

1                   A bill to be entitled  
2           An act relating to unemployment compensation; amending s.  
3           213.053, F.S.; increasing the number of employer payroll  
4           service providers who qualify for access to unemployment  
5           tax information by filing a memorandum of understanding;  
6           amending s. 443.031, F.S.; revising provisions relating to  
7           statutory construction; amending s. 443.036, F.S.;  
8           revising and providing definitions; revising the term  
9           "misconduct" to include conduct outside of the workplace  
10          and additional lapses in behavior; amending s. 443.041,  
11          F.S.; conforming a cross-reference; amending s. 443.091,  
12          F.S.; conforming provisions to changes made by the act;  
13          requiring that an applicant for benefits participate in an  
14          initial skills review; providing exceptions; requiring the  
15          administrator or operator of the initial skills review to  
16          notify specified entities regarding review completion and  
17          results; amending s. 443.101, F.S.; clarifying "good  
18          cause" for voluntarily leaving employment; disqualifying a  
19          person for benefits due to the receipt of severance pay;  
20          revising provisions relating to the effects of criminal  
21          acts on eligibility for benefits; amending s. 443.111,  
22          F.S.; providing a definition; reducing the amount and  
23          revising the calculation of the number of weeks of a  
24          claimant's benefit eligibility; amending s. 443.1216,  
25          F.S.; conforming provisions to changes made by the act;  
26          amending s. 443.131, F.S.; providing definitions; revising  
27          an employer's unemployment compensation contribution rate  
28          by certain factors; amending s. 443.141, F.S.; providing

29 an employer payment schedule for 2012, 2013, and 2014  
 30 contributions; amending s. 443.151, F.S.; revising  
 31 allowable forms of evidence in benefit appeals; revising  
 32 the judicial venue for reviewing commission orders;  
 33 amending s. 443.171, F.S.; specifying that evidence of  
 34 mailing an agency document is based on the date stated on  
 35 the document; reviving, readopting, and amending s.  
 36 443.1117, F.S., relating to temporary extended benefits;  
 37 providing for retroactive application; establishing  
 38 temporary state extended benefits for weeks of  
 39 unemployment; revising definitions; providing for state  
 40 extended benefits for certain weeks and for periods of  
 41 high unemployment; providing severability; providing  
 42 applicability; providing appropriations for purposes of  
 43 implementation; providing that the act fulfills an  
 44 important state interest; providing effective dates.

45

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

47

48 Section 1. Subsection (4) of section 213.053, Florida  
 49 Statutes, is amended to read:

50 213.053 Confidentiality and information sharing.—

51 (4) The department, while providing unemployment tax  
 52 collection services under contract with the Agency for Workforce  
 53 Innovation through an interagency agreement pursuant to s.  
 54 443.1316, may release unemployment tax rate information to the  
 55 agent of an employer who, ~~which agent~~ provides payroll services  
 56 for more than 100 ~~500~~ employers, pursuant to the terms of a

57 memorandum of understanding. The memorandum of understanding  
58 must state that the agent affirms, subject to the criminal  
59 penalties contained in ss. 443.171 and 443.1715, that the agent  
60 will retain the confidentiality of the information, that the  
61 agent has in effect a power of attorney from the employer which  
62 permits the agent to obtain unemployment tax rate information,  
63 and that the agent shall provide the department with a copy of  
64 the employer's power of attorney upon request.

65 Section 2. Section 443.031, Florida Statutes, is amended  
66 to read:

67 443.031 Rule of liberal construction.—This chapter shall  
68 be liberally construed to accomplish its purpose to promote  
69 employment security by increasing opportunities for reemployment  
70 and to provide, through the accumulation of reserves, for the  
71 payment of compensation to individuals with respect to their  
72 unemployment. The Legislature hereby declares its intention to  
73 provide for carrying out the purposes of this chapter in  
74 cooperation with the appropriate agencies of other states and of  
75 the Federal Government as part of a nationwide employment  
76 security program, and particularly to provide for meeting the  
77 requirements of Title III, the requirements of the Federal  
78 Unemployment Tax Act, and the Wagner-Peyser Act of June 6, 1933,  
79 entitled "An Act to provide for the establishment of a national  
80 employment system and for cooperation with the states in the  
81 promotion of such system, and for other purposes," each as  
82 amended, in order to secure for this state and its citizens the  
83 grants and privileges available under such acts. All doubts ~~in~~  
84 favor of a claimant of unemployment benefits who is unemployed

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

91 Section 3. Present subsections (26) through (45) of  
 92 section 443.036, Florida Statutes, are renumbered as subsections  
 93 (28) through (47), respectively, new subsections (26) and (27)  
 94 are added to that section, and present subsections (6), (9),  
 95 (29), and (43) of that section are amended, to read:

96 443.036 Definitions.—As used in this chapter, the term:

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

99 (9) "Benefit year" means, for an individual, the 1-year  
 100 period beginning with the first day of the first week for which  
 101 the individual first files a valid claim for benefits and,  
 102 thereafter, the 1-year period beginning with the first day of  
 103 the first week for which the individual next files a valid claim  
 104 for benefits after the termination of his or her last preceding  
 105 benefit year. Each claim for benefits made in accordance with s.  
 106 443.151(2) is a valid claim under this subsection if the  
 107 individual was paid wages for insured work in accordance with s.  
 108 443.091(1)(g) and is unemployed as defined in subsection (45)  
 109 ~~(43)~~ at the time of filing the claim. However, the Agency for  
 110 Workforce Innovation may adopt rules providing for the  
 111 establishment of a uniform benefit year for all workers in one  
 112 or more groups or classes of service or within a particular

113 industry if the agency determines, after notice to the industry  
 114 and to the workers in the industry and an opportunity to be  
 115 heard in the matter, that those groups or classes of workers in  
 116 a particular industry periodically experience unemployment  
 117 resulting from layoffs or shutdowns for limited periods of time.

118 (26) "Individual in continued reporting status" means an  
 119 individual who has been determined to be eligible pursuant to s.  
 120 443.091 who is reporting to the Agency for Workforce Innovation  
 121 in accordance with s. 443.091(1) (c).

122 (27) "Initial skills review" means an online education or  
 123 training program, such as that established under s. 1004.99,  
 124 that is approved by the Agency for Workforce Innovation and  
 125 designed to measure an individual's mastery level of workplace  
 126 skills.

127 (31)-(29) "Misconduct," irrespective of whether the  
 128 misconduct occurs at the workplace or during working hours,  
 129 includes, but is not limited to, the following, which may not be  
 130 construed in pari materia with each other:

131 (a) Conduct demonstrating conscious ~~willful or wanton~~  
 132 disregard of an employer's interests and found to be a  
 133 deliberate violation or disregard of the reasonable standards of  
 134 behavior which the employer expects ~~has a right to expect~~ of his  
 135 or her employee. ~~;~~ ~~or~~

136 (b) Carelessness or negligence to a degree or recurrence  
 137 that manifests culpability, wrongful intent, ~~or evil design~~ or  
 138 shows an intentional and substantial disregard of the employer's  
 139 interests or of the employee's duties and obligations to his or  
 140 her employer.

141 (c) Chronic absenteeism or tardiness in deliberate  
 142 violation of a known policy of the employer or one or more  
 143 unapproved absences following a written reprimand or warning  
 144 relating to more than one unapproved absence.

145 (d) A willful and deliberate violation of a standard or  
 146 regulation of this state by an employee of an employer licensed  
 147 or certified by this state, which violation would cause the  
 148 employer to be sanctioned or have its license or certification  
 149 suspended by this state.

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

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

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

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

157 (45)-(43) "Unemployment" or "unemployed" means:

158 (a) An individual is "totally unemployed" in any week  
 159 during which he or she does not perform any services and for  
 160 which earned income is not payable to him or her. An individual  
 161 is "partially unemployed" in any week of less than full-time  
 162 work if the earned income payable to him or her for that week is  
 163 less than his or her weekly benefit amount. The Agency for  
 164 Workforce Innovation may adopt rules prescribing distinctions in  
 165 the procedures for unemployed individuals based on total  
 166 unemployment, part-time unemployment, partial unemployment of  
 167 individuals attached to their regular jobs, and other forms of  
 168 short-time work.

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

173 Section 4. Paragraph (b) of subsection (2) of section  
 174 443.041, Florida Statutes, is amended to read:

175 443.041 Waiver of rights; fees; privileged  
 176 communications.—

177 (2) FEES.—

178 (b) An attorney at law representing a claimant for  
 179 benefits in any district court of appeal of this state or in the  
 180 Supreme Court of Florida is entitled to counsel fees payable by  
 181 the Agency for Workforce Innovation as set by the court if the  
 182 petition for review or appeal is initiated by the claimant and  
 183 results in a decision awarding more benefits than provided in  
 184 the decision from which appeal was taken. The amount of the fee  
 185 may not exceed 50 percent of the total amount of regular  
 186 benefits permitted under s. 443.111(5) (b) ~~(a)~~ during the benefit  
 187 year.

188 Section 5. Paragraph (b) of subsection (1) of section  
 189 443.091, Florida Statutes, is amended to read:

190 443.091 Benefit eligibility conditions.—

191 (1) An unemployed individual is eligible to receive  
 192 benefits for any week only if the Agency for Workforce  
 193 Innovation finds that:

194 (b) She or he has registered with the agency for work and  
 195 subsequently reports to the one-stop career center as directed  
 196 by the regional workforce board for reemployment services. This

197 requirement does not apply to persons who are:

- 198 1. Non-Florida residents;
- 199 2. On a temporary layoff, as defined in s. 443.036~~(42)~~;
- 200 3. Union members who customarily obtain employment through
- 201 a union hiring hall; or
- 202 4. Claiming benefits under an approved short-time
- 203 compensation plan as provided in s. 443.1116.

204 Section 6. Effective August 1, 2011, paragraph (c) of  
 205 subsection (1) of section 443.091, Florida Statutes, is amended  
 206 to read:

207 443.091 Benefit eligibility conditions.—

208 (1) An unemployed individual is eligible to receive  
 209 benefits for any week only if the Agency for Workforce  
 210 Innovation finds that:

211 (c) To make continued claims for benefits, she or he is  
 212 reporting to the agency in accordance with its rules.

213 1. These rules may not conflict with s. 443.111(1)(b),  
 214 including the requirement that each claimant continue to report  
 215 regardless of any pending appeal relating to her or his  
 216 eligibility or disqualification for benefits.

217 2. An individual in continued reporting status must  
 218 participate in an initial skills review as directed by the  
 219 agency. The failure of the individual to comply with this  
 220 subparagraph will result in the individual being determined  
 221 ineligible for the week in which the noncompliance occurred and  
 222 for any subsequent week of unemployment until the requirement is  
 223 satisfied. However, this subparagraph does not apply if the  
 224 individual is able to affirmatively attest to being unable to



225 complete such review due to illiteracy, language barrier, or  
226 technological impediment.

227 3. The administrator or operator of the initial skills  
228 review must notify the agency when the individual completes  
229 participation in the initial skills review. The administrator or  
230 operator of the initial skills review must also report the  
231 results of the individual's initial skills review to the  
232 regional workforce board or the one-stop career center as  
233 directed by the workforce board for reemployment services.

234 Section 7. Effective August 1, 2011, paragraph (a) of  
235 subsection (1) and subsections (2), (3), and (9) of section  
236 443.101, Florida Statutes, are amended, and subsection (12) is  
237 added to that section, to read:

238 443.101 Disqualification for benefits.—An individual shall  
239 be disqualified for benefits:

240 (1) (a) For the week in which he or she has voluntarily  
241 left work without good cause attributable to his or her  
242 employing unit or in which the individual has been discharged by  
243 the employing unit for misconduct connected with his or her  
244 work, based on a finding by the Agency for Workforce Innovation.  
245 As used in this paragraph, the term "work" means any work,  
246 whether full-time, part-time, or temporary.

247 1. Disqualification for voluntarily quitting continues for  
248 the full period of unemployment next ensuing after the  
249 individual has left his or her full-time, part-time, or  
250 temporary work voluntarily without good cause and until the  
251 individual has earned income equal to or in excess of 17 times  
252 his or her weekly benefit amount. As used in this subsection,

253 the term "good cause" includes only that cause attributable to  
254 the employing unit that would compel a reasonable employee to  
255 cease his or her work or which consists of the individual's  
256 illness or disability requiring separation from his or her work.  
257 Any other disqualification may not be imposed. An individual is  
258 not disqualified under this subsection for voluntarily leaving  
259 temporary work to return immediately when called to work by the  
260 permanent employing unit that temporarily terminated his or her  
261 work within the previous 6 calendar months. An individual is not  
262 disqualified under this subsection for voluntarily leaving work  
263 to relocate as a result of his or her military-connected  
264 spouse's permanent change of station orders, activation orders,  
265 or unit deployment orders.

266 2. Disqualification for being discharged for misconduct  
267 connected with his or her work continues for the full period of  
268 unemployment next ensuing after having been discharged and until  
269 the individual is reemployed and has earned income of at least  
270 17 times his or her weekly benefit amount and for not more than  
271 52 weeks that immediately follow that week, as determined by the  
272 agency in each case according to the circumstances in each case  
273 or the seriousness of the misconduct, under the agency's rules  
274 adopted for determinations of disqualification for benefits for  
275 misconduct.

276 3. If an individual has provided notification to the  
277 employing unit of his or her intent to voluntarily leave work  
278 and the employing unit discharges the individual for reasons  
279 other than misconduct before the date the voluntary quit was to  
280 take effect, the individual, if otherwise entitled, shall

281 receive benefits from the date of the employer's discharge until  
282 the effective date of his or her voluntary quit.

283 4. If an individual is notified by the employing unit of  
284 the employer's intent to discharge the individual for reasons  
285 other than misconduct and the individual quits without good  
286 cause, as defined in this section, before the date the discharge  
287 was to take effect, the claimant is ineligible for benefits  
288 pursuant to s. 443.091(1)(d) for failing to be available for  
289 work for the week or weeks of unemployment occurring before the  
290 effective date of the discharge.

291 (2) If the Agency for Workforce Innovation finds that the  
292 individual has failed without good cause to actively seek work,  
293 apply for available suitable work ~~when directed by the agency or~~  
294 ~~the one-stop career center~~, ~~to~~ accept suitable work when offered  
295 to him or her, or ~~to~~ return to the individual's customary self-  
296 employment when directed by the agency, the disqualification  
297 continues for the full period of unemployment next ensuing after  
298 he or she failed without good cause to actively seek work, apply  
299 for available suitable work, ~~to~~ accept suitable work, or ~~to~~  
300 return to his or her customary self-employment, under this  
301 subsection, and until the individual has earned income at least  
302 17 times his or her weekly benefit amount. The Agency for  
303 Workforce Innovation shall by rule adopt criteria for  
304 determining the "suitability of work," as used in this section.  
305 The Agency for Workforce Innovation in developing these rules  
306 shall consider the duration of a claimant's unemployment in  
307 determining the suitability of work and the suitability of  
308 proposed rates of compensation for available work. Further,

309 after an individual has received 19 ~~25~~ weeks of benefits in a  
 310 single year, suitable work is a job that pays the minimum wage  
 311 and is 120 percent or more of the weekly benefit amount the  
 312 individual is drawing.

313 (a) In determining whether or not any work is suitable for  
 314 an individual, the Agency for Workforce Innovation shall  
 315 consider the degree of risk involved to his or her health,  
 316 safety, and morals; his or her physical fitness and prior  
 317 training; the individual's experience and prior earnings; his or  
 318 her length of unemployment and prospects for securing local work  
 319 in his or her customary occupation; and the distance of the  
 320 available work from his or her residence.

321 (b) Notwithstanding any other provisions of this chapter,  
 322 work is not deemed suitable and benefits may not be denied under  
 323 this chapter to any otherwise eligible individual for refusing  
 324 to accept new work under any of the following conditions:

325 1. If the position offered is vacant due directly to a  
 326 strike, lockout, or other labor dispute.

327 2. If the wages, hours, or other conditions of the work  
 328 offered are substantially less favorable to the individual than  
 329 those prevailing for similar work in the locality.

330 3. If as a condition of being employed, the individual  
 331 would be required to join a company union or to resign from or  
 332 refrain from joining any bona fide labor organization.

333 (c) If the Agency for Workforce Innovation finds that an  
 334 individual was rejected for offered employment as the direct  
 335 result of a positive, confirmed drug test required as a  
 336 condition of employment, the individual is disqualified for

337 refusing to accept an offer of suitable work.

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

340 (a) Wages in lieu of notice.

341 (b) Severance pay. The number of weeks that an  
342 individual's severance pay disqualifies the individual is equal  
343 to the amount of the severance pay divided by that individual's  
344 average weekly wage received from the employer that paid the  
345 severance pay, rounded down to the nearest whole number,  
346 beginning with the week the individual is separated from  
347 employment.

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

351  
352 ~~2. However,~~ If the remuneration referred to in this subsection  
353 ~~paragraphs (a) and (b)~~ is less than the benefits that would  
354 otherwise be due under this chapter, an individual who is  
355 otherwise eligible ~~he or she~~ is entitled to receive for that  
356 week, ~~if otherwise eligible,~~ benefits reduced by the amount of  
357 the remuneration.

358 (9) If the individual was terminated from his or her work  
359 ~~for violation of any criminal law punishable by imprisonment, or~~  
360 ~~for any dishonest act, in connection with his or her work,~~ as  
361 follows:

362 (a) If the Agency for Workforce Innovation or the  
363 Unemployment Appeals Commission finds that the individual was  
364 terminated from ~~his or her~~ work for violation of any criminal

365 law, under any jurisdiction, which was punishable by  
366 ~~imprisonment~~ in connection with his or her work, and the  
367 individual was convicted ~~found guilty of the offense, made an~~  
368 ~~admission of guilt in a court of law,~~ or entered a plea of  
369 guilty or nolo contendere ~~no contest,~~ the individual is not  
370 entitled to unemployment benefits for up to 52 weeks, pursuant  
371 to ~~under~~ rules adopted by the agency ~~for Workforce Innovation,~~  
372 and until he or she has earned income of at least 17 times his  
373 or her weekly benefit amount. If, before an adjudication of  
374 guilt, an admission of guilt, or a plea of nolo contendere ~~no~~  
375 ~~contest,~~ the employer proves by competent substantial evidence  
376 to ~~shows~~ the agency ~~for Workforce Innovation~~ that the arrest was  
377 due to a crime against the employer or the employer's business,  
378 customers, or invitees ~~and, after considering all the evidence,~~  
379 ~~the Agency for Workforce Innovation finds misconduct in~~  
380 ~~connection with the individual's work,~~ the individual is not  
381 entitled to unemployment benefits.

382 (b) If the Agency for Workforce Innovation or the  
383 Unemployment Appeals Commission finds that the individual was  
384 terminated from work for any dishonest act in connection with  
385 his or her work, the individual is not entitled to unemployment  
386 benefits for up to 52 weeks, under rules adopted by the Agency  
387 for Workforce Innovation, and until he or she has earned income  
388 of at least 17 times his or her weekly benefit amount. In  
389 addition, if the employer terminates an individual as a result  
390 of a dishonest act in connection with his or her work and the  
391 Agency for Workforce Innovation finds misconduct in connection  
392 with his or her work, the individual is not entitled to

393 unemployment benefits.

394

395 With respect to an individual disqualified for benefits, the  
 396 account of the terminating employer, if the employer is in the  
 397 base period, is noncharged at the time the disqualification is  
 398 imposed.

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

401 Section 8. Effective August 1, 2011, subsection (5) of  
 402 section 443.111, Florida Statutes, is amended to read:

403 443.111 Payment of benefits.—

404 (5) DURATION OF BENEFITS.—

405 (a) As used in this section, the term "Florida average  
 406 unemployment rate" means the average of the three months for the  
 407 most recent third calendar year quarter of the seasonally  
 408 adjusted statewide unemployment rates as published by the Agency  
 409 for Workforce Innovation.

410 (b)1. Each otherwise eligible individual is entitled  
 411 during any benefit year to a total amount of benefits equal to  
 412 25 percent of the total wages in his or her base period, not to  
 413 exceed \$5,500 or the product arrived at by multiplying the  
 414 weekly benefit amount with the number of weeks determined in  
 415 paragraph (c), whichever is less \$7,150. However, the total  
 416 amount of benefits, if not a multiple of \$1, is rounded downward  
 417 to the nearest full dollar amount. These benefits are payable at  
 418 a weekly rate no greater than the weekly benefit amount.

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

421 1. 12 weeks if the Florida average unemployment rate is at  
 422 or below 5 percent.

423 2. An additional week in addition to the 12 weeks for each  
 424 0.5 percent increment in the Florida average unemployment rate  
 425 above 5 percent.

426 3. Up to a maximum of 20 weeks if the Florida average  
 427 unemployment rate equals or exceeds 9 percent.

428 (d)2. For the purposes of this subsection, wages are  
 429 counted as "wages for insured work" for benefit purposes with  
 430 respect to any benefit year only if the benefit year begins  
 431 after the date the employing unit by whom the wages were paid  
 432 has satisfied the conditions of this chapter for becoming an  
 433 employer.

434 (e) ~~(b)~~ If the remuneration of an individual is not based  
 435 upon a fixed period or duration of time or if the individual's  
 436 wages are paid at irregular intervals or in a manner that does  
 437 not extend regularly over the period of employment, the wages  
 438 for any week or for any calendar quarter for the purpose of  
 439 computing an individual's right to employment benefits only are  
 440 determined in the manner prescribed by rule. These rules, to the  
 441 extent practicable, must secure results reasonably similar to  
 442 those that would prevail if the individual were paid her or his  
 443 wages at regular intervals.

444 Section 9. Paragraph (f) of subsection (13) of section  
 445 443.1216, Florida Statutes, is amended to read:

446 443.1216 Employment.—Employment, as defined in s. 443.036,  
 447 is subject to this chapter under the following conditions:

448 (13) The following are exempt from coverage under this



449 chapter:

450 (f) Service performed in the employ of a public employer  
 451 as defined in s. 443.036, except as provided in subsection (2),  
 452 and service performed in the employ of an instrumentality of a  
 453 public employer as described in s. 443.036~~(37)-(35)~~(b) or (c), to  
 454 the extent that the instrumentality is immune under the United  
 455 States Constitution from the tax imposed by s. 3301 of the  
 456 Internal Revenue Code for that service.

457 Section 10. Effective upon this act becoming a law and  
 458 retroactive to June 30, 2010, for tax rates effective on or  
 459 after January 1, 2011, paragraphs (b) and (e) of subsection (3)  
 460 of section 443.131, Florida Statutes, are amended to read:

461 443.131 Contributions.—

462 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT  
 463 EXPERIENCE.—

464 (b) Benefit ratio.—

465 1. As used in this paragraph, the term "annual payroll"  
 466 means the calendar quarter taxable payroll reported to the tax  
 467 collection service provider for the quarters used in computing  
 468 the benefit ratio. The term does not include a penalty resulting  
 469 from the untimely filing of required wage and tax reports. All  
 470 of the taxable payroll reported to the tax collection service  
 471 provider by the end of the quarter preceding the quarter for  
 472 which the contribution rate is to be computed must be used in  
 473 the computation.

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

477        a. 1.0 for benefits paid prior to July 1, 2007.

478        b. 0.9 for benefits paid during the period beginning on  
479 July 1, 2007, and ending March 31, 2011.

480        c. 1.0 for benefits paid after March 31, 2011.

481        ~~3.2.~~ For each calendar year, the tax collection service  
482 provider shall compute a benefit ratio for each employer whose  
483 employment record was chargeable for benefits during the 12  
484 consecutive quarters ending June 30 of the calendar year  
485 preceding the calendar year for which the benefit ratio is  
486 computed. An employer's benefit ratio is the quotient obtained  
487 by dividing the total benefits charged to the employer's  
488 employment record during the 3-year period ending June 30 of the  
489 preceding calendar year by the total of the employer's annual  
490 payroll for the 3-year period ending June 30 of the preceding  
491 calendar year. The benefit ratio shall be computed to the fifth  
492 decimal place and rounded to the fourth decimal place.

493        ~~4.3.~~ The tax collection service provider shall compute a  
494 benefit ratio for each employer who was not previously eligible  
495 under subparagraph ~~3. 2.~~, whose contribution rate is set at the  
496 initial contribution rate in paragraph (2) (a), and whose  
497 employment record was chargeable for benefits during at least 8  
498 calendar quarters immediately preceding the calendar quarter for  
499 which the benefit ratio is computed. The employer's benefit  
500 ratio is the quotient obtained by dividing the total benefits  
501 charged to the employer's employment record during the first 6  
502 of the 8 completed calendar quarters immediately preceding the  
503 calendar quarter for which the benefit ratio is computed by the  
504 total of the employer's annual payroll during the first 7 of the

505 9 completed calendar quarters immediately preceding the calendar  
506 quarter for which the benefit ratio is computed. The benefit  
507 ratio shall be computed to the fifth decimal place and rounded  
508 to the fourth decimal place and applies for the remainder of the  
509 calendar year. The employer must subsequently be rated on an  
510 annual basis using up to 12 calendar quarters of benefits  
511 charged and up to 12 calendar quarters of annual payroll. That  
512 employer's benefit ratio is the quotient obtained by dividing  
513 the total benefits charged to the employer's employment record  
514 by the total of the employer's annual payroll during the  
515 quarters used in his or her first computation plus the  
516 subsequent quarters reported through June 30 of the preceding  
517 calendar year. Each subsequent calendar year, the rate shall be  
518 computed under subparagraph 3. ~~2.~~ The tax collection service  
519 provider shall assign a variation from the standard rate of  
520 contributions in paragraph (c) on a quarterly basis to each  
521 eligible employer in the same manner as an assignment for a  
522 calendar year under paragraph (e).

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

524 1. As used in this paragraph, the terms "total benefit  
525 payments," "benefits paid to an individual," and "benefits  
526 charged to the employment record of an employer" mean the amount  
527 of benefits paid to individuals multiplied by:

528 a. 1.0 for benefits paid prior to July 1, 2007.

529 b. 0.9 for benefits paid during the period beginning on  
530 July 1, 2007, and ending March 31, 2011.

531 c. 1.0 for benefits paid after March 31, 2011.

532 2. For the calculation of contribution rates effective

533 January 1, 2010, and thereafter:

534 ~~a.1.~~ The tax collection service provider shall assign a

535 variation from the standard rate of contributions for each

536 calendar year to each eligible employer. In determining the

537 contribution rate, varying from the standard rate to be assigned

538 each employer, adjustment factors computed under sub-sub-

539 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ are added to the

540 benefit ratio. This addition shall be accomplished in two steps

541 by adding a variable adjustment factor and a final adjustment

542 factor. The sum of these adjustment factors computed under sub-

543 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ shall first

544 be algebraically summed. The sum of these adjustment factors

545 shall next be divided by a gross benefit ratio determined as

546 follows: Total benefit payments for the 3-year period described

547 in subparagraph (b)3. ~~(b)2.~~ are charged to employers eligible

548 for a variation from the standard rate, minus excess payments

549 for the same period, divided by taxable payroll entering into

550 the computation of individual benefit ratios for the calendar

551 year for which the contribution rate is being computed. The

552 ratio of the sum of the adjustment factors computed under sub-

553 sub-subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to the gross

554 benefit ratio is multiplied by each individual benefit ratio

555 that is less than the maximum contribution rate to obtain

556 variable adjustment factors; except that if the sum of an

557 employer's individual benefit ratio and variable adjustment

558 factor exceeds the maximum contribution rate, the variable

559 adjustment factor is reduced in order for the sum to equal the

560 maximum contribution rate. The variable adjustment factor for

561 each of these employers is multiplied by his or her taxable  
562 payroll entering into the computation of his or her benefit  
563 ratio. The sum of these products is divided by the taxable  
564 payroll of the employers who entered into the computation of  
565 their benefit ratios. The resulting ratio is subtracted from the  
566 sum of the adjustment factors computed under sub-sub-  
567 subparagraphs (I)-(IV) ~~sub-subparagraphs a.-d.~~ to obtain the  
568 final adjustment factor. The variable adjustment factors and the  
569 final adjustment factor must be computed to five decimal places  
570 and rounded to the fourth decimal place. This final adjustment  
571 factor is added to the variable adjustment factor and benefit  
572 ratio of each employer to obtain each employer's contribution  
573 rate. An employer's contribution rate may not, however, be  
574 rounded to less than 0.1 percent.

575 (I)a. An adjustment factor for noncharge benefits is  
576 computed to the fifth decimal place and rounded to the fourth  
577 decimal place by dividing the amount of noncharge benefits  
578 during the 3-year period described in subparagraph (b)3. ~~(b)2.~~  
579 by the taxable payroll of employers eligible for a variation  
580 from the standard rate who have a benefit ratio for the current  
581 year which is less than the maximum contribution rate. For  
582 purposes of computing this adjustment factor, the taxable  
583 payroll of these employers is the taxable payrolls for the 3  
584 years ending June 30 of the current calendar year as reported to  
585 the tax collection service provider by September 30 of the same  
586 calendar year. As used in this sub-sub-subparagraph ~~sub-~~  
587 ~~subparagraph~~, the term "noncharge benefits" means benefits paid  
588 to an individual from the Unemployment Compensation Trust Fund,

589 but which were not charged to the employment record of any  
 590 employer.

591 (II)~~b.~~ An adjustment factor for excess payments is  
 592 computed to the fifth decimal place, and rounded to the fourth  
 593 decimal place by dividing the total excess payments during the  
 594 3-year period described in subparagraph (b)3. ~~(b)2.~~ by the  
 595 taxable payroll of employers eligible for a variation from the  
 596 standard rate who have a benefit ratio for the current year  
 597 which is less than the maximum contribution rate. For purposes  
 598 of computing this adjustment factor, the taxable payroll of  
 599 these employers is the same figure used to compute the  
 600 adjustment factor for noncharge benefits under sub-sub-  
 601 subparagraph (I) ~~sub-subparagraph a.~~ As used in this sub-  
 602 subparagraph, the term "excess payments" means the amount of  
 603 benefits charged to the employment record of an employer during  
 604 the 3-year period described in subparagraph (b)3. ~~(b)2.~~, less  
 605 the product of the maximum contribution rate and the employer's  
 606 taxable payroll for the 3 years ending June 30 of the current  
 607 calendar year as reported to the tax collection service provider  
 608 by September 30 of the same calendar year. As used in this sub-  
 609 sub-subparagraph ~~sub-subparagraph~~, the term "total excess  
 610 payments" means the sum of the individual employer excess  
 611 payments for those employers that were eligible for assignment  
 612 of a contribution rate different from the standard rate.

613 (III)~~e.~~ With respect to computing a positive adjustment  
 614 factor:

615 (A)~~(1)~~ Beginning January 1, 2012, if the balance of the  
 616 Unemployment Compensation Trust Fund on September 30 of the

617 | calendar year immediately preceding the calendar year for which  
 618 | the contribution rate is being computed is less than 4 percent  
 619 | of the taxable payrolls for the year ending June 30 as reported  
 620 | to the tax collection service provider by September 30 of that  
 621 | calendar year, a positive adjustment factor shall be computed.  
 622 | The positive adjustment factor is computed annually to the fifth  
 623 | decimal place and rounded to the fourth decimal place by  
 624 | dividing the sum of the total taxable payrolls for the year  
 625 | ending June 30 of the current calendar year as reported to the  
 626 | tax collection service provider by September 30 of that calendar  
 627 | year into a sum equal to one-third of the difference between the  
 628 | balance of the fund as of September 30 of that calendar year and  
 629 | the sum of 5 percent of the total taxable payrolls for that  
 630 | year. The positive adjustment factor remains in effect for  
 631 | subsequent years until the balance of the Unemployment  
 632 | Compensation Trust Fund as of September 30 of the year  
 633 | immediately preceding the effective date of the contribution  
 634 | rate equals or exceeds 5 percent of the taxable payrolls for the  
 635 | year ending June 30 of the current calendar year as reported to  
 636 | the tax collection service provider by September 30 of that  
 637 | calendar year.

638 |        (B)~~(H)~~ Beginning January 1, 2015, and for each year  
 639 | thereafter, the positive adjustment shall be computed by  
 640 | dividing the sum of the total taxable payrolls for the year  
 641 | ending June 30 of the current calendar year as reported to the  
 642 | tax collection service provider by September 30 of that calendar  
 643 | year into a sum equal to one-fourth of the difference between  
 644 | the balance of the fund as of September 30 of that calendar year

645 and the sum of 5 percent of the total taxable payrolls for that  
646 year. The positive adjustment factor remains in effect for  
647 subsequent years until the balance of the Unemployment  
648 Compensation Trust Fund as of September 30 of the year  
649 immediately preceding the effective date of the contribution  
650 rate equals or exceeds 4 percent of the taxable payrolls for the  
651 year ending June 30 of the current calendar year as reported to  
652 the tax collection service provider by September 30 of that  
653 calendar year.

654 (IV) ~~d.~~ If, beginning January 1, 2015, and each year  
655 thereafter, the balance of the Unemployment Compensation Trust  
656 Fund as of September 30 of the year immediately preceding the  
657 calendar year for which the contribution rate is being computed  
658 exceeds 5 percent of the taxable payrolls for the year ending  
659 June 30 of the current calendar year as reported to the tax  
660 collection service provider by September 30 of that calendar  
661 year, a negative adjustment factor must be computed. The  
662 negative adjustment factor shall be computed annually beginning  
663 on January 1, 2015, and each year thereafter, to the fifth  
664 decimal place and rounded to the fourth decimal place by  
665 dividing the sum of the total taxable payrolls for the year  
666 ending June 30 of the current calendar year as reported to the  
667 tax collection service provider by September 30 of the calendar  
668 year into a sum equal to one-fourth of the difference between  
669 the balance of the fund as of September 30 of the current  
670 calendar year and 5 percent of the total taxable payrolls of  
671 that year. The negative adjustment factor remains in effect for  
672 subsequent years until the balance of the Unemployment



673 Compensation Trust Fund as of September 30 of the year  
 674 immediately preceding the effective date of the contribution  
 675 rate is less than 5 percent, but more than 4 percent of the  
 676 taxable payrolls for the year ending June 30 of the current  
 677 calendar year as reported to the tax collection service provider  
 678 by September 30 of that calendar year. The negative adjustment  
 679 authorized by this section is suspended in any calendar year in  
 680 which repayment of the principal amount of an advance received  
 681 from the federal Unemployment Compensation Trust Fund under 42  
 682 U.S.C. s. 1321 is due to the Federal Government.

683 (V)~~e~~. The maximum contribution rate that may be assigned  
 684 to an employer is 5.4 percent, except employers participating in  
 685 an approved short-time compensation plan may be assigned a  
 686 maximum contribution rate that is 1 percent greater than the  
 687 maximum contribution rate for other employers in any calendar  
 688 year in which short-time compensation benefits are charged to  
 689 the employer's employment record.

690 (VI)~~f~~. As used in this subsection, "taxable payroll" shall  
 691 be determined by excluding any part of the remuneration paid to  
 692 an individual by an employer for employment during a calendar  
 693 year in excess of the first \$7,000. Beginning January 1, 2012,  
 694 "taxable payroll" shall be determined by excluding any part of  
 695 the remuneration paid to an individual by an employer for  
 696 employment during a calendar year as described in s.  
 697 443.1217(2). For the purposes of the employer rate calculation  
 698 that will take effect in January 1, 2012, and in January 1,  
 699 2013, the tax collection service provider shall use the data  
 700 available for taxable payroll from 2009 based on excluding any

701 part of the remuneration paid to an individual by an employer  
 702 for employment during a calendar year in excess of the first  
 703 \$7,000, and from 2010 and 2011, the data available for taxable  
 704 payroll based on excluding any part of the remuneration paid to  
 705 an individual by an employer for employment during a calendar  
 706 year in excess of the first \$8,500.

707 ~~b.2.~~ If the transfer of an employer's employment record to  
 708 an employing unit under paragraph (f) which, before the  
 709 transfer, was an employer, the tax collection service provider  
 710 shall recompute a benefit ratio for the successor employer based  
 711 on the combined employment records and reassign an appropriate  
 712 contribution rate to the successor employer effective on the  
 713 first day of the calendar quarter immediately after the  
 714 effective date of the transfer.

715 Section 11. Present paragraph (f) of subsection (1) of  
 716 section 443.141, Florida Statutes, is redesignated as paragraph  
 717 (g), and new paragraph (f) is added to that subsection to read:

718 443.141 Collection of contributions and reimbursements.—

719 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
 720 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

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

726 1. For contributions due for wages paid in the first  
 727 quarter of each year, one-fourth of the contributions due must  
 728 be paid on or before April 30, one-fourth must be paid on or

729 before July 31, one-fourth must be paid on or before October 31,  
730 and one-fourth must be paid on or before December 31.

731 2. In addition to the payments specified in subparagraph  
732 1., for contributions due for wages paid in the second quarter  
733 of each year, one-third of the contributions due must be paid on  
734 or before July 31, one-third must be paid on or before October  
735 31, and one-third must be paid on or before December 31.

736 3. In addition to the payments specified in subparagraphs  
737 1. and 2., for contributions due for wages paid in the third  
738 quarter of each year, one-half of the contributions due must be  
739 paid on or before October 31, and one-half must be paid on or  
740 before December 31.

741 4. The annual administrative fee assessed for electing to  
742 pay under the installment method shall be collected at the time  
743 the employer makes the first installment payment each year. The  
744 fee shall be segregated from the payment and deposited into the  
745 Operating Trust Fund of the Department of Revenue.

746 5. Interest does not accrue on any contribution that  
747 becomes due for wages paid in the first three quarters of each  
748 year if the employer pays the contribution in accordance with  
749 subparagraphs 1.-4. Interest and fees continue to accrue on  
750 prior delinquent contributions and commence accruing on all  
751 contributions due for wages paid in the first three quarters of  
752 each year which are not paid in accordance with subparagraphs  
753 1.-3. Penalties may be assessed in accordance with this chapter.  
754 The contributions due for wages paid in the fourth quarter of  
755 2012, 2013, and 2014 are not affected by this paragraph and are  
756 due and payable in accordance with this chapter.

757 Section 12. Paragraphs (b) and (d) of subsection (3) and  
 758 paragraphs (b) and (e) of subsection (4) of section 443.151,  
 759 Florida Statutes, are amended to read:

760 443.151 Procedure concerning claims.—

761 (3) DETERMINATION OF ELIGIBILITY.—

762 (b) Monetary determinations.—In addition to the notice of  
 763 claim, the Agency for Workforce Innovation must ~~shall~~ also  
 764 promptly provide an initial monetary determination to the  
 765 claimant and each base period employer whose account is subject  
 766 to being charged for its respective share of benefits on the  
 767 claim. The monetary determination must include a statement of  
 768 whether and in what amount the claimant is entitled to benefits,  
 769 and, in the event of a denial, must state the reasons for the  
 770 denial. A monetary determination for the first week of a benefit  
 771 year must also include a statement of whether the claimant was  
 772 paid the wages required under s. 443.091(1)(g) and, if so, the  
 773 first day of the benefit year, the claimant's weekly benefit  
 774 amount, and the maximum total amount of benefits payable to the  
 775 claimant for a benefit year. The monetary determination is final  
 776 unless within 20 days after the mailing of the notices to the  
 777 parties' last known addresses, or in lieu of mailing, within 20  
 778 days after the delivery of the notices, an appeal or written  
 779 request for reconsideration is filed by the claimant or other  
 780 party entitled to notice. The agency may adopt rules as  
 781 necessary to implement the processes described in this paragraph  
 782 relating to notices of monetary determinations and the appeals  
 783 or reconsideration requests filed in response to such notices.

784 (d) Determinations in labor dispute cases.—If a ~~Whenever~~

785 ~~any~~ claim involves a labor dispute described in s. 443.101(4),  
786 the Agency for Workforce Innovation shall promptly assign the  
787 claim to a special examiner who shall make a determination on  
788 the issues involving unemployment due to the labor dispute. The  
789 special examiner shall make the determination after an  
790 investigation, as necessary. The claimant or another party  
791 entitled to notice of the determination may appeal a  
792 determination under subsection (4).

793 (4) APPEALS.—

794 (b) Filing and hearing.—

795 1. The claimant or any other party entitled to notice of a  
796 determination may appeal an adverse determination to an appeals  
797 referee within 20 days after the date of mailing of the notice  
798 to her or his last known address or, if the notice is not  
799 mailed, within 20 days after the date of delivery of the notice.

800 2. Unless the appeal is untimely or withdrawn or review is  
801 initiated by the commission, the appeals referee, after mailing  
802 all parties and attorneys of record a notice of hearing at least  
803 10 days before the date of hearing, notwithstanding the 14-day  
804 notice requirement in s. 120.569(2)(b), may only affirm, modify,  
805 or reverse the determination. An appeal may not be withdrawn  
806 without the permission of the appeals referee.

807 3. However, when an appeal appears to have been filed  
808 after the permissible time limit, the Office of Appeals may  
809 issue an order to show cause to the appellant, requiring the  
810 appellant to show why the appeal should not be dismissed as  
811 untimely. If the appellant does not, within 15 days after the  
812 mailing date of the order to show cause, provide written

813 evidence of timely filing or good cause for failure to appeal  
814 timely, the appeal shall be dismissed.

815 4. When an appeal involves a question of whether services  
816 were performed by a claimant in employment or for an employer,  
817 the referee must give special notice of the question and of the  
818 pendency of the appeal to the employing unit and to the Agency  
819 for Workforce Innovation, both of which become parties to the  
820 proceeding.

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

824 b. Irrelevant, immaterial, or unduly repetitious evidence  
825 shall be excluded, but all other evidence of a type commonly  
826 relied upon by reasonably prudent persons in the conduct of  
827 their affairs shall be admissible, whether or not such evidence  
828 would be admissible in a trial in the courts of the state.

829 c. Hearsay evidence may be used for the purpose of  
830 supplementing or explaining other evidence, or to support a  
831 finding if it would be admissible over objection in civil  
832 actions. Notwithstanding s. 120.57(1)(c), hearsay evidence may  
833 support a finding of fact if:

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

836 (II) The appeals referee or special deputy determines,  
837 after considering all relevant facts and circumstances, that the  
838 evidence is trustworthy and probative and that the interests of  
839 justice will best be served by its admission into evidence.

840 ~~6.5.~~ The parties must be notified promptly of the

841 referee's decision. The referee's decision is final unless  
 842 further review is initiated under paragraph (c) within 20 days  
 843 after the date of mailing notice of the decision to the party's  
 844 last known address or, in lieu of mailing, within 20 days after  
 845 the delivery of the notice.

846 (e) Judicial review.—Orders of the commission entered  
 847 under paragraph (c) are subject to review only by notice of  
 848 appeal in the district court of appeal in the appellate district  
 849 in which a claimant resides or the job separation arose or in  
 850 the appellate district where the order was issued ~~the issues~~  
 851 ~~involved were decided by an appeals referee.~~ However, if the  
 852 notice of appeal is filed solely with the commission, the appeal  
 853 shall be filed in the district court of appeal in the appellate  
 854 district in which the order was issued. Notwithstanding chapter  
 855 120, the commission is a party respondent to every such  
 856 proceeding. The Agency for Workforce Innovation may initiate  
 857 judicial review of orders in the same manner and to the same  
 858 extent as any other party.

859 Section 13. Section (10) is added to section 443.171,  
 860 Florida Statutes, to read:

861 443.171 Agency for Workforce Innovation and commission;  
 862 powers and duties; records and reports; proceedings; state-  
 863 federal cooperation.—

864 (10) EVIDENCE OF MAILING.—The existence of a mailing date  
 865 on any notice, determination, decision, order, or other document  
 866 mailed by the Agency for Workforce Innovation or its tax  
 867 collection service provider pursuant to this chapter creates a  
 868 rebuttable presumption that such notice, determination, order,

869 or other document was mailed on the date indicated.

870 Section 14. Notwithstanding the expiration date contained  
 871 in section 1 of chapter 2010-90, Laws of Florida, operating  
 872 retroactive to June 2, 2010, and expiring January 4, 2012,  
 873 section 443.1117, Florida Statutes, is revived, readopted, and  
 874 amended to read:

875 443.1117 Temporary extended benefits.—

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

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

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

884 (b) "Eligibility period" means the weeks in an  
 885 individual's benefit year or emergency benefit period which  
 886 begin in an extended benefit period and, if the benefit year or  
 887 emergency benefit period ends within that extended benefit  
 888 period, any subsequent weeks beginning in that period.

889 (c) "Emergency benefits" means Emergency Unemployment  
 890 Compensation paid pursuant to Pub. L. No. 110-252, Pub. L. No.  
 891 110-449, Pub. L. No. 111-5, Pub. L. No. 111-92, Pub. L. No. 111-  
 892 118, Pub. L. No. 111-144, ~~and~~ Pub. L. No. 111-157, Pub. L. No.  
 893 111-205, and Pub. L. No. 111-312.

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

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



897 2. Ends with any of the following weeks, whichever occurs  
898 later:

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

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

902

903 However, an extended benefit period may not begin by reason of a  
904 state "on" indicator before the 14th week after the end of a  
905 prior extended benefit period that was in effect for this state.

906 (e) "Emergency benefit period" means the period during  
907 which an individual receives emergency benefits ~~as defined in~~  
908 ~~paragraph (c)~~.

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

911 1. Has received, before that week, all of the regular  
912 benefits and emergency benefits, if any, available under this  
913 chapter or any other law, including dependents' allowances and  
914 benefits payable to federal civilian employees and ex-  
915 servicemembers under 5 U.S.C. ss. 8501-8525, in the current  
916 benefit year or emergency benefit period that includes that  
917 week. For the purposes of this subparagraph, an individual has  
918 received all of the regular benefits and emergency benefits, if  
919 any, available even if ~~although~~, as a result of a pending appeal  
920 for wages paid for insured work which were not considered in the  
921 original monetary determination in the benefit year, she or he  
922 may subsequently be determined to be entitled to added regular  
923 benefits;

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

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

932           b. Has not received and is not seeking unemployment  
 933 benefits under the unemployment compensation law of Canada; but  
 934 if an individual is seeking those benefits and the appropriate  
 935 agency finally determines that she or he is not entitled to  
 936 benefits under that law, she or he is considered an exhaustee.

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

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

947           2. Equals or exceeds 6.5 percent.

948           (h) "High unemployment period" means, with respect to  
 949 weeks of unemployment ~~beginning on or after February 1, 2009,~~  
 950 ~~and~~ ending on or before December 10, 2011 ~~May 8, 2010,~~ any week  
 951 in which the average total unemployment rate, seasonally

952 adjusted, as determined by the United States Secretary of Labor,  
 953 for the most recent 3 months for which data for all states are  
 954 published by the United States Department of Labor:

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

958 2. Equals or exceeds 8 percent.

959 (i) "State 'off' indicator" means the occurrence of a week  
 960 in which there is no state "on" indicator or which does not  
 961 constitute a high unemployment period.

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

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

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

970 2. Thirteen times the weekly benefit amount payable under  
 971 this chapter for a week of total unemployment in the applicable  
 972 benefit year.

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

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

978           2. Twenty times the weekly benefit amount payable under  
 979 this chapter for a week of total unemployment in the applicable  
 980 benefit year.

981           (4) EFFECT ON TRADE READJUSTMENT.—Notwithstanding any  
 982 other provision of this chapter, if the benefit year of an  
 983 individual ends within an extended benefit period, the number of  
 984 weeks of extended benefits the individual is entitled to receive  
 985 in that extended benefit period for weeks of unemployment  
 986 beginning after the end of the benefit year, except as provided  
 987 in this section, is reduced, but not to below zero, by the  
 988 number of weeks for which the individual received, within that  
 989 benefit year, trade readjustment allowances under the Trade Act  
 990 of 1974, as amended.

991           Section 15. If any provision of this act or its  
 992 application to any person or circumstance is held invalid, the  
 993 invalidity does not affect other provisions or applications of  
 994 the act which can be given effect without the invalid provision  
 995 or application, and to this end the provisions of this act are  
 996 severable.

997           Section 16. The provisions of s. 443.1117, Florida  
 998 Statutes, as revived, readopted, and amended by this act, apply  
 999 only to claims for weeks of unemployment in which an exhaustee  
 1000 establishes entitlement to extended benefits pursuant to that  
 1001 section which are established for the period between December  
 1002 17, 2010, and January 4, 2012.

1003           Section 17. For the 2011-2012 fiscal year, the sum of  
 1004 \$242,300 in nonrecurring funds is appropriated from the  
 1005 Operating Trust Fund to the Administration of Unemployment

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2011

1006 Compensation Tax Special Category in the Department of Revenue  
1007 to be used to implement this act. In addition, for the 2010-2011  
1008 fiscal year, the sum of \$256,891 in nonrecurring funds is  
1009 appropriated from the Employment Security Administration Trust  
1010 Fund in the contracted services appropriation category to the  
1011 Agency for Workforce Innovation to be used to contract with the  
1012 Department of Revenue for tax-related services as required to  
1013 implement this act.

1014       Section 18. The Legislature finds that this act fulfills  
1015 an important state interest.

1016       Section 19. Except as otherwise expressly provided in this  
1017 act, this act shall take effect upon becoming a law.