

CHAPTER 2011-235

Committee Substitute for Committee Substitute for House Bill No. 7005

An act relating to unemployment compensation; amending s. 213.053, F.S.; increasing the number of employer payroll service providers who qualify for access to unemployment tax information by filing a memorandum of understanding; amending s. 443.031, F.S.; revising provisions relating to statutory construction; amending s. 443.036, F.S.; revising the definitions for “available for work,” “misconduct,” and “unemployment”; adding definitions for “individual in continued reporting status” and “initial skills review”; amending s. 443.091, F.S.; revising requirements for making continued claims for benefits; requiring that an individual claiming benefits report certain information and participate in an initial skills review; providing an exception; specifying criteria for determining an applicant’s availability for work; amending s. 443.101, F.S.; clarifying “good cause” for voluntarily leaving employment; disqualifying a person for benefits due to the receipt of severance pay; revising provisions relating to the effects of criminal acts on eligibility for benefits; amending s. 443.111, F.S.; taking effect August 1, 2011; reducing the amount and revising the manner in which benefits are payable; eliminating payment by mail; providing an exception; conforming provisions to changes made by the act; amending s. 443.111, F.S.; taking effect January 1, 2012; defining the term “Florida average unemployment rate”; revising the number of available weeks of unemployment benefits available; amending s. 443.041, F.S.; conforming a cross-reference; amending s. 443.141, F.S.; providing an employer payment schedule for 2012, 2013, and 2014 contributions; requiring an employer to pay a fee for paying contributions on a quarterly schedule; providing penalties, interest, and fees on delinquent contributions; amending s. 443.151, F.S.; requiring claims to be submitted by electronic means; revising allowable forms of evidence in benefit appeals; revising the judicial venue for reviewing commission orders; amending s. 443.171, F.S.; specifying that evidence of mailing an agency document is based on the date stated on the document; reviving, readopting, and amending s. 443.1117, F.S., relating to temporary extended benefits; providing for retroactive application; establishing temporary state extended benefits for weeks of unemployment; revising definitions; providing for state extended benefits for certain weeks and for periods of high unemployment; providing severability; providing applicability; creating s. 443.17161, F.S.; requiring the Agency for Workforce Innovation to contract with one or more consumer-reporting agencies to provide creditors, employers, and other entities with a permissible purpose with secured electronic access to employer-provided information relating to the quarterly wages reports; providing conditions; requiring consent from the applicant for credit, employment, or other permitted purpose; prescribing information that must be included in the written consent; providing for confidentiality; limiting use of the information released; providing for

termination of contracts under certain circumstances; requiring the agency to establish minimum audit, security, net worth, and liability insurance standards and other requirements it considers necessary; providing that any revenues generated from a contract with a consumer reporting agency must be used to pay the entire cost of providing access to the information; providing that any additional revenues generated must be paid into the Administrative Trust Fund of the Agency for Workforce Innovation or used for program purposes; providing restrictions on the release of information under the act; defining the terms “consumer-reporting agency,” “creditor,” and “user”; providing appropriations for purposes of implementation; providing that the act fulfills an important state interest; providing effective dates.

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

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

213.053 Confidentiality and information sharing.—

(4) The department, while providing unemployment tax collection services under contract with the Agency for Workforce Innovation through an interagency agreement pursuant to s. 443.1316, may release unemployment tax rate information to the agent of an employer ~~who, which agent~~ provides payroll services for more than ~~100~~ 500 employers, pursuant to the terms of a memorandum of understanding. The memorandum of understanding must state that the agent affirms, subject to the criminal penalties contained in ss. 443.171 and 443.1715, that the agent will retain the confidentiality of the information, that the agent has in effect a power of attorney from the employer which permits the agent to obtain unemployment tax rate information, and that the agent shall provide the department with a copy of the employer’s power of attorney upon request.

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

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

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

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

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

(6) “Available for work” means actively seeking and being ready and willing to accept suitable work employment.

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

(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.~~

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

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

(d) She or he is able to work and is available for work. In order to assess eligibility for a claimed week of unemployment, the agency shall develop criteria to determine a claimant’s ability to work and availability for work. A claimant must be actively seeking work in order to be considered available for work. This means engaging in systematic and sustained efforts to find work, including contacting at least five prospective employers for each week of unemployment claimed. The agency may require the claimant to provide proof of such efforts to the one-stop career center as part of reemployment services. The agency shall conduct random reviews of work search information provided by claimants. As an 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 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 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 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 criteria for determining the “suitability of work,” as used in this section. ~~The Agency for Workforce Innovation~~ In developing these rules, the agency shall consider the duration of a claimant’s unemployment in determining the suitability of work and the suitability of proposed rates of compensation for available work. Further, after an individual has received 25 weeks of benefits in a single year, suitable work is a job that pays the minimum wage and is 120 percent or more of the weekly benefit amount the individual is drawing.

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

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

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

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

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

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

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

(a) Wages in lieu of notice.

(b) Severance pay. The number of weeks that an individual’s severance pay disqualifies the individual is equal to the amount of the severance pay divided by that individual’s average weekly wage received from the employer

that paid the severance pay, rounded down to the nearest whole number, beginning with the week the individual is separated from employment.

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

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

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

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

~~(b) If the Agency for Workforce Innovation or the Unemployment Appeals Commission finds that the individual was terminated from work for any dishonest act in connection with his or her work, the individual is not entitled to unemployment benefits for up to 52 weeks, pursuant to ~~under~~ rules adopted by 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. Commodities or services related to the development of such a system shall be procured by competitive solicitation, unless they are purchased from a state term contract pursuant to s. 287.056. The agency shall adopt rules necessary to administer this paragraph ~~the system~~.

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

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

443.111 Payment of benefits.—

(5) DURATION OF BENEFITS.—

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

(b)~~1~~. Each otherwise eligible individual is entitled 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 computing an individual's right to employment benefits only are determined in the manner prescribed by rule. These rules, to the extent practicable, must secure results reasonably similar to those that would prevail if the individual were paid her or his wages at regular intervals.

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

443.041 Waiver of rights; fees; privileged communications.—

(2) FEES.—

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

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

443.131 Contributions.—

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

(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 decimal place and rounded to the fourth decimal place.

~~4.3.~~ The tax collection service provider shall compute a benefit ratio for each employer who was not previously eligible under subparagraph ~~3. 2.~~, whose contribution rate is set at the initial contribution rate in paragraph (2)(a), and whose employment record was chargeable for benefits during at least 8 calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. The employer’s benefit ratio is the quotient obtained by dividing the total benefits charged to the employer’s employment record during the first 6 of the 8 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed by the total of the employer’s annual payroll during the first 7 of the 9 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. The benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place and applies for the remainder of the calendar year. The employer must

subsequently be rated on an annual basis using up to 12 calendar quarters of benefits charged and up to 12 calendar quarters of annual payroll. That employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record by the total of the employer's annual payroll during the quarters used in his or her first computation plus the subsequent quarters reported through June 30 of the preceding calendar year. Each subsequent calendar year, the rate shall be computed under subparagraph 3. 2. The tax collection service provider shall assign a variation from the standard rate of 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-paragraphs 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-paragraphs (I)-(IV) sub-paragraphs 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 for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-sub-paragraphs (I)-(IV) sub-paragraphs a.-d. to the gross benefit ratio is multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that if the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor is

reduced in order for the sum to equal the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products is divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio is subtracted from the sum of the adjustment factors computed under sub-sub-paragraphs (I)-(IV) ~~sub-sub-paragraphs a.-d.~~ to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor must be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor is added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate. An employer's contribution rate may not, however, be rounded to less than 0.1 percent.

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

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

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

(A)(I) Beginning January 1, 2012, if the balance of the Unemployment Compensation Trust Fund on September 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor is computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-third of the difference between the balance of the fund as of September 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 5 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

(B)(II) Beginning January 1, 2015, and for each year thereafter, the positive adjustment shall be computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

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

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

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

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

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

Section 10. Present paragraph (f) of subsection (1) of 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 fee shall be segregated from the payment and deposited into the Operating Trust Fund of the Department of Revenue.

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

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

443.151 Procedure concerning claims.—

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

(a) *In general.*—Initial and continued claims for benefits must be made by approved electronic means and in accordance with the rules adopted by the Agency for Workforce Innovation. The agency must notify claimants and employers regarding monetary and nonmonetary determinations of

eligibility. Investigations of issues raised in connection with a claimant which may affect a claimant's eligibility for benefits or charges to an employer's employment record shall be conducted by the agency through written, telephonic, or electronic means as prescribed by rule.

(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 parties to the proceeding.

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

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

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

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

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

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

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

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

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

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

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

443.1117 Temporary extended benefits.—

(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 state “on” indicator before the 14th week after the end of a prior extended benefit period that was in effect for this state.

(e) “Emergency benefit period” means the period during which an individual receives emergency benefits as ~~defined in paragraph (e).~~

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

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

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

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

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

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

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

2. Equals or exceeds 6.5 percent.

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

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

2. Equals or exceeds 8 percent.

(i) “State ‘off’ indicator” means the occurrence of a week 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 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 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 and the consumer-reporting agency or require the consumer-reporting agency to terminate the contract established between the consumer-reporting agency and the user under this section.

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

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

(7) The Agency for Workforce Innovation may not provide wage and employment history information to any consumer-reporting agency before the consumer-reporting agency or agencies under contract with the Agency for Workforce Innovation pay all development and other startup costs incurred by the state in connection with the design, installation, and administration of technological systems and procedures for the electronic-access program.

(8) The release of any information under this section must be for a purpose authorized by and in the manner permitted by the United States

Department of Labor and any subsequent rules or regulations adopted by that department.

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

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

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

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

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

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

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

Approved by the Governor June 27, 2011.

Filed in Office Secretary of State June 27, 2011.