

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 compensation fraud;
9 amending s. 443.091, F.S.; clarifying benefit eligibility;
10 amending s. 443.1216, F.S.; clarifying the persons that
11 employee leasing companies may lease to a client;
12 clarifying the exemption of certain service from the
13 definition of employment; amending s. 443.1217, F.S.;
14 clarifying exempt wages for the purpose of determining
15 employer contributions; amending s. 443.131, F.S.;
16 revising the definition of "total excess payments";
17 prohibiting the transfer of unemployment experience by
18 acquisition of a business in certain cases; providing for
19 calculation of unemployment experience rating; providing
20 penalties; amending s. 443.151, F.S.; providing for
21 dismissal of untimely filed appeals; extending a deadline
22 for recoupment of benefits; amending s. 895.02, F.S.;
23 revising the definition of "racketeering activity";
24 reenacting ss. 16.56(1)(a), 655.50(3)(g), 896.101(2)(g),
25 and 905.34(3), F.S., relating to the Office of Statewide
26 Prosecution, the Florida Control of Money Laundering in
27 Financial Institutions Act, the Florida Money Laundering
28 Act, and the powers and duties of a statewide grand jury,

Page 1 of 45

29 | respectively, to incorporate the amendment to s. 895.02,
30 | F.S., in references thereto; providing an effective date.

31 |

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

33 |

34 | Section 1. Paragraph (b) of subsection (10) of section
35 | 120.80, Florida Statutes, is amended to read:

36 | 120.80 Exceptions and special requirements; agencies.--

37 | (10) AGENCY FOR WORKFORCE INNOVATION.--

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

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

46 | 443.071 Penalties.--

47 | (4) Any person who establishes a fictitious employing unit
48 | by submitting to the Agency for Workforce Innovation or its tax
49 | collection service provider fraudulent employing unit records or
50 | tax or wage reports by the introduction of fraudulent records
51 | into a computer system, the intentional or deliberate alteration
52 | or destruction of computerized information or files, or the
53 | theft of financial instruments, data, and other assets, for the
54 | purpose of enabling herself or himself or any other person to
55 | receive benefits under this chapter to which such person is not

56 entitled, commits a felony of the third degree, punishable as
 57 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

81 (7) The entry into evidence of a transaction history
 82 generated by a personal identification number establishing that
 83 a certification or claim for one or more weeks of benefits was

84 made against the benefit account of the individual, together
 85 with documentation that payment was paid by a state warrant made
 86 to the order of the person or by direct deposit via electronic
 87 means, constitutes prima facie evidence that the person claimed
 88 and received unemployment benefits from the state.

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

96 Section 3. Paragraph (c) of subsection (1) of section
 97 443.091, Florida Statutes, is amended to read:

98 443.091 Benefit eligibility conditions.--

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

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

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

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

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

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

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

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

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

147 1. An officer of a corporation.

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

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

164 a. As an agent-driver or commission-driver engaged in
165 distributing meat products, vegetable products, fruit products,

166 bakery products, beverages other than milk, or laundry or
167 drycleaning services for his or her principal.

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

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

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

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

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

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

194 imposed by the Federal Unemployment Tax Act is required to be
195 covered under this chapter.

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

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

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

222 paymaster. A common paymaster must pay concurrently employed
223 individuals under this subparagraph by one combined paycheck.

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

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

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

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

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

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

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

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

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

273 b. The liability under this chapter which, notwithstanding
274 this section, would have existed for the wages from the other
275 related corporations, reduced by an allocable portion of any

276 contributions previously paid by the common paymaster for those
 277 wages.

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

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

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

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

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

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

301 (d) Service performed by an individual in the employ of
 302 his or her son, daughter, or spouse, including step
 303 relationships, and service performed by a child, or stepchild,

304 | under the age of 21 in the employ of his or her father, mother,
 305 | stepfather, or stepmother.

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

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

327 | (f) Service performed in the employ of a public employer
 328 | as defined in s. 443.036, except as provided in subsection (2),
 329 | and service performed in the employ of an instrumentality of a
 330 | public employer as described in s. 443.036(35)(b) or (c), to the
 331 | extent that the instrumentality is immune under the United

332 States Constitution from the tax imposed by s. 3301 of the
 333 Internal Revenue Code for that service.

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

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

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

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

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

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

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

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

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

381 (m) Service performed by an individual for a person as an
 382 insurance agent or as an insurance solicitor, if all of the
 383 service performed by the individual for that person is performed
 384 for remuneration solely by way of commission, except for
 385 services performed in accordance with 26 U.S.C. s. 3306(c)(7)
 386 and (8). For purposes of this section, those benefits excluded

387 | from the wages subject to this chapter under s. 443.1217(2) (b) -
 388 | (f), inclusive, are not considered remuneration.

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

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

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

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

415 program established for or on behalf of an employer or group of
416 employers.

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

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

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

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

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

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

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

441 3. Who performs the services under a written contract with
442 the person for whom the services are performed, if the contract

443 provides that the person will not be treated as an employee for
 444 those services for federal tax purposes.

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

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

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

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

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

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

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

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

468 7. Enters into a contract with the delivery or messenger
 469 service which specifies that the individual is an independent

470 contractor and not an employee of the delivery or messenger
 471 service; and

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

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

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

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

481 443.1217 Wages.--

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

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

495 (b) Payment by an employing unit with respect to services
 496 performed for, or on behalf of, an individual employed by the
 497 employing unit under a plan or system established by the

498 | employing unit which provides for payment to its employees
499 | generally or to a class of its employees, including any amount
500 | paid by the employing unit for insurance or annuities or paid
501 | into a fund on account of:

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

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

508 | 3. Death, if the employee:

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

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

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

526 (d) Payment by an employing unit, without deduction from
 527 the remuneration of an individual employed by the employing
 528 unit, of the tax imposed upon the individual under s. 3101 of
 529 the federal Internal Revenue Code for services performed.

530 (e) The value of:

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

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

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

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

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

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

553 4. Under or to an annuity contract described in s. 403(b)
554 of the Internal Revenue Code of 1954, other than a payment for
555 the purchase of an annuity contract as part of a salary
556 reduction agreement, regardless of whether the agreement is
557 evidenced by a written instrument or otherwise;

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

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

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

575 (g) Payment made, or benefit provided, by an employing
576 unit to or for the benefit of an individual performing services
577 for the employing unit or a beneficiary of the individual if, at
578 the time of such payment or provision of the benefit, it is
579 reasonable to believe that the individual may exclude the

580 | payment or benefit from income under s. 127 of the Internal
 581 | Revenue Code of 1986, as amended.

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

584 | 443.131 Contributions.--

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

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

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

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

628 a. An adjustment factor for noncharge benefits shall be
629 computed to the fifth decimal place and rounded to the fourth
630 decimal place by dividing the amount of noncharge benefits
631 during the 3-year period described in subparagraph (b)2. by the
632 taxable payroll of employers eligible for a variation from the
633 standard rate who have a benefit ratio for the current year
634 which is less than the maximum contribution rate. For purposes
635 of computing this adjustment factor, the taxable payroll of

636 these employers is the taxable payrolls for the 3 years ending
 637 June 30 of the current calendar year as reported to the tax
 638 collection service provider by September 30 of the same calendar
 639 year. As used in this sub-subparagraph, the term "noncharge
 640 benefits" means benefits paid to an individual from the
 641 Unemployment Compensation Trust Fund, but which were not charged
 642 to the employment record of any employer.

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

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

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

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

715 2. If the transfer of an employer's employment record to
716 an employing unit under paragraph (f) which, before the
717 transfer, was an employer, the tax collection service provider
718 shall recompute a benefit ratio for the successor employer based
719 on the combined employment records and reassign an appropriate

720 contribution rate to the successor employer effective on the
721 first day of the calendar quarter immediately after the
722 effective date of the transfer.

723 (f) Transfer of employment records.--

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

748 liability by succession. If a predecessor employer has unpaid
749 contributions or outstanding quarterly reports, the successor
750 employer must pay the total amount with certified funds within
751 30 days after the date of the notice listing the total amount
752 due. After the total indebtedness is paid, the tax collection
753 service provider shall transfer the employment records of all of
754 the predecessor employers to the successor employer's employment
755 record. The tax collection service provider shall determine the
756 contribution rate of the combined successor and predecessor
757 employers upon the transfer of the employment records, as
758 prescribed by rule, in order to calculate any change in the
759 contribution rate resulting from the transfer of the employment
760 records.

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

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

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

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

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

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

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

827 2. Whenever a person who is not an employer under this
828 chapter at the time it acquires the trade or business of an
829 employer, the unemployment experience of the acquired business
830 shall not be transferred to such person if the Agency for
831 Workforce Innovation or the tax collection service provider

832 finds that such person acquired the business solely or primarily
833 for the purpose of obtaining a lower rate of contributions.
834 Instead, such person shall be assigned the new employer rate
835 under paragraph (2)(a). In determining whether the business was
836 acquired solely or primarily for the purpose of obtaining a
837 lower rate of contributions, the tax collection service provider
838 shall consider, but not be limited to, the following factors:

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

841 b. How long such business enterprise was continued; or
842 c. Whether a substantial number of new employees were
843 hired for performance of duties unrelated to the business
844 activity conducted prior to acquisition.

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

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

859 b. If the person is not an employer, such person shall be
860 subject to a civil money penalty of not more than \$5,000. The
861 procedures for the assessment of a penalty shall be in
862 accordance with the procedures set forth in s. 443.141(2), and
863 the provisions of s. 443.141(3) shall apply to the collection of
864 the penalty. Any such penalty shall be deposited in the penalty
865 and interest account established under s. 443.211(2).

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

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

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

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

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

882 7. For purposes of this paragraph:

883 a. "Person" has the meaning given such term by s.
884 7701(a)(1) of the Internal Revenue Code of 1986.

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

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

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

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

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

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

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

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

934 2. Shall, upon discovery of an error in computation,
935 reconsider any prior determination or redetermination of a
936 contribution rate after the 20-day period has expired and issue
937 a revised notice of contribution rate as redetermined. A
938 redetermination is subject to review, and is conclusive and
939 binding if review is not sought, in the same manner as review of
940 a determination under subparagraph 1. A reconsideration may not

941 | be made after March 31 of the calendar year immediately after
 942 | the calendar year for which the contribution rate is applicable,
 943 | and interest may not accrue on any additional contributions
 944 | found to be due until 30 days after the employer is mailed
 945 | notice of his or her revised contribution rate.

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

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

966 | 1. If the tax collection service provider finds that an
 967 | employer's business is closed solely because of the entrance of
 968 | one or more of the owners, officers, partners, or the majority

969 stockholder into the Armed Forces of the United States, or any
 970 of its allies, or of the United Nations, the employer's
 971 employment record may not be terminated. If the business is
 972 resumed within 2 years after the discharge or release from
 973 active duty in the armed forces of that person or persons, the
 974 employer's benefit experience is deemed to have been continuous
 975 throughout that period. The benefit ratio of the employer for
 976 the calendar year in which he or she resumed business and the 3
 977 calendar years immediately after resuming business is a
 978 percentage equal to the total of his or her benefit charges,
 979 including charges of benefits paid to any individual during the
 980 period the employer was in the armed forces based on wages paid
 981 by him or her before the employer's entrance into the armed
 982 forces for the 3 most recently completed calendar years divided
 983 by that part of his or her total payroll, for which
 984 contributions were paid to the tax collection service provider,
 985 for the 3 most recent calendar years during the whole of which,
 986 respectively, the employer was in business.

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

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

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

994 443.151 Procedure concerning claims.--

995 (4) APPEALS.--

996 (b) Filing and hearing.--

997 1. The claimant or any other party entitled to notice of a
998 determination may appeal an adverse determination to an appeals
999 referee within 20 days after the date of mailing of the notice
1000 to her or his last known address or, if the notice is not
1001 mailed, within 20 days after the date of delivery of the notice.

1002 2. Unless the appeal is untimely or withdrawn or review is
1003 initiated by the commission, the appeals referee, after mailing
1004 all parties and attorneys of record a notice of hearing at least
1005 10 days before the date of hearing, notwithstanding the 14-day
1006 notice requirement in s. 120.569(2)(b), may only affirm, modify,
1007 or reverse the determination. An appeal may not be withdrawn
1008 without the permission of the appeals referee.

1009 3. However, when an appeal appears to have been filed
1010 after the permissible time limit, the Office of Appeals may
1011 issue an order to show cause to the appellant, requiring the
1012 appellant to show why the appeal should not be dismissed as
1013 untimely. If the appellant does not, within 15 days after the
1014 mailing date of the order to show cause, provide written
1015 evidence of timely filing or good cause for failure to appeal
1016 timely, the appeal shall be dismissed.

1017 ~~4.3-~~ When an appeal involves a question of whether
1018 services were performed by a claimant in employment or for an
1019 employer, the referee must give special notice of the question
1020 and of the pendency of the appeal to the employing unit and to
1021 the Agency for Workforce Innovation, both of which become
1022 parties to the proceeding.

1023 ~~5.4-~~ The parties must be notified promptly of the
1024 referee's decision. The referee's decision is final unless

1025 further review is initiated under paragraph (c) within 20 days
 1026 after the date of mailing notice of the decision to the party's
 1027 last known address or, in lieu of mailing, within 20 days after
 1028 the delivery of the notice.

1029 (6) RECOVERY AND RECOUPMENT.--

1030 (b) Any person who, by reason other than her or his fraud,
 1031 receives benefits under this chapter to which, under a
 1032 redetermination or decision pursuant to this section, she or he
 1033 is found not entitled, is liable to repay those benefits to the
 1034 Agency for Workforce Innovation on behalf of the trust fund or,
 1035 in the agency's discretion, to have those benefits deducted from
 1036 any future benefits payable to her or him under this chapter.
 1037 Any recovery or recoupment of benefits must be effected within 3
 1038 ~~2~~ years after the redetermination or decision.

1039 Section 8. Paragraph (a) of subsection (1) of section
 1040 895.02, Florida Statutes, is amended to read:

1041 895.02 Definitions.--As used in ss. 895.01-895.08, the
 1042 term:

1043 (1) "Racketeering activity" means to commit, to attempt to
 1044 commit, to conspire to commit, or to solicit, coerce, or
 1045 intimidate another person to commit:

1046 (a) Any crime which is chargeable by indictment or
 1047 information under the following provisions of the Florida
 1048 Statutes:

1049 1. Section 210.18, relating to evasion of payment of
 1050 cigarette taxes.

1051 2. Section 403.727(3)(b), relating to environmental
 1052 control.

1053 | 3. Section 409.920 or s. 409.9201, relating to Medicaid
1054 | fraud.

1055 | 4. Section 414.39, relating to public assistance fraud.

1056 | 5. Section 440.105 or s. 440.106, relating to workers'
1057 | compensation.

1058 | 6. Section 443.071(4), relating to creation of a
1059 | fictitious employer scheme to commit unemployment compensation
1060 | fraud.

1061 | ~~7.6-~~ Section 465.0161, relating to distribution of
1062 | medicinal drugs without a permit as an Internet pharmacy.

1063 | ~~8.7-~~ Sections 499.0051, 499.0052, 499.00535, 499.00545,
1064 | and 499.0691, relating to crimes involving contraband and
1065 | adulterated drugs.

1066 | ~~9.8-~~ Part IV of chapter 501, relating to telemarketing.

1067 | ~~10.9-~~ Chapter 517, relating to sale of securities and
1068 | investor protection.

1069 | ~~11.10-~~ Section 550.235, s. 550.3551, or s. 550.3605,
1070 | relating to dogracing and horseracing.

1071 | ~~12.11-~~ Chapter 550, relating to jai alai frontons.

1072 | ~~13.12-~~ Chapter 552, relating to the manufacture,
1073 | distribution, and use of explosives.

1074 | ~~14.13-~~ Chapter 560, relating to money transmitters, if the
1075 | violation is punishable as a felony.

1076 | ~~15.14-~~ Chapter 562, relating to beverage law enforcement.

1077 | ~~16.15-~~ Section 624.401, relating to transacting insurance
1078 | without a certificate of authority, s. 624.437(4)(c)1., relating
1079 | to operating an unauthorized multiple-employer welfare

1080 arrangement, or s. 626.902(1)(b), relating to representing or
 1081 aiding an unauthorized insurer.

1082 ~~17.16.~~ Section 655.50, relating to reports of currency
 1083 transactions, when such violation is punishable as a felony.

1084 ~~18.17.~~ Chapter 687, relating to interest and usurious
 1085 practices.

1086 ~~19.18.~~ Section 721.08, s. 721.09, or s. 721.13, relating
 1087 to real estate timeshare plans.

1088 ~~20.19.~~ Chapter 782, relating to homicide.

1089 ~~21.20.~~ Chapter 784, relating to assault and battery.

1090 ~~22.21.~~ Chapter 787, relating to kidnapping.

1091 ~~23.22.~~ Chapter 790, relating to weapons and firearms.

1092 ~~24.23.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045,
 1093 s. 796.05, or s. 796.07, relating to prostitution and sex
 1094 trafficking.

1095 ~~25.24.~~ Chapter 806, relating to arson.

1096 ~~26.25.~~ Section 810.02(2)(c), relating to specified
 1097 burglary of a dwelling or structure.

1098 ~~27.26.~~ Chapter 812, relating to theft, robbery, and
 1099 related crimes.

1100 ~~28.27.~~ Chapter 815, relating to computer-related crimes.

1101 ~~29.28.~~ Chapter 817, relating to fraudulent practices,
 1102 false pretenses, fraud generally, and credit card crimes.

1103 ~~30.29.~~ Chapter 825, relating to abuse, neglect, or
 1104 exploitation of an elderly person or disabled adult.

1105 ~~31.30.~~ Section 827.071, relating to commercial sexual
 1106 exploitation of children.

1107 | ~~32.31.~~ Chapter 831, relating to forgery and
1108 | counterfeiting.
1109 | ~~33.32.~~ Chapter 832, relating to issuance of worthless
1110 | checks and drafts.
1111 | ~~34.33.~~ Section 836.05, relating to extortion.
1112 | ~~35.34.~~ Chapter 837, relating to perjury.
1113 | ~~36.35.~~ Chapter 838, relating to bribery and misuse of
1114 | public office.
1115 | ~~37.36.~~ Chapter 843, relating to obstruction of justice.
1116 | ~~38.37.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
1117 | or s. 847.07, relating to obscene literature and profanity.
1118 | ~~39.38.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
1119 | s. 849.25, relating to gambling.
1120 | ~~40.39.~~ Chapter 874, relating to criminal street gangs.
1121 | ~~41.40.~~ Chapter 893, relating to drug abuse prevention and
1122 | control.
1123 | ~~42.41.~~ Chapter 896, relating to offenses related to
1124 | financial transactions.
1125 | ~~43.42.~~ Sections 914.22 and 914.23, relating to tampering
1126 | with a witness, victim, or informant, and retaliation against a
1127 | witness, victim, or informant.
1128 | ~~44.43.~~ Sections 918.12 and 918.13, relating to tampering
1129 | with jurors and evidence.
1130 | Section 9. For the purpose of incorporating the amendment
1131 | to section 895.02, Florida Statutes, in a reference thereto,
1132 | paragraph (a) of subsection (1) of section 16.56, Florida
1133 | Statutes, is reenacted to read:
1134 | 16.56 Office of Statewide Prosecution.--

1135 (1) There is created in the Department of Legal Affairs an
 1136 Office of Statewide Prosecution. The office shall be a separate
 1137 "budget entity" as that term is defined in chapter 216. The
 1138 office may:

1139 (a) Investigate and prosecute the offenses of:

1140 1. Bribery, burglary, criminal usury, extortion, gambling,
 1141 kidnapping, larceny, murder, prostitution, perjury, robbery,
 1142 carjacking, and home-invasion robbery;

1143 2. Any crime involving narcotic or other dangerous drugs;

1144 3. Any violation of the provisions of the Florida RICO
 1145 (Racketeer Influenced and Corrupt Organization) Act, including
 1146 any offense listed in the definition of racketeering activity in
 1147 s. 895.02(1)(a), providing such listed offense is investigated
 1148 in connection with a violation of s. 895.03 and is charged in a
 1149 separate count of an information or indictment containing a
 1150 count charging a violation of s. 895.03, the prosecution of
 1151 which listed offense may continue independently if the
 1152 prosecution of the violation of s. 895.03 is terminated for any
 1153 reason;

1154 4. Any violation of the provisions of the Florida Anti-
 1155 Fencing Act;

1156 5. Any violation of the provisions of the Florida
 1157 Antitrust Act of 1980, as amended;

1158 6. Any crime involving, or resulting in, fraud or deceit
 1159 upon any person;

1160 7. Any violation of s. 847.0135, relating to computer
 1161 pornography and child exploitation prevention, or any offense
 1162 related to a violation of s. 847.0135;

- 1163 | 8. Any violation of the provisions of chapter 815;
 1164 | 9. Any criminal violation of part I of chapter 499;
 1165 | 10. Any violation of the provisions of the Florida Motor
 1166 | Fuel Tax Relief Act of 2004; or
 1167 | 11. Any criminal violation of s. 409.920 or s. 409.9201;

1168 |
 1169 | or any attempt, solicitation, or conspiracy to commit any of the
 1170 | crimes specifically enumerated above. The office shall have such
 1171 | power only when any such offense is occurring, or has occurred,
 1172 | in two or more judicial circuits as part of a related
 1173 | transaction, or when any such offense is connected with an
 1174 | organized criminal conspiracy affecting two or more judicial
 1175 | circuits.

1176 | Section 10. For the purpose of incorporating the amendment
 1177 | to section 895.02, Florida Statutes, in a reference thereto,
 1178 | paragraph (g) of subsection (3) of section 655.50, Florida
 1179 | Statutes, is reenacted to read:

1180 | 655.50 Florida Control of Money Laundering in Financial
 1181 | Institutions Act; reports of transactions involving currency or
 1182 | monetary instruments; when required; purpose; definitions;
 1183 | penalties.--

1184 | (3) As used in this section, the term:

1185 | (g) "Specified unlawful activity" means any "racketeering
 1186 | activity" as defined in s. 895.02.

1187 | Section 11. For the purpose of incorporating the amendment
 1188 | to section 895.02, Florida Statutes, in a reference thereto,
 1189 | paragraph (g) of subsection (2) of section 896.101, Florida
 1190 | Statutes, is reenacted to read:

1191 896.101 Florida Money Laundering Act; definitions;
 1192 penalties; injunctions; seizure warrants; immunity.--

1193 (2) As used in this section, the term:

1194 (g) "Specified unlawful activity" means any "racketeering
 1195 activity" as defined in s. 895.02.

1196 Section 12. For the purpose of incorporating the amendment
 1197 to section 895.02, Florida Statutes, in a reference thereto,
 1198 subsection (3) of section 905.34, Florida Statutes, is reenacted
 1199 to read:

1200 905.34 Powers and duties; law applicable.--The
 1201 jurisdiction of a statewide grand jury impaneled under this
 1202 chapter shall extend throughout the state. The subject matter
 1203 jurisdiction of the statewide grand jury shall be limited to the
 1204 offenses of:

1205 (3) Any violation of the provisions of the Florida RICO
 1206 (Racketeer Influenced and Corrupt Organization) Act, including
 1207 any offense listed in the definition of racketeering activity in
 1208 s. 895.02(1)(a), providing such listed offense is investigated
 1209 in connection with a violation of s. 895.03 and is charged in a
 1210 separate count of an information or indictment containing a
 1211 count charging a violation of s. 895.03, the prosecution of
 1212 which listed offense may continue independently if the
 1213 prosecution of the violation of s. 895.03 is terminated for any
 1214 reason;

1215
 1216 or any attempt, solicitation, or conspiracy to commit any
 1217 violation of the crimes specifically enumerated above, when any
 1218 such offense is occurring, or has occurred, in two or more

1219 | judicial circuits as part of a related transaction or when any
1220 | such offense is connected with an organized criminal conspiracy
1221 | affecting two or more judicial circuits. The statewide grand
1222 | jury may return indictments and presentments irrespective of the
1223 | county or judicial circuit where the offense is committed or
1224 | triable. If an indictment is returned, it shall be certified and
1225 | transferred for trial to the county where the offense was
1226 | committed. The powers and duties of, and law applicable to,
1227 | county grand juries shall apply to a statewide grand jury except
1228 | when such powers, duties, and law are inconsistent with the
1229 | provisions of ss. 905.31-905.40.

1230 | Section 13. This act shall take effect July 1, 2005.