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CS/CS/HB 7005, Engrossed 2

2011 Legislature

1 A bill to be entitled

2 An act relating to unemployment compensation; amending s.

3 213.053, F.S.; increasing the number of employer payroll

4 service providers who qualify for access to unemployment

5 tax information by filing a memorandum of understanding;

6 amending s. 443.031, F.S.; revising provisions relating to

7 statutory construction; amending s. 443.036, F.S.;

8 revising the definitions for "available for work,"

9 "misconduct," and "unemployment"; adding definitions for

10 "individual in continued reporting status" and "initial

11 skills review"; amending s. 443.091, F.S.; revising

12 requirements for making continued claims for benefits;

13 requiring that an individual claiming benefits report

14 certain information and participate in an initial skills

15 review; providing an exception; specifying criteria for

16 determining an applicant's availability for work; amending

17 s. 443.101, F.S.; clarifying "good cause" for voluntarily

18 leaving employment; disqualifying a person for benefits

19 due to the receipt of severance pay; revising provisions

20 relating to the effects of criminal acts on eligibility

21 for benefits; amending s. 443.111, F.S.; taking effect

22 August 1, 2011; reducing the amount and revising the

23 manner in which benefits are payable; eliminating payment

24 by mail; providing an exception; conforming provisions to

25 changes made by the act; amending s. 443.111, F.S.; taking

26 effect January 1, 2012; defining the term "Florida average

27 unemployment rate"; revising the number of available weeks

28 of unemployment benefits available; amending s. 443.041,

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

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

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

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

78 213.053 Confidentiality and information sharing.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The rule is not fairly or consistently enforced.

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

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

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

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

443.091 Benefit eligibility conditions.—

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

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

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

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

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

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

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

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

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

However:

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

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

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

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

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

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

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

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

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

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

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

1. Disqualification for voluntarily quitting continues for

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

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

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disqualification for benefits for misconduct.

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

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

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

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

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

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

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

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

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

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

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

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

402 (a) Wages in lieu of notice.

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

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

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

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

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

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

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

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

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

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

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

443.111 Payment of benefits.—

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

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

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

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

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

497 443.111 Payment of benefits.—

498 (5) DURATION OF BENEFITS.—

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

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

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

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

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

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

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

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

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

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

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

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

543 (2) FEES.—

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

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

558 443.131 Contributions.—

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

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(b) *Benefit ratio.*—

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

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

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

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

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

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

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589 decimal place and rounded to the fourth decimal place.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

787 ~~(VI) f.~~ As used in this subsection, "taxable payroll" shall
788 be determined by excluding any part of the remuneration paid to
789 an individual by an employer for employment during a calendar
790 year in excess of the first \$7,000. Beginning January 1, 2012,
791 "taxable payroll" shall be determined by excluding any part of
792 the remuneration paid to an individual by an employer for
793 employment during a calendar year as described in s.

794 443.1217(2). For the purposes of the employer rate calculation
795 that will take effect in January 1, 2012, and in January 1,
796 2013, the tax collection service provider shall use the data
797 available for taxable payroll from 2009 based on excluding any
798 part of the remuneration paid to an individual by an employer
799 for employment during a calendar year in excess of the first
800 \$7,000, and from 2010 and 2011, the data available for taxable
801 payroll based on excluding any part of the remuneration paid to
802 an individual by an employer for employment during a calendar
803 year in excess of the first \$8,500.

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

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

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

443.141 Collection of contributions and reimbursements.—

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

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

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

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

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

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

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

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

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

857 443.151 Procedure concerning claims.—

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

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

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(4) APPEALS.—

(b) *Filing and hearing.*—

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

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

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

4. If ~~When~~ an appeal involves a question of whether services were performed by a claimant in employment or for an employer, the referee must give special notice of the question and of the pendency of the appeal to the employing unit and to the Agency for Workforce Innovation, both of which become

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897 parties to the proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

952 443.1117 Temporary extended benefits.—

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

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

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

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

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

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

1. Begins with the third week after a week for which there is a state "on" indicator; and
2. Ends with any of the following weeks, whichever occurs later:
 - a. The third week after the first week for which there is a state "off" indicator; or
 - b. The 13th consecutive week of that period.

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

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

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

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

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

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

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

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

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

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

1024 2. Equals or exceeds 6.5 percent.

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

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

1035 2. Equals or exceeds 8 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

443.17161 Authorized electronic access to employer information.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1181 Section 19. Except as otherwise expressly provided in this
1182 act, this act shall take effect upon becoming a law.
1183