A bill to be entitled
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 definitions; revising the term “misconduct” to include conduct outside of the workplace and additional lapses in behavior; amending s. 443.091, F.S.; requiring that an applicant for benefits complete an initial skills review; providing exceptions; 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.; providing a definition; reducing the amount and revising the calculation of the number of weeks of a claimant’s benefit eligibility; amending s. 443.131, F.S.; providing definitions; revising an employer’s unemployment compensation contribution rate by certain factors; amending s. 443.141, F.S.; providing an employer payment schedule for 2012, 2013, and 2014 contributions; amending s. 443.151, F.S.; 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
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, which agent provides payroll services for more than 100 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 in favor or disfavor 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 this chapter shall be resolved in favor of conformity with 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. New subsection (46) is added to and subsections (6), (9), (29), and (43) of section 443.036, Florida Statutes, 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 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)(h) 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.

(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, 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) 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) 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.

(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. Paragraphs (c), (d), (e), (f), (g), and (h) of subsection (1) of section 443.091, Florida Statutes, are
redesignated as paragraphs (d), (e), (f), (g), (h), and (i), respectively, and paragraph (c) is added to that subsection 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:
   (c) She or he has completed an initial skills review using an online education or training program within 14 days of making an initial claim for benefits. An online education or training program, such as that established in s. 1004.99, that is approved by the Agency for Workforce Innovation and designed to measure an individual’s mastery level of workplace skills meets the requirement of this paragraph.

1. This requirement does not apply to persons who are:
   a. Non-Florida residents;
   b. On a temporary layoff, as defined in s. 443.036(42);
   c. Union members who customarily obtain employment through a union hiring hall; or
   d. Claiming benefits under an approved short-time compensation plan as provided in s. 443.1116.

2. The administrator or operator of the online education or training program must notify the Agency for Workforce Innovation when the claimant completes the initial skills review and must report the results of the claimant’s initial skills review to the regional workforce board or the one-stop career center as directed by the regional workforce board for use for reemployment services.
To make continued claims for benefits, she or he is reporting to the agency in accordance with its rules. These rules may not conflict with s. 443.111(1)(b), including the requirement that each claimant continue to report regardless of any pending appeal relating to her or his eligibility or disqualification for benefits.

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. 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 participates in reemployment services,
such as job search assistance services, whenever the individual
has been determined, by a profiling system established by agency
rule, to be likely to exhaust regular benefits and to be in need
of reemployment services.

(g) 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:

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).

(h) She or he has been paid wages for insured work
equal to 1.5 times her or his high quarter wages during her or
his base period, except that an unemployed individual is not
eligible to receive benefits if the base period wages are less
than $3,400.

(i) She or he submitted to the agency a valid social
security number assigned to her or him. The agency may verify
the social security number with the United States Social Security Administration and may deny benefits if the agency is unable to verify the individual's social security number, the social security number is invalid, or the social security number is not assigned to the individual.

Section 5. New subsection (12) is added to and paragraph (a) of subsection (1), and subsections (2), (3), and (9) of section 443.101, Florida Statutes, are amended 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 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 that would compel a reasonable employee to cease his or her work or 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. 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 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)(e)(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 actively seek work, 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 actively seek work, 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 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 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 19 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

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CODING: Words stricken are deletions; words underlined are additions.
an individual, the Agency for Workforce Innovation shall consider the degree of risk involved to his or her health, safety, and morals; 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 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 her or his most recent employer, rounded down to the nearest whole number, beginning with the week the individual is separated from employment.

(c) 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 paragraphs (a), (b), and (c) is less than the benefits that would otherwise be due under this chapter, an individual who is otherwise eligible 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 or affected his or her ability to work, and the individual was convicted, or entered a plea of guilty or nolo contendere, or entered a plea of no contest, the individual is not entitled to
unemployment benefits for up to 52 weeks, pursuant to 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 no contest, the employer proves by competent, substantial evidence to show 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, 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.

With respect to an individual 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 April 1, 2011, 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 three months for the most recent third calendar year quarter of the seasonally adjusted statewide unemployment rates published by the Agency for Workforce Innovation.

(b) 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 the lower of $5,500 or the product arrived at by multiplying the weekly benefit amount with the number of weeks determined in paragraph (c). 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. 12 weeks if the Florida average unemployment rate is at or below 5.0%.

2. An additional week in addition to the 12 weeks for each 0.5% increment in the Florida average unemployment rate above 5%.
3. Up to a maximum of 20 weeks if the Florida average unemployment rate equals or exceeds 9.0%

(d) 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) 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 7. Effective upon this act becoming law and retroactive to June 30, 2010, 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) 1.0 for benefits paid prior to July 1, 2007.
(b) 0.9 for benefits paid during the period beginning on
July 1, 2007, and ending March 31, 2011.
(c) 1.0 for benefits paid after March 31, 2011.

3. 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. 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 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.—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. 1.0 for benefits paid prior to July 1, 2007;
- b. 0.9 for benefits paid during the period beginning on July 1, 2007, and ending March 31, 2011;
- c. 1.0 for benefits paid after March 31, 2011.

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

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-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-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. 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 calculated.
The ratio of the sum of the adjustment factors computed under sub-subparagraphs 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-subparagraphs 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.

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) 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-subparagraph, 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.

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) 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-subparagraph a. As used in this sub-subparagraph, 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), 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-subparagraph, 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.

c. With respect to computing a positive adjustment factor:

(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.

(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.

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.
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.

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.

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.

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 8. 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.
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 9. Paragraphs (b) and (d) of subsection (3) and paragraphs (b) and (e) of subsection (4) of section 443.151, Florida Statutes, are amended to read:

443.151 Procedure concerning claims.—
(3) DETERMINATION OF ELIGIBILITY.—
(b) Monetary determinations.—In addition to the notice of claim, the Agency for Workforce Innovation must...
party entitled to notice. The agency may adopt rules as
necessary to implement the processes described in this paragraph
relating to notices of monetary determinations and the appeals
or reconsideration requests filed in response to such notices.

(d) Determinations in labor dispute cases. — If a whenever
any claim involves a labor dispute described in s. 443.101(4),
the Agency for Workforce Innovation shall promptly assign the
claim to a special examiner who shall make a determination on
the issues involving unemployment due to the labor dispute. The
special examiner shall make the determination after an
investigation, as necessary. The claimant or another party
titled to notice of the determination may appeal a
determination under subsection (4).

(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 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, 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, 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, provide written evidence of timely filing or good cause for failure to appeal timely, the appeal shall be dismissed.

4. 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 shall be admissible, whether or not such evidence would be admissible in a trial in the courts of the state.

   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 paragraph 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 will best be served by its admission into evidence.

6. 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 appellate 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 the issues involved were decided by an appeals referee. However, if the notice of appeal is submitted to the commission, the commission shall file the notice 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 10. 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.—The existence of 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 11. 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 the 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 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.

“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;
   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.

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

“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 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 of the preceding 32 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 32 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 12. 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 December 17, 2010, and January 4, 2012.

Section 13. The Legislature finds that this act fulfills an important state interest.

Section 14. Unless otherwise specified within this act, this act shall take effect upon becoming a law.