exemption does not apply to an employer if part of the
339 employer's net earnings inures to the benefit of any private
340 shareholder or individual or if a substantial part of the
341 employer's activities involve carrying on propaganda, otherwise
342 attempting to influence legislation, or participating or
343 intervening in, including the publishing or distributing of
344 statements, a political campaign on behalf of a candidate for
345 public office, except as provided in subsection (3).

346 (h) Service for which unemployment compensation is payable
347 under an unemployment compensation system established by the
348 United States Congress, of which this chapter is not a part.

349 (i)1. Service performed during a calendar quarter in the
350 employ of an organization exempt from the federal income tax
351 under s. 501(a) of the Internal Revenue Code, other than an
352 organization described in s. 401(a), or under s. 521, if the
353 remuneration for the service is less than \$50.

354 2. Service performed in the employ of a school, college,
355 or university, if the service is performed by a student who is
356 enrolled and is regularly attending classes at the school,
357 college, or university.

358 (j) Service performed in the employ of a foreign
359 government, including service as a consular or other officer or
360 employee of a nondiplomatic representative.

361 (k) Service performed in the employ of an instrumentality
 362 wholly owned by a foreign government if:

363 1. The service is of a character similar to that performed
 364 in foreign countries by employees of the Federal Government or
 365 of an instrumentality of the Federal Government; and

366 2. The United States Secretary of State certifies to the
 367 United States Secretary of the Treasury that the foreign
 368 government for whose instrumentality the exemption is claimed
 369 grants an equivalent exemption for similar service performed in
 370 the foreign country by employees of the Federal Government and
 371 of instrumentalities of the Federal Government.

372 (l) Service performed as a student nurse in the employ of
 373 a hospital or a nurses' training school by an individual who is
 374 enrolled and is regularly attending classes in a nurses'
 375 training school chartered or approved under state law, service
 376 performed as an intern in the employ of a hospital by an
 377 individual who has completed a 4-year course in a medical school
 378 chartered or approved under state law, and service performed by
 379 a patient of a hospital for the hospital.

380 (m) Service performed by an individual for a person as an
 381 insurance agent or as an insurance solicitor, if all of the
 382 service performed by the individual for that person is performed
 383 for remuneration solely by way of commission, except for
 384 services performed in accordance with 26 U.S.C. s. 3306(c)(7)
 385 and (8). For purposes of this section, those benefits excluded
 386 from the wages subject to this chapter under s. 443.1217(2)(b)-
 387 (f), inclusive, are not considered remuneration.

388 (n) Service performed by an individual for a person as a
 389 real estate salesperson or agent, if all of the service
 390 performed by the individual for that person is performed for
 391 remuneration solely by way of commission.

392 (o) Service performed by an individual under the age of 18
 393 in the delivery or distribution of newspapers or shopping news,
 394 excluding delivery or distribution to any point for subsequent
 395 delivery or distribution.

396 (p) Service covered by an arrangement between the Agency
 397 for Workforce Innovation, or its tax collection service
 398 provider, and the agency charged with the administration of
 399 another state or federal unemployment compensation law under
 400 which all services performed by an individual for an employing
 401 unit during the period covered by the employing unit's duly
 402 approved election is deemed to be performed entirely within the
 403 other agency's state or under the federal law.

404 (q) Service performed by an individual enrolled at a
 405 nonprofit or public educational institution that normally
 406 maintains a regular faculty and curriculum and normally has a
 407 regularly organized body of students in attendance at the place
 408 where its educational activities are carried on, if the
 409 institution certifies to the employer that the individual is a
 410 student in a full-time program, taken for credit at the
 411 institution that combines academic instruction with work
 412 experience, and that the service is an integral part of the
 413 program. This paragraph does not apply to service performed in a
 414 program established for or on behalf of an employer or group of
 415 employers.

416 (r) Service performed by an individual for a person as a
417 barber, if all of the service performed by the individual for
418 that person is performed for remuneration solely by way of
419 commission.

420 (s) Casual labor not in the course of the employer's trade
421 or business.

422 (t) Service performed by a speech therapist, occupational
423 therapist, or physical therapist who is nonsalaried and working
424 under a written contract with a home health agency as defined in
425 s. 400.462.

426 (u) Service performed by a direct seller. As used in this
427 paragraph, the term "direct seller" means a person:

428 1.a. Who is engaged in the trade or business of selling or
429 soliciting the sale of consumer products to buyers on a buy-sell
430 basis, on a deposit-commission basis, or on a similar basis, for
431 resale in the home or in another place that is not a permanent
432 retail establishment; or

433 b. Who is engaged in the trade or business of selling or
434 soliciting the sale of consumer products in the home or in
435 another place that is not a permanent retail establishment;

436 2. Substantially all of whose remuneration for services
437 described in subparagraph 1., regardless of whether paid in
438 cash, is directly related to sales or other output, rather than
439 to the number of hours worked; and

440 3. Who performs the services under a written contract with
441 the person for whom the services are performed, if the contract
442 provides that the person will not be treated as an employee for
443 those services for federal tax purposes.

444 (v) Service performed by a nonresident alien for the
 445 period he or she is temporarily present in the United States as
 446 a nonimmigrant under subparagraph (F) or subparagraph (J) of s.
 447 101(a)(15) of the Immigration and Nationality Act, and which is
 448 performed to carry out the purpose specified in subparagraph (F)
 449 or subparagraph (J), as applicable.

450 (w) Service performed by an individual for remuneration
 451 for a private, for-profit delivery or messenger service, if the
 452 individual:

453 1. Is free to accept or reject jobs from the delivery or
 454 messenger service and the delivery or messenger service does not
 455 have control over when the individual works;

456 2. Is remunerated for each delivery, or the remuneration
 457 is based on factors that relate to the work performed, including
 458 receipt of a percentage of any rate schedule;

459 3. Pays all expenses, and the opportunity for profit or
 460 loss rests solely with the individual;

461 4. Is responsible for operating costs, including fuel,
 462 repairs, supplies, and motor vehicle insurance;

463 5. Determines the method of performing the service,
 464 including selection of routes and order of deliveries;

465 6. Is responsible for the completion of a specific job and
 466 is liable for any failure to complete that job;

467 7. Enters into a contract with the delivery or messenger
 468 service which specifies that the individual is an independent
 469 contractor and not an employee of the delivery or messenger
 470 service; and

471 8. Provides the vehicle used to perform the service.

472 (x) Service performed in agricultural labor by an
 473 individual who is an alien admitted to the United States to
 474 perform service in agricultural labor under ss. 101(a)(15)(H)
 475 and 214(c) of the Immigration and Nationality Act.

476 (y) Service performed by a person who is an inmate of a
 477 penal institution.

478 Section 5. Subsection (2) of section 443.1217, Florida
 479 Statutes, is amended to read:

480 443.1217 Wages.--

481 (2) For the purpose of determining an employer's
 482 contributions, the following wages are exempt from this chapter:

483 (a) That part of remuneration paid to an individual by an
 484 employer for employment during a calendar year in excess of the
 485 first \$7,000 of remuneration paid to the individual by the
 486 employer or his or her predecessor during that calendar year,
 487 unless that part of the remuneration is subject to a tax, under
 488 a federal law imposing the tax, against which credit may be
 489 taken for contributions required to be paid into a state
 490 unemployment fund. As used in this section only, the term
 491 "employment" includes services constituting employment under any
 492 employment security law of another state or of the Federal
 493 Government.

494 (b) Payment by an employing unit with respect to services
 495 performed for, or on behalf of, an individual employed by the
 496 employing unit under a plan or system established by the
 497 employing unit which provides for payment to its employees
 498 generally or to a class of its employees, including any amount

499 | paid by the employing unit for insurance or annuities or paid
 500 | into a fund on account of:

501 | 1. Sickness or accident disability. When payment is made
 502 | to an employee or any of his or her dependents, this
 503 | subparagraph exempts from the wages subject to this chapter only
 504 | those payments received under a workers' compensation law.

505 | 2. Medical and hospitalization expenses in connection with
 506 | sickness or accident disability.

507 | 3. Death, if the employee:

508 | a. Does not have the option to receive, in lieu of the
 509 | death benefit, part of the payment or, if the death benefit is
 510 | insured, part of the premiums or contributions to premiums paid
 511 | by his or her employing unit; and

512 | b. Does not have the right under the plan, system, or
 513 | policy providing the death benefit to assign the benefit or to
 514 | receive cash consideration in lieu of the benefit upon his or
 515 | her withdrawal from the plan or system; upon termination of the
 516 | plan, system, or policy; or upon termination of his or her
 517 | services with the employing unit.

518 | (c) Payment on account of sickness or accident disability,
 519 | or payment of medical or hospitalization expenses in connection
 520 | with sickness or accident disability, by an employing unit to,
 521 | or on behalf of, an individual performing services for the
 522 | employing unit more than 6 calendar months after the last
 523 | calendar month the individual performed services for the
 524 | employing unit.

525 | (d) Payment by an employing unit, without deduction from
 526 | the remuneration of an individual employed by the employing

527 unit, of the tax imposed upon the individual under s. 3101 of
528 the federal Internal Revenue Code for services performed.

529 (e) The value of:

530 1. Meals furnished to an employee or the employee's spouse
531 or dependents by the employer on the business premises of the
532 employer for the convenience of the employer; or

533 2. Lodging furnished to an employee or the employee's
534 spouse or dependents by the employer on the business premises of
535 the employer for the convenience of the employer when lodging is
536 included as a condition of employment.

537 (f) Payment made by an employing unit to, or on behalf of,
538 an individual performing services for the employing unit or a
539 beneficiary of the individual:

540 1. From or to a trust described in s. 401(a) of the
541 Internal Revenue Code of 1954 which is exempt from tax under s.
542 501(a) at the time of payment, unless payment is made to an
543 employee of the trust as remuneration for services rendered as
544 an employee of the trust and not as a beneficiary of the trust;

545 2. Under or to an annuity plan that, at the time of
546 payment, is a plan described in s. 403(a) of the Internal
547 Revenue Code of 1954;

548 3. Under a simplified employee pension if, at the time of
549 payment, it is reasonable to believe that the employee is
550 entitled to a deduction under s. 219(b)(2) of the Internal
551 Revenue Code of 1954 for the payment;

552 4. Under or to an annuity contract described in s. 403(b)
553 of the Internal Revenue Code of 1954, other than a payment for
554 the purchase of an annuity contract as part of a salary

555 reduction agreement, regardless of whether the agreement is
556 evidenced by a written instrument or otherwise;

557 5. Under or to an exempt governmental deferred
558 compensation plan described in s. 3121(v)(3) of the Internal
559 Revenue Code of 1954;

560 6. To supplement pension benefits under a plan or trust
561 described in subparagraphs 1.-5. to account for some portion or
562 all of the increase in the cost of living, as determined by the
563 United States Secretary of Labor, since retirement, but only if
564 the supplemental payments are under a plan that is treated as a
565 welfare plan under s. 3(2)(B)(ii) of the Employee Retirement
566 Income Security Act of 1974; or

567 7. Under a cafeteria plan, as defined in s. 125 of the
568 Internal Revenue Code of 1986, as amended, if the payment would
569 not be treated as wages without regard to such plan and it is
570 reasonable to believe that, if s. 125 of the Internal Revenue
571 Code of 1986, as amended, applied for purposes of this section,
572 s. 125 of the Internal Revenue Code of 1986, as amended, would
573 not treat any wages as constructively received.

574 (g) Payment made, or benefit provided, by an employing
575 unit to or for the benefit of an individual performing services
576 for the employing unit or a beneficiary of the individual if, at
577 the time of such payment or provision of the benefit, it is
578 reasonable to believe that the individual may exclude the
579 payment or benefit from income under s. 127 of the Internal
580 Revenue Code of 1986, as amended.

581 Section 6. Paragraphs (e) through (j) of subsection (3) of
582 section 443.131, Florida Statutes, are amended to read:

583 443.131 Contributions.--

584 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
585 EXPERIENCE.--

586 (e) Assignment of variations from the standard rate.--

587 1. The tax collection service provider shall assign a
588 variation from the standard rate of contributions for each
589 calendar year to each eligible employer. In determining the
590 contribution rate, varying from the standard rate to be assigned
591 each employer, adjustment factors computed under sub-
592 subparagraphs a.-c. shall be added to the benefit ratio. This
593 addition shall be accomplished in two steps by adding a variable
594 adjustment factor and a final adjustment factor. The sum of
595 these adjustment factors computed under sub-subparagraphs a.-c.
596 shall first be algebraically summed. The sum of these adjustment
597 factors shall next be divided by a gross benefit ratio
598 determined as follows: Total benefit payments for the 3-year
599 period described in subparagraph (b)2. shall be charged to
600 employers eligible for a variation from the standard rate, minus
601 excess payments for the same period, divided by taxable payroll
602 entering into the computation of individual benefit ratios for
603 the calendar year for which the contribution rate is being
604 computed. The ratio of the sum of the adjustment factors
605 computed under sub-subparagraphs a.-c. to the gross benefit
606 ratio shall be multiplied by each individual benefit ratio that
607 is less than the maximum contribution rate to obtain variable
608 adjustment factors; except that in any instance in which the sum
609 of an employer's individual benefit ratio and variable
610 adjustment factor exceeds the maximum contribution rate, the

611 variable adjustment factor shall be reduced in order that the
612 sum equals the maximum contribution rate. The variable
613 adjustment factor for each of these employers is multiplied by
614 his or her taxable payroll entering into the computation of his
615 or her benefit ratio. The sum of these products shall be divided
616 by the taxable payroll of the employers who entered into the
617 computation of their benefit ratios. The resulting ratio shall
618 be subtracted from the sum of the adjustment factors computed
619 under sub-subparagraphs a.-c. to obtain the final adjustment
620 factor. The variable adjustment factors and the final adjustment
621 factor shall be computed to five decimal places and rounded to
622 the fourth decimal place. This final adjustment factor shall be
623 added to the variable adjustment factor and benefit ratio of
624 each employer to obtain each employer's contribution rate. An
625 employer's contribution rate may not, however, be rounded to
626 less than 0.1 percent.

627 a. An adjustment factor for noncharge benefits shall be
628 computed to the fifth decimal place and rounded to the fourth
629 decimal place by dividing the amount of noncharge benefits
630 during the 3-year period described in subparagraph (b)2. by the
631 taxable payroll of employers eligible for a variation from the
632 standard rate who have a benefit ratio for the current year
633 which is less than the maximum contribution rate. For purposes
634 of computing this adjustment factor, the taxable payroll of
635 these employers is the taxable payrolls for the 3 years ending
636 June 30 of the current calendar year as reported to the tax
637 collection service provider by September 30 of the same calendar
638 year. As used in this sub-subparagraph, the term "noncharge

639 benefits" means benefits paid to an individual from the
 640 Unemployment Compensation Trust Fund, but which were not charged
 641 to the employment record of any employer.

642 b. An adjustment factor for excess payments shall be
 643 computed to the fifth decimal place, and rounded to the fourth
 644 decimal place by dividing the total excess payments during the
 645 3-year period described in subparagraph (b)2. by the taxable
 646 payroll of employers eligible for a variation from the standard
 647 rate who have a benefit ratio for the current year which is less
 648 than the maximum contribution rate. For purposes of computing
 649 this adjustment factor, the taxable payroll of these employers
 650 is the same figure used to compute the adjustment factor for
 651 noncharge benefits under sub-subparagraph a. As used in this
 652 sub-subparagraph, the term "excess payments" means the amount of
 653 benefits charged to the employment record of an employer during
 654 the 3-year period described in subparagraph (b)2., less the
 655 product of the maximum contribution rate and the employer's
 656 taxable payroll for the 3 years ending June 30 of the current
 657 calendar year as reported to the tax collection service provider
 658 by September 30 of the same calendar year. As used in this sub-
 659 subparagraph, the term "total excess payments" means the sum of
 660 the individual employer excess payments for those employers that
 661 were eligible to be considered for assignment of a contribution
 662 rate different from a variation from the standard rate.

663 c. If the balance of the Unemployment Compensation Trust
 664 Fund on June 30 of the calendar year immediately preceding the
 665 calendar year for which the contribution rate is being computed
 666 is less than 3.7 percent of the taxable payrolls for the year

667 ending June 30 as reported to the tax collection service
 668 provider by September 30 of that calendar year, a positive
 669 adjustment factor shall be computed. The positive adjustment
 670 factor shall be computed annually to the fifth decimal place and
 671 rounded to the fourth decimal place by dividing the sum of the
 672 total taxable payrolls for the year ending June 30 of the
 673 current calendar year as reported to the tax collection service
 674 provider by September 30 of that calendar year into a sum equal
 675 to one-fourth of the difference between the balance of the fund
 676 as of June 30 of that calendar year and the sum of 4.7 percent
 677 of the total taxable payrolls for that year. The positive
 678 adjustment factor remains in effect for subsequent years until
 679 the balance of the Unemployment Compensation Trust Fund as of
 680 June 30 of the year immediately preceding the effective date of
 681 the contribution rate equals or exceeds 3.7 percent of the
 682 taxable payrolls for the year ending June 30 of the current
 683 calendar year as reported to the tax collection service provider
 684 by September 30 of that calendar year. If the balance of the
 685 Unemployment Compensation Trust Fund as of June 30 of the year
 686 immediately preceding the calendar year for which the
 687 contribution rate is being computed exceeds 4.7 percent of the
 688 taxable payrolls for the year ending June 30 of the current
 689 calendar year as reported to the tax collection service provider
 690 by September 30 of that calendar year, a negative adjustment
 691 factor shall be computed. The negative adjustment factor shall
 692 be computed annually to the fifth decimal place and rounded to
 693 the fourth decimal place by dividing the sum of the total
 694 taxable payrolls for the year ending June 30 of the current

695 calendar year as reported to the tax collection service provider
 696 by September 30 of the calendar year into a sum equal to one-
 697 fourth of the difference between the balance of the fund as of
 698 June 30 of the current calendar year and 4.7 percent of the
 699 total taxable payrolls of that year. The negative adjustment
 700 factor remains in effect for subsequent years until the balance
 701 of the Unemployment Compensation Trust Fund as of June 30 of the
 702 year immediately preceding the effective date of the
 703 contribution rate is less than 4.7 percent, but more than 3.7
 704 percent of the taxable payrolls for the year ending June 30 of
 705 the current calendar year as reported to the tax collection
 706 service provider by September 30 of that calendar year.

707 d. The maximum contribution rate that may be assigned to
 708 an employer is 5.4 percent, except employers participating in an
 709 approved short-time compensation plan may be assigned a maximum
 710 contribution rate that is 1 percent greater than the maximum
 711 contribution rate for other employers in any calendar year in
 712 which short-time compensation benefits are charged to the
 713 employer's employment record.

714 2. If the transfer of an employer's employment record to
 715 an employing unit under paragraph (f) which, before the
 716 transfer, was an employer, the tax collection service provider
 717 shall recompute a benefit ratio for the successor employer based
 718 on the combined employment records and reassign an appropriate
 719 contribution rate to the successor employer effective on the
 720 first day of the calendar quarter immediately after the
 721 effective date of the transfer.

722 (f) Transfer of employment records.--

723 1. For the purposes of this subsection, two or more
 724 employers who are parties to a transfer of business or the
 725 subject of a merger, consolidation, or other form of
 726 reorganization, effecting a change in legal identity or form,
 727 are deemed a single employer and are considered to be one
 728 employer with a continuous employment record if the tax
 729 collection service provider finds that the successor employer
 730 continues to carry on the employing enterprises of all of the
 731 predecessor employers and that the successor employer has paid
 732 all contributions required of and due from all of the
 733 predecessor employers and has assumed liability for all
 734 contributions that may become due from all of the predecessor
 735 employers. In addition, an employer may not be considered a
 736 successor under this subparagraph if the employer purchases a
 737 company with a lower rate into which employees with job
 738 functions unrelated to the business endeavors of the predecessor
 739 are transferred for the purpose of acquiring the low rate and
 740 avoiding payment of contributions. As used in this paragraph,
 741 notwithstanding s. 443.036(14), the term "contributions" means
 742 all indebtedness to the tax collection service provider,
 743 including, but not limited to, interest, penalty, collection
 744 fee, and service fee. A successor employer must accept the
 745 transfer of all of the predecessor employers' employment records
 746 within 30 days after the date of the official notification of
 747 liability by succession. If a predecessor employer has unpaid
 748 contributions or outstanding quarterly reports, the successor
 749 employer must pay the total amount with certified funds within
 750 30 days after the date of the notice listing the total amount

751 due. After the total indebtedness is paid, the tax collection
752 service provider shall transfer the employment records of all of
753 the predecessor employers to the successor employer's employment
754 record. The tax collection service provider shall determine the
755 contribution rate of the combined successor and predecessor
756 employers upon the transfer of the employment records, as
757 prescribed by rule, in order to calculate any change in the
758 contribution rate resulting from the transfer of the employment
759 records.

760 2. Regardless of whether a predecessor employer's
761 employment record is transferred to a successor employer under
762 this paragraph, the tax collection service provider shall treat
763 the predecessor employer, if he or she subsequently employs
764 individuals, as an employer without a previous employment record
765 or, if his or her coverage is terminated under s. 443.121, as a
766 new employing unit.

767 3. The state agency providing unemployment tax collection
768 services may adopt rules governing the partial transfer of
769 experience rating when an employer transfers an identifiable and
770 segregable portion of his or her payrolls and business to a
771 successor employing unit. As a condition of each partial
772 transfer, these rules must require the following to be filed
773 with the tax collection service provider: an application by the
774 successor employing unit, an agreement by the predecessor
775 employer, and the evidence required by the tax collection
776 service provider to show the benefit experience and payrolls
777 attributable to the transferred portion through the date of the
778 transfer. These rules must provide that the successor employing

779 unit, if not an employer subject to this chapter, becomes an
 780 employer as of the date of the transfer and that the transferred
 781 portion of the predecessor employer's employment record is
 782 removed from the employment record of the predecessor employer.
 783 For each calendar year after the date of the transfer of the
 784 employment record in the records of the tax collection service
 785 provider, the service provider shall compute the contribution
 786 rate payable by the successor employer or employing unit based
 787 on his or her employment record, combined with the transferred
 788 portion of the predecessor employer's employment record. These
 789 rules may also prescribe what contribution rates are payable by
 790 the predecessor and successor employers for the period between
 791 the date of the transfer of the transferred portion of the
 792 predecessor employer's employment record in the records of the
 793 tax collection service provider and the first day of the next
 794 calendar year.

795 4. This paragraph does not apply to an employee leasing
 796 company and client contractual agreement as defined in s.
 797 443.036. The tax collection service provider shall, if the
 798 contractual agreement is terminated or the employee leasing
 799 company fails to submit reports or pay contributions as required
 800 by the service provider, treat the client as a new employer
 801 without previous employment record unless the client is
 802 otherwise eligible for a variation from the standard rate.

803 (g) Transfer of unemployment experience upon transfer or
 804 acquisition of a business.--Notwithstanding any other provision
 805 of law, the following shall apply regarding assignment of rates
 806 and transfers of experience:

807 1.a. If an employer transfers its trade or business, or a
808 portion thereof, to another employer and, at the time of the
809 transfer, there is any common ownership, management, or control
810 of the two employers, then the unemployment experience
811 attributable to the transferred trade or business shall be
812 transferred to the employer to whom such business is so
813 transferred. The rates of both employers shall be recalculated
814 and made effective as of the beginning of the calendar quarter
815 immediately following the date of the transfer of trade or
816 business unless the transfer occurred on the first day of a
817 calendar quarter in which case the rate shall be recalculated as
818 of that date.

819 b. If, following a transfer of experience under sub-
820 subparagraph a., the Agency for Workforce Innovation or the tax
821 collection service provider determines that a substantial
822 purpose of the transfer of trade or business was to obtain a
823 reduced liability for contributions, then the experience rating
824 account of the employers involved shall be combined into a
825 single account and a single rate assigned to such account.

826 2. Whenever a person who is not an employer under this
827 chapter at the time it acquires the trade or business of an
828 employer, the unemployment experience of the acquired business
829 shall not be transferred to such person if the Agency for
830 Workforce Innovation or the tax collection service provider
831 finds that such person acquired the business solely or primarily
832 for the purpose of obtaining a lower rate of contributions.
833 Instead, such person shall be assigned the new employer rate
834 under paragraph (2)(a). In determining whether the business was

835 acquired solely or primarily for the purpose of obtaining a
 836 lower rate of contributions, the tax collection service provider
 837 shall consider, but not be limited to, the following factors:

838 a. Whether the person continued the business enterprise of
 839 the acquired business;

840 b. How long such business enterprise was continued; or

841 c. Whether a substantial number of new employees were
 842 hired for performance of duties unrelated to the business
 843 activity conducted prior to acquisition.

844 3. If a person knowingly violates or attempts to violate
 845 subparagraphs 1. or 2. or any other provision of this chapter
 846 related to determining the assignment of a contribution rate, or
 847 if a person knowingly advises another person to violate the law,
 848 the person shall be subject to the following penalties:

849 a. If the person is an employer, then such employer shall
 850 be assigned the highest rate assignable under this chapter for
 851 the rate year during which such violation or attempted violation
 852 occurred and the 3 rate years immediately following this rate
 853 year. However, if the person's business is already at such
 854 highest rate for any year, or if the amount of increase in the
 855 person's rate would be less than 2 percent for such year, then a
 856 penalty rate of contributions of 2 percent of taxable wages
 857 shall be imposed for such year and the following 3 rate years.

858 b. If the person is not an employer, such person shall be
 859 subject to a civil money penalty of not more than \$5,000. The
 860 procedures for the assessment of a penalty shall be in
 861 accordance with the procedures set forth in s. 443.141(2), and
 862 the provisions of s. 443.141(3) shall apply to the collection of

863 the penalty. Any such penalty shall be deposited in the penalty
864 and interest account established under s. 443.211(2).

865 4. For purposes of subparagraph 3., the term:

866 a. "Knowingly" means having actual knowledge of or acting
867 with deliberate ignorance or reckless disregard for the
868 prohibition involved.

869 b. "Violates or attempts to violate" includes, but is not
870 limited to, intent to evade, misrepresentation, or willful
871 nondisclosure.

872 5. In addition to the penalty imposed by subparagraph 3.,
873 any person who violates this paragraph commits a felony of the
874 third degree, punishable as provided in s. 775.082, s. 775.083,
875 or s. 775.084.

876 6. The Agency for Workforce Innovation and the tax
877 collection service provider shall establish procedures to
878 identify the transfer or acquisition of a business for purposes
879 of this paragraph and shall adopt any rules necessary to
880 administer this paragraph.

881 7. For purposes of this paragraph:

882 a. "Person" has the meaning given such term by s.
883 7701(a)(1) of the Internal Revenue Code of 1986.

884 b. "Trade or business" shall include the employer's
885 workforce.

886 8. This paragraph shall be interpreted and applied in such
887 manner as to meet the minimum requirements contained in any
888 guidance or regulations issued by the United States Department
889 of Labor.

890 (h)~~(g)~~ Additional conditions for variation from the
 891 standard rate.--An employer's contribution rate may not be
 892 reduced below the standard rate under this section unless:

893 1. All contributions, reimbursements, interest, and
 894 penalties incurred by the employer for wages paid by him or her
 895 in all previous calendar quarters, except the 4 calendar
 896 quarters immediately preceding the calendar quarter or calendar
 897 year for which the benefit ratio is computed, are paid; and

898 2. The employer entitled to a rate reduction must have at
 899 least one annual payroll as defined in subparagraph (b)1. unless
 900 the employer is eligible for additional credit under the Federal
 901 Unemployment Tax Act. If the Federal Unemployment Tax Act is
 902 amended or repealed in a manner affecting credit under the
 903 federal act, this section applies only to the extent that
 904 additional credit is allowed against the payment of the tax
 905 imposed by the Federal Unemployment Tax Act.

906
 907 The tax collection service provider shall assign an earned
 908 contribution rate to an employer under subparagraph 1. the
 909 quarter immediately after the quarter in which all
 910 contributions, reimbursements, interest, and penalties are paid
 911 in full.

912 (i)~~(h)~~ Notice of determinations of contribution rates;
 913 redeterminations.--The state agency providing tax collection
 914 services:

915 1. Shall promptly notify each employer of his or her
 916 contribution rate as determined for any calendar year under this
 917 section. The determination is conclusive and binding on the

918 employer unless within 20 days after mailing the notice of
919 determination to the employer's last known address, or, in the
920 absence of mailing, within 20 days after delivery of the notice,
921 the employer files an application for review and redetermination
922 setting forth the grounds for review. An employer may not, in
923 any proceeding involving his or her contribution rate or
924 liability for contributions, contest the chargeability to his or
925 her employment record of any benefits paid in accordance with a
926 determination, redetermination, or decision under s. 443.151,
927 except on the ground that the benefits charged were not based on
928 services performed in employment for him or her and then only if
929 the employer was not a party to the determination,
930 redetermination, or decision, or to any other proceeding under
931 this chapter, in which the character of those services was
932 determined.

933 2. Shall, upon discovery of an error in computation,
934 reconsider any prior determination or redetermination of a
935 contribution rate after the 20-day period has expired and issue
936 a revised notice of contribution rate as redetermined. A
937 redetermination is subject to review, and is conclusive and
938 binding if review is not sought, in the same manner as review of
939 a determination under subparagraph 1. A reconsideration may not
940 be made after March 31 of the calendar year immediately after
941 the calendar year for which the contribution rate is applicable,
942 and interest may not accrue on any additional contributions
943 found to be due until 30 days after the employer is mailed
944 notice of his or her revised contribution rate.

945 3. May adopt rules providing for periodic notification to
 946 employers of benefits paid and charged to their employment
 947 records or of the status of those employment records. A
 948 notification, unless an application for redetermination is filed
 949 in the manner and within the time limits prescribed by the
 950 Agency for Workforce Innovation, is conclusive and binding on
 951 the employer under this chapter. The redetermination, and the
 952 Agency for Workforce Innovation's finding of fact in connection
 953 with the redetermination, may be introduced in any subsequent
 954 administrative or judicial proceeding involving the
 955 determination of the contribution rate of an employer for any
 956 calendar year. A redetermination becomes final in the same
 957 manner provided in this subsection for findings of fact made by
 958 the Agency for Workforce Innovation in proceedings to
 959 redetermine the contribution rate of an employer. Pending a
 960 redetermination or an administrative or judicial proceeding, the
 961 employer must file reports and pay contributions in accordance
 962 with this section.

963 (j)~~(i)~~ Employment records of employers entering the armed
 964 forces.--

965 1. If the tax collection service provider finds that an
 966 employer's business is closed solely because of the entrance of
 967 one or more of the owners, officers, partners, or the majority
 968 stockholder into the Armed Forces of the United States, or any
 969 of its allies, or of the United Nations, the employer's
 970 employment record may not be terminated. If the business is
 971 resumed within 2 years after the discharge or release from
 972 active duty in the armed forces of that person or persons, the

973 employer's benefit experience is deemed to have been continuous
 974 throughout that period. The benefit ratio of the employer for
 975 the calendar year in which he or she resumed business and the 3
 976 calendar years immediately after resuming business is a
 977 percentage equal to the total of his or her benefit charges,
 978 including charges of benefits paid to any individual during the
 979 period the employer was in the armed forces based on wages paid
 980 by him or her before the employer's entrance into the armed
 981 forces for the 3 most recently completed calendar years divided
 982 by that part of his or her total payroll, for which
 983 contributions were paid to the tax collection service provider,
 984 for the 3 most recent calendar years during the whole of which,
 985 respectively, the employer was in business.

986 2. A refund made under this paragraph shall be made in
 987 accordance with s. 443.141(6).

988 ~~(k)(j)~~ (k) Applicability to contributing employers.--This
 989 subsection applies only to contributing employers.

990 Section 7. Paragraph (b) of subsection (4) and paragraph
 991 (b) of subsection (6) of section 443.151, Florida Statutes, are
 992 amended to read:

993 443.151 Procedure concerning claims.--

994 (4) APPEALS.--

995 (b) Filing and hearing.--

996 1. The claimant or any other party entitled to notice of a
 997 determination may appeal an adverse determination to an appeals
 998 referee within 20 days after the date of mailing of the notice
 999 to her or his last known address or, if the notice is not
 1000 mailed, within 20 days after the date of delivery of the notice.

1001 2. Unless the appeal is untimely or withdrawn or review is
 1002 initiated by the commission, the appeals referee, after mailing
 1003 all parties and attorneys of record a notice of hearing at least
 1004 10 days before the date of hearing, notwithstanding the 14-day
 1005 notice requirement in s. 120.569(2)(b), may only affirm, modify,
 1006 or reverse the determination. An appeal may not be withdrawn
 1007 without the permission of the appeals referee.

1008 3. However, when an appeal appears to have been filed
 1009 after the permissible time limit, the Office of Appeals may
 1010 issue an order to show cause to the appellant, requiring the
 1011 appellant to show why the appeal should not be dismissed as
 1012 untimely. If the appellant does not, within 15 days after the
 1013 mailing date of the order to show cause, provide written
 1014 evidence of timely filing or good cause for failure to appeal
 1015 timely, the appeal shall be dismissed.

1016 ~~4.3-~~ When an appeal involves a question of whether
 1017 services were performed by a claimant in employment or for an
 1018 employer, the referee must give special notice of the question
 1019 and of the pendency of the appeal to the employing unit and to
 1020 the Agency for Workforce Innovation, both of which become
 1021 parties to the proceeding.

1022 ~~5.4-~~ The parties must be notified promptly of the
 1023 referee's decision. The referee's decision is final unless
 1024 further review is initiated under paragraph (c) within 20 days
 1025 after the date of mailing notice of the decision to the party's
 1026 last known address or, in lieu of mailing, within 20 days after
 1027 the delivery of the notice.

1028 (6) RECOVERY AND RECOUPMENT.--

1029 (b) Any person who, by reason other than her or his fraud,
 1030 receives benefits under this chapter to which, under a
 1031 redetermination or decision pursuant to this section, she or he
 1032 is found not entitled, is liable to repay those benefits to the
 1033 Agency for Workforce Innovation on behalf of the trust fund or,
 1034 in the agency's discretion, to have those benefits deducted from
 1035 any future benefits payable to her or him under this chapter.
 1036 Any recovery or recoupment of benefits must be effected within 3
 1037 ~~2~~ years after the redetermination or decision.

1038 Section 8. Paragraph (a) of subsection (1) of section
 1039 895.02, Florida Statutes, is amended to read:

1040 895.02 Definitions.--As used in ss. 895.01-895.08, the
 1041 term:

1042 (1) "Racketeering activity" means to commit, to attempt to
 1043 commit, to conspire to commit, or to solicit, coerce, or
 1044 intimidate another person to commit:

1045 (a) Any crime which is chargeable by indictment or
 1046 information under the following provisions of the Florida
 1047 Statutes:

1048 1. Section 210.18, relating to evasion of payment of
 1049 cigarette taxes.

1050 2. Section 403.727(3)(b), relating to environmental
 1051 control.

1052 3. Section 409.920 or s. 409.9201, relating to Medicaid
 1053 fraud.

1054 4. Section 414.39, relating to public assistance fraud.

1055 5. Section 440.105 or s. 440.106, relating to workers'
 1056 compensation.

1057 6. Section 443.071(4), relating to creation of a
 1058 fictitious employer scheme to commit unemployment compensation
 1059 fraud.

1060 ~~7.6.~~ Section 465.0161, relating to distribution of
 1061 medicinal drugs without a permit as an Internet pharmacy.

1062 ~~8.7.~~ Sections 499.0051, 499.0052, 499.00535, 499.00545,
 1063 and 499.0691, relating to crimes involving contraband and
 1064 adulterated drugs.

1065 ~~9.8.~~ Part IV of chapter 501, relating to telemarketing.

1066 ~~10.9.~~ Chapter 517, relating to sale of securities and
 1067 investor protection.

1068 ~~11.10.~~ Section 550.235, s. 550.3551, or s. 550.3605,
 1069 relating to dogracing and horseracing.

1070 ~~12.11.~~ Chapter 550, relating to jai alai frontons.

1071 ~~13.12.~~ Chapter 552, relating to the manufacture,
 1072 distribution, and use of explosives.

1073 ~~14.13.~~ Chapter 560, relating to money transmitters, if the
 1074 violation is punishable as a felony.

1075 ~~15.14.~~ Chapter 562, relating to beverage law enforcement.

1076 ~~16.15.~~ Section 624.401, relating to transacting insurance
 1077 without a certificate of authority, s. 624.437(4)(c)1., relating
 1078 to operating an unauthorized multiple-employer welfare
 1079 arrangement, or s. 626.902(1)(b), relating to representing or
 1080 aiding an unauthorized insurer.

1081 ~~17.16.~~ Section 655.50, relating to reports of currency
 1082 transactions, when such violation is punishable as a felony.

1083 ~~18.17.~~ Chapter 687, relating to interest and usurious
 1084 practices.

1085 | ~~19.18.~~ Section 721.08, s. 721.09, or s. 721.13, relating
1086 | to real estate timeshare plans.

1087 | ~~20.19.~~ Chapter 782, relating to homicide.

1088 | ~~21.20.~~ Chapter 784, relating to assault and battery.

1089 | ~~22.21.~~ Chapter 787, relating to kidnapping.

1090 | ~~23.22.~~ Chapter 790, relating to weapons and firearms.

1091 | ~~24.23.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045,
1092 | s. 796.05, or s. 796.07, relating to prostitution and sex
1093 | trafficking.

1094 | ~~25.24.~~ Chapter 806, relating to arson.

1095 | ~~26.25.~~ Section 810.02(2)(c), relating to specified
1096 | burglary of a dwelling or structure.

1097 | ~~27.26.~~ Chapter 812, relating to theft, robbery, and
1098 | related crimes.

1099 | ~~28.27.~~ Chapter 815, relating to computer-related crimes.

1100 | ~~29.28.~~ Chapter 817, relating to fraudulent practices,
1101 | false pretenses, fraud generally, and credit card crimes.

1102 | ~~30.29.~~ Chapter 825, relating to abuse, neglect, or
1103 | exploitation of an elderly person or disabled adult.

1104 | ~~31.30.~~ Section 827.071, relating to commercial sexual
1105 | exploitation of children.

1106 | ~~32.31.~~ Chapter 831, relating to forgery and
1107 | counterfeiting.

1108 | ~~33.32.~~ Chapter 832, relating to issuance of worthless
1109 | checks and drafts.

1110 | ~~34.33.~~ Section 836.05, relating to extortion.

1111 | ~~35.34.~~ Chapter 837, relating to perjury.

1112 ~~36.35.~~ Chapter 838, relating to bribery and misuse of
 1113 public office.

1114 ~~37.36.~~ Chapter 843, relating to obstruction of justice.

1115 ~~38.37.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
 1116 or s. 847.07, relating to obscene literature and profanity.

1117 ~~39.38.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
 1118 s. 849.25, relating to gambling.

1119 ~~40.39.~~ Chapter 874, relating to criminal street gangs.

1120 ~~41.40.~~ Chapter 893, relating to drug abuse prevention and
 1121 control.

1122 ~~42.41.~~ Chapter 896, relating to offenses related to
 1123 financial transactions.

1124 ~~43.42.~~ Sections 914.22 and 914.23, relating to tampering
 1125 with a witness, victim, or informant, and retaliation against a
 1126 witness, victim, or informant.

1127 ~~44.43.~~ Sections 918.12 and 918.13, relating to tampering
 1128 with jurors and evidence.

1129 Section 9. For the purpose of incorporating the amendment
 1130 to section 895.02, Florida Statutes, in a reference thereto,
 1131 paragraph (a) of subsection (1) of section 16.56, Florida
 1132 Statutes, is reenacted to read:

1133 16.56 Office of Statewide Prosecution.--

1134 (1) There is created in the Department of Legal Affairs an
 1135 Office of Statewide Prosecution. The office shall be a separate
 1136 "budget entity" as that term is defined in chapter 216. The
 1137 office may:

1138 (a) Investigate and prosecute the offenses of:

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- 1139 1. Bribery, burglary, criminal usury, extortion, gambling,
 1140 kidnapping, larceny, murder, prostitution, perjury, robbery,
 1141 carjacking, and home-invasion robbery;
- 1142 2. Any crime involving narcotic or other dangerous drugs;
- 1143 3. Any violation of the provisions of the Florida RICO
 1144 (Racketeer Influenced and Corrupt Organization) Act, including
 1145 any offense listed in the definition of racketeering activity in
 1146 s. 895.02(1)(a), providing such listed offense is investigated
 1147 in connection with a violation of s. 895.03 and is charged in a
 1148 separate count of an information or indictment containing a
 1149 count charging a violation of s. 895.03, the prosecution of
 1150 which listed offense may continue independently if the
 1151 prosecution of the violation of s. 895.03 is terminated for any
 1152 reason;
- 1153 4. Any violation of the provisions of the Florida Anti-
 1154 Fencing Act;
- 1155 5. Any violation of the provisions of the Florida
 1156 Antitrust Act of 1980, as amended;
- 1157 6. Any crime involving, or resulting in, fraud or deceit
 1158 upon any person;
- 1159 7. Any violation of s. 847.0135, relating to computer
 1160 pornography and child exploitation prevention, or any offense
 1161 related to a violation of s. 847.0135;
- 1162 8. Any violation of the provisions of chapter 815;
- 1163 9. Any criminal violation of part I of chapter 499;
- 1164 10. Any violation of the provisions of the Florida Motor
 1165 Fuel Tax Relief Act of 2004; or
- 1166 11. Any criminal violation of s. 409.920 or s. 409.9201;

1167
 1168 or any attempt, solicitation, or conspiracy to commit any of the
 1169 crimes specifically enumerated above. The office shall have such
 1170 power only when any such offense is occurring, or has occurred,
 1171 in two or more judicial circuits as part of a related
 1172 transaction, or when any such offense is connected with an
 1173 organized criminal conspiracy affecting two or more judicial
 1174 circuits.

1175 Section 10. For the purpose of incorporating the amendment
 1176 to section 895.02, Florida Statutes, in a reference thereto,
 1177 subsection (3) of section 905.34, Florida Statutes, is reenacted
 1178 to read:

1179 905.34 Powers and duties; law applicable.--The
 1180 jurisdiction of a statewide grand jury impaneled under this
 1181 chapter shall extend throughout the state. The subject matter
 1182 jurisdiction of the statewide grand jury shall be limited to the
 1183 offenses of:

1184 (3) Any violation of the provisions of the Florida RICO
 1185 (Racketeer Influenced and Corrupt Organization) Act, including
 1186 any offense listed in the definition of racketeering activity in
 1187 s. 895.02(1)(a), providing such listed offense is investigated
 1188 in connection with a violation of s. 895.03 and is charged in a
 1189 separate count of an information or indictment containing a
 1190 count charging a violation of s. 895.03, the prosecution of
 1191 which listed offense may continue independently if the
 1192 prosecution of the violation of s. 895.03 is terminated for any
 1193 reason;

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1195 | or any attempt, solicitation, or conspiracy to commit any
1196 | violation of the crimes specifically enumerated above, when any
1197 | such offense is occurring, or has occurred, in two or more
1198 | judicial circuits as part of a related transaction or when any
1199 | such offense is connected with an organized criminal conspiracy
1200 | affecting two or more judicial circuits. The statewide grand
1201 | jury may return indictments and presentments irrespective of the
1202 | county or judicial circuit where the offense is committed or
1203 | triable. If an indictment is returned, it shall be certified and
1204 | transferred for trial to the county where the offense was
1205 | committed. The powers and duties of, and law applicable to,
1206 | county grand juries shall apply to a statewide grand jury except
1207 | when such powers, duties, and law are inconsistent with the
1208 | provisions of ss. 905.31-905.40.

1209 | Section 11. This act shall take effect July 1, 2005.