A bill to be entitled

An act relating to unemployment compensation trust fund; amending s. 443.1217, F.S.; raising the amount of an employee's wages subject to an employer's contribution to the unemployment compensation trust fund with a reversion to current law after January 1, 2015; amending s. 443.131, F.S.; revising the rate and recoupment period for computing the employer contribution to the unemployment compensation trust fund with a reversion to current law for recoupment after January 1, 2015; providing the calculation for lowering an employer's contribution to the unemployment compensation trust fund under certain circumstances beginning January 1, 2015; providing for a suspension of lowering the employer's contribution under certain circumstances; providing a definition of taxable payroll; amending s. 443.191, F.S.; providing for advances to be credited to the unemployment compensation trust fund; providing authority to Governor or designee to request advances; adding reference to federal provision related to advances and that funds for advances may only be used for the payment of benefits or expenses; providing an effective date.

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

Section 1. Subsection (2) of section 443.1217, Florida Statutes, is amended to read:

443.1217 Wages.--

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

(a) That part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $8,500 ~~$7,000~~ of remuneration paid to the individual by the employer or his or her predecessor during that calendar year, unless that part of the remuneration is subject to a tax, under a federal law imposing the tax, against which credit may be taken for contributions required to be paid into a state unemployment fund. As used in this section only, the term "employment" includes services constituting employment under any employment security law of another state or of the Federal Government. Beginning January 1, 2015, the part of remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000 is exempt from this chapter.

(b) Payment by an employing unit with respect to services performed for, or on behalf of, an individual employed by the employing unit under a plan or system established by the employing unit which provides for payment to its employees generally or to a class of its employees, including any amount paid by the employing unit for insurance or annuities or paid into a fund on account of:

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

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

3. Death, if the employee:

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

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

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

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

(e) The value of:

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

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

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

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

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

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

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

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

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

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

(g) Payment made, or benefit provided, by an employing unit to or for the benefit of an individual performing services for the employing unit or a beneficiary of the individual if, at the time of such payment or provision of the benefit, it is reasonable to believe that the individual may exclude the payment or benefit from income under s. 127 of the Internal Revenue Code of 1986, as amended.

Section 2. Subsection (3) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.--

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

(a) Employment records.--The regular and short-time compensation benefits paid to an eligible individual shall be

charged to the employment record of each employer who paid the individual wages of at least $100 during the individual's base period in proportion to the total wages paid by all employers who paid the individual wages during the individual's base period. Benefits may not be charged to the employment record of an employer who furnishes part-time work to an individual who, because of loss of employment with one or more other employers, is eligible for partial benefits while being furnished part-time work by the employer on substantially the same basis and in substantially the same amount as the individual's employment during his or her base period, regardless of whether this part-time work is simultaneous or successive to the individual's lost employment. Further, benefits may not be charged to the employment record of an employer who furnishes the Agency for Workforce Innovation with notice, as prescribed in the agency's rules, that any of the following apply:

1. When an individual leaves his or her work without good cause attributable to the employer or is discharged by the employer for misconduct connected with his or her work, benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

2. When an individual is discharged by the employer for unsatisfactory performance during an initial employment probationary period, benefits subsequently paid to the individual based on wages paid during the probationary period by the employer before the separation may not be charged to the employer's employment record. The employer must notify the

Agency for Workforce Innovation of the discharge in writing within 10 days after the mailing date of the notice of initial determination of a claim. As used in this subparagraph, the term "initial employment probationary period" means an established probationary plan that applies to all employees or a specific group of employees and that does not exceed 90 calendar days following the first day a new employee begins work. The employee must be informed of the probationary period within the first 7 days of work. The employer must demonstrate by conclusive evidence that the individual was separated because of unsatisfactory work performance and not because of lack of work due to temporary, seasonal, casual, or other similar employment that is not of a regular, permanent, and year-round nature.

3. Benefits subsequently paid to an individual after his or her refusal without good cause to accept suitable work from an employer may not be charged to the employment record of the employer when any part of those benefits are based on wages paid by the employer before the individual's refusal to accept suitable work. As used in this subparagraph, the term "good cause" does not include distance to employment caused by a change of residence by the individual. The Agency for Workforce Innovation shall adopt rules prescribing, for the payment of all benefits, whether this subparagraph applies regardless of whether a disqualification under s. 443.101 applies to the claim.

4. When an individual is separated from work as a direct result of a natural disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C.

ss. 5121 et seq., benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

(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. 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.

3. The tax collection service provider shall compute a benefit ratio for each employer who was not previously eligible under subparagraph 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).

(c) Standard rate.--The standard rate of contributions payable by each employer shall be 5.4 percent.

(d) Eligibility for variation from the standard rate.--An employer is eligible for a variation from the standard rate of contributions in any calendar year only if the employer's employment record was chargeable for benefits throughout the 12 consecutive quarters ending on June 30 of the preceding calendar year. The contribution rate of an employer who, as a result of having at least 8 consecutive quarters of payroll insufficient to be chargeable for benefits, has not been chargeable for benefits throughout the 12 consecutive quarters reverts to the initial contribution rate until the employer subsequently becomes eligible for an earned rate.

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

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.-c. shall be 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.-c. 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)2. shall be 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-subparagraphs a.-c. to the gross benefit ratio shall be multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor shall be reduced in order that the sum equals 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 shall be divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio shall be subtracted from the sum of the adjustment factors computed under sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor shall be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor shall be 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 shall be 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)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-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 shall be 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)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-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)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-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers that were eligible to be considered for assignment of a contribution rate different from the standard rate.

c. If the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 ~~3.7~~ 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 shall be 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 ~~one-fourth~~ of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 5 ~~4.7~~ 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 June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 ~~3.7~~ 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.

Beginning January 1, 2015, and for each year thereafter, the positive adjustment authorized by this section 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 June 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 June 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 June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 ~~4.7~~ 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 shall 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 June 30 of the current calendar year and 5 ~~4.7~~ 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 June 30 of the year immediately preceding the effective date of the contribution rate is less than 5 ~~4.7~~ percent, but more than 4 ~~3.7~~ 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~~d~~. 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.

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.

(f) Transfer of employment records.--

1. For the purposes of this subsection, two or more employers who are parties to a transfer of business or the subject of a merger, consolidation, or other form of reorganization, effecting a change in legal identity or form, are deemed a single employer and are considered to be one employer with a continuous employment record if the tax collection service provider finds that the successor employer continues to carry on the employing enterprises of all of the predecessor employers and that the successor employer has paid all contributions required of and due from all of the predecessor employers and has assumed liability for all contributions that may become due from all of the predecessor employers. In addition, an employer may not be considered a successor under this subparagraph if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding payment of contributions. As used in this paragraph, notwithstanding s. 443.036(14), the term "contributions" means

all indebtedness to the tax collection service provider, including, but not limited to, interest, penalty, collection fee, and service fee. A successor employer must accept the transfer of all of the predecessor employers' employment records within 30 days after the date of the official notification of liability by succession. If a predecessor employer has unpaid contributions or outstanding quarterly reports, the successor employer must pay the total amount with certified funds within 30 days after the date of the notice listing the total amount due. After the total indebtedness is paid, the tax collection service provider shall transfer the employment records of all of the predecessor employers to the successor employer's employment record. The tax collection service provider shall determine the contribution rate of the combined successor and predecessor employers upon the transfer of the employment records, as prescribed by rule, in order to calculate any change in the contribution rate resulting from the transfer of the employment records.

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

3. The state agency providing unemployment tax collection services may adopt rules governing the partial transfer of experience rating when an employer transfers an identifiable and

segregable portion of his or her payrolls and business to a successor employing unit. As a condition of each partial transfer, these rules must require the following to be filed with the tax collection service provider: an application by the successor employing unit, an agreement by the predecessor employer, and the evidence required by the tax collection service provider to show the benefit experience and payrolls attributable to the transferred portion through the date of the transfer. These rules must provide that the successor employing unit, if not an employer subject to this chapter, becomes an employer as of the date of the transfer and that the transferred portion of the predecessor employer's employment record is removed from the employment record of the predecessor employer. For each calendar year after the date of the transfer of the employment record in the records of the tax collection service provider, the service provider shall compute the contribution rate payable by the successor employer or employing unit based on his or her employment record, combined with the transferred portion of the predecessor employer's employment record. These rules may also prescribe what contribution rates are payable by the predecessor and successor employers for the period between the date of the transfer of the transferred portion of the predecessor employer's employment record in the records of the tax collection service provider and the first day of the next calendar year.

4. This paragraph does not apply to an employee leasing company and client contractual agreement as defined in s. 443.036. The tax collection service provider shall, if the

contractual agreement is terminated or the employee leasing company fails to submit reports or pay contributions as required by the service provider, treat the client as a new employer without previous employment record unless the client is otherwise eligible for a variation from the standard rate.

(g) Transfer of unemployment experience upon transfer or acquisition of a business.--Notwithstanding any other provision of law, upon transfer or acquisition of a business, the following conditions apply to the assignment of rates and to transfers of unemployment experience:

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

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

2. Whenever a person who is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to the person if the Agency for Workforce Innovation or the tax collection service provider finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the new employer rate under paragraph (2)(a). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the tax collection service provider shall consider, but not be limited to, the following factors:

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

b. How long such business enterprise was continued; or

c. Whether a substantial number of new employees was hired for performance of duties unrelated to the business activity conducted before the acquisition.

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

a. If the person is an employer, the employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and for the 3 rate years immediately following this

rate year. However, if the person's business is already at the highest rate for any year, or if the amount of increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contribution of 2 percent of taxable wages shall be imposed for such year and the following 3 rate years.

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

4. For purposes of this paragraph, the term:

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

b. "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresent, or willfully nondisclose.

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

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

7. For purposes of this paragraph:

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

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

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

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

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

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

The tax collection service provider shall assign an earned contribution rate to an employer under subparagraph 1. the

quarter immediately after the quarter in which all contributions, reimbursements, interest, and penalties are paid in full.

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

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

2. Shall, upon discovery of an error in computation, reconsider any prior determination or redetermination of a contribution rate after the 20-day period has expired and issue a revised notice of contribution rate as redetermined. A

redetermination is subject to review, and is conclusive and binding if review is not sought, in the same manner as review of a determination under subparagraph 1. A reconsideration may not be made after March 31 of the calendar year immediately after the calendar year for which the contribution rate is applicable, and interest may not accrue on any additional contributions found to be due until 30 days after the employer is mailed notice of his or her revised contribution rate.

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

(j) Employment records of employers entering the armed forces.--

1. If the tax collection service provider finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, partners, or the majority stockholder into the Armed Forces of the United States, or any of its allies, or of the United Nations, the employer's employment record may not be terminated. If the business is resumed within 2 years after the discharge or release from active duty in the armed forces of that person or persons, the employer's benefit experience is deemed to have been continuous throughout that period. The benefit ratio of the employer for the calendar year in which he or she resumed business and the 3 calendar years immediately after resuming business is a percentage equal to the total of his or her benefit charges, including charges of benefits paid to any individual during the period the employer was in the armed forces based on wages paid by him or her before the employer's entrance into the armed forces for the 3 most recently completed calendar years divided by that part of his or her total payroll, for which contributions were paid to the tax collection service provider, for the 3 most recent calendar years during the whole of which, respectively, the employer was in business.

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

(k) Applicability to contributing employers.--This subsection applies only to contributing employers.

Section 3. Subsection (1), subsection (3), and subsection (5) of section 443.191, Florida Statutes, are amended to read:

443.191 Unemployment Compensation Trust Fund; establishment and control.--

(1) There is established, as a separate trust fund apart from all other public funds of this state, an Unemployment Compensation Trust Fund, which shall be administered by the Agency for Workforce Innovation exclusively for the purposes of this chapter. The fund shall consist of:

(a) All contributions and reimbursements collected under this chapter;

(b) Interest earned on any moneys in the fund;

(c) Any property or securities acquired through the use of moneys belonging to the fund;

(d) All earnings of these properties or securities; ~~and~~

(e) All money credited to this state's account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103;~~.~~ and

(f) Advances on the amount in the federal Unemployment Compensation Trust Fund credited to the state under 42 U.S.C. s. 1321, as requested by the Governor or the Governor' designee.

Except as otherwise provided in s. 443.1313(4), all moneys in the fund shall be mingled and undivided.

(3) Moneys may only be requisitioned from the state's account in the federal Unemployment Compensation Trust Fund solely for the payment of benefits and extended benefits and for payment in accordance with rules prescribed by the Agency for Workforce Innovation, except that money credited to this state's account under 42 U.S.C. ss. 1103 and 1321 may only be used

exclusively as provided in subsection (5). The Agency for Workforce Innovation, through the Chief Financial Officer, shall requisition from the federal Unemployment Compensation Trust Fund amounts, not exceeding the amounts credited to this state's account in the fund, as necessary for the payment of benefits and extended benefits for a reasonable future period. Upon receipt of these amounts, the Chief Financial Officer shall deposit the moneys in the benefit account in the State Treasury and warrants for the payment of benefits and extended benefits shall be drawn upon the order of the Agency for Workforce Innovation against the account. All warrants for benefits and extended benefits are payable directly to the ultimate beneficiary. Expenditures of these moneys in the benefit account and refunds from the clearing account are not subject to any law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued for the payment of benefits and refunds must bear the signature of the Chief Financial Officer. Any balance of moneys requisitioned from this state's account in the federal Unemployment Compensation Trust Fund which remains unclaimed or unpaid in the benefit account after the period for which the moneys were requisitioned shall be deducted from estimates for, and may be used for the payment of, benefits and extended benefits during succeeding periods, or, in the discretion of the Agency for Workforce Innovation, shall be redeposited with the Secretary of the Treasury of the United States, to the credit of this state's account in the federal Unemployment Compensation Trust Fund, as provided in subsection (2).

(5) MONEY CREDITED UNDER 42 U.S.C. SS. 1103 and 1321.--

(a) Money credited to this state's account in the federal Unemployment Compensation Trust Fund by the Secretary of the Treasury of the United States under 42 U.S.C. ss. 1103 and 1321 may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. These moneys may be requisitioned under subsection (3) for the payment of benefits. These moneys may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter, but only under a specific appropriation by the Legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriations law that:

1. Specifies the purposes for which the money is appropriated and the amounts appropriated;

2. Limits the period within which the money may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriations law; and

3. Limits the amount that may be obligated during any 12-month period beginning on July 1 and ending on the next June 30 to an amount that does not exceed the amount by which the aggregate of the amounts credited to the state's account under 42 U.S.C. s. 1103 during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the state's account during those 35 12-month periods.

(b) Amounts credited to this state's account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103 which are obligated for administration or paid out for benefits shall be charged against equivalent amounts that were first credited and that are not already charged, except that an amount obligated for administration during a 12-month period specified in this section may not be charged against any amount credited during that 12-month period earlier than the 34th 12-month period preceding that period. Any amount credited to the state's account under 42 U.S.C. s. 1103 which is appropriated for expenses of administration, regardless of whether this amount is withdrawn from the Unemployment Compensation Trust Fund, shall be excluded from the Unemployment Compensation Trust Fund balance for the purposes of s. 443.131(3).

(c) Money appropriated as provided in this section for the payment of expenses of administration may only be requisitioned as needed for the payment of obligations incurred under the appropriation and, upon requisition, must be deposited in the Employment Security Administration Trust Fund from which the payments are made. Money deposited, until expended, remains a part of the Unemployment Compensation Trust Fund and, if not expended, the money must be returned promptly to the state's account in the federal Unemployment Compensation Trust Fund.

Section 4. This act shall take effect upon becoming law.