

1 A bill to be entitled
2 An act relating to rulemaking authority with
3 respect to the Department of Labor and
4 Employment Security (RAB); amending s.
5 370.0805, F.S.; correcting cross-reference;
6 amending s. 413.011, F.S.; authorizing
7 rulemaking for vocational rehabilitation
8 programs and forms; amending s. 413.051, F.S.;
9 authorizing rulemaking for a vending facility
10 program; amending ss. 443.036, 443.091,
11 443.121, 443.131, 443.141, 443.151, F.S.;
12 defining and modifying specific terms;
13 correcting cross-references; allowing the
14 Division of Unemployment Compensation to adopt
15 rules to determine a claimant's ability to work
16 and availability for work; allowing the
17 division to prescribe by rule training
18 criteria; clarifying types of contracts;
19 allowing the division to adopt rules regarding
20 total succession, procedures for changing
21 methods of reporting, the application of
22 partial payments and monetary and nonmonetary
23 determinations and investigations of
24 eligibility; amending s. 450.121, F.S.;
25 authorizing the Division of Jobs and Benefits
26 to adopt rules that define terms, prescribe
27 documentation for proof of age, prescribe
28 procedure with respect to removal of disability
29 of nonage, require certain safety equipment and
30 a safe workplace for minors, prescribe
31 deadlines for responses to records requests,

1 and state an official address; amending s.
2 450.30, F.S.; authorizing the division to adopt
3 rules prescribing procedures for registering as
4 a farm labor contractor; amending s. 450.33,
5 F.S.; requiring insurance carriers to notify
6 the division of impending cancellation of
7 insurance on vehicles that transport farm
8 workers; amending s. 450.38, F.S.; authorizing
9 the division to adopt rules containing criteria
10 for determining the amount of civil penalties;
11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (a) of subsection (4) of section
16 370.0805, Florida Statutes, is amended to read:

17 370.0805 Net ban assistance program.--

18 (4) ECONOMIC ASSISTANCE FOR LOSS OF INCOME.--

19 (a) Any fisher who is partially or totally unemployed
20 as a result of the implementation of the net ban amendment in
21 s. 16, Art. X of the State Constitution, notwithstanding s.
22 443.036(21)(n)3.~~s. 443.036(19)(n)3.~~, is eligible for
23 retroactive elective coverage pursuant to s. 443.121(3)(a).
24 Retroactive elective coverage shall be limited to fishers who,
25 during the base period, as defined in s. 443.036, possessed a
26 valid saltwater products license issued under s. 370.06 and
27 had recorded landings of the species affected by the net ban.
28 Eligible fishers may apply for retroactive elective coverage
29 any time on or before December 31, 1995. Liability for
30 contributions due as a result of retroactive coverage must be
31 satisfied prior to the payment of unemployment benefits.

1 Section 2. Paragraphs (l) and (m) are added to
2 subsection (1) of section 413.011, Florida Statutes, to read:

3 413.011 Division of Blind Services, internal
4 organizational structure; Advisory Council for the Blind.--

5 (1) The internal organizational structure of the
6 Division of Blind Services shall be designed for the purpose
7 of insuring the greatest possible efficiency and effectiveness
8 of services to the blind and to be consistent with chapter 20.
9 The Division of Blind Services shall plan, supervise, and
10 carry out the following activities:

11 (l) Adopt by rule procedures for providing vocational
12 rehabilitation services for the blind.

13 (m) Adopt by rule forms and instructions to be used by
14 the division in its general administration.

15 Section 3. Subsection (12) of section 413.051, Florida
16 Statutes, is amended to read:

17 413.051 Eligible blind persons; operation of vending
18 stands.--

19 (12) The Division of Blind Services may adopt ~~is~~
20 ~~authorized to promulgate~~ rules to permit the division to
21 establish and maintain vending facilities, issue licenses,
22 establish and maintain a vending-facility training program,
23 provide vendors access to financial data of the program, set
24 aside funds from net proceeds of the vending facility, provide
25 for the transfer and promotion of vendors, establish a vendors
26 committee, provide for an operation agreement, provide duties
27 and responsibilities of the division with respect to the
28 vending facility program, and provide procedures for newspaper
29 vending sales ~~as needed to implement the provisions of this~~
30 ~~section.~~

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1 Section 4. Section 443.036, Florida Statutes, is
2 amended to read:

3 443.036 Definitions.--As used in this chapter, unless
4 the context clearly requires otherwise:

5 (1) ABLE TO WORK.--The term "able to work" means
6 physically and mentally capable of performing the duties of
7 the occupation in which work is being sought.

8 (2)~~(1)~~ AGRICULTURAL LABOR.--The term "agricultural
9 labor" means any remunerated service performed:

10 (a) On a farm, in the employ of any person, in
11 connection with cultivating the soil or in connection with
12 raising or harvesting any agricultural or horticultural
13 commodity, including the raising, shearing, feeding, caring
14 for, training, and management of livestock, bees, poultry, and
15 fur-bearing animals and wildlife.

16 (b) In the employ of the owner or tenant or other
17 operator of a farm in connection with the operation,
18 management, conservation, improvement, or maintenance of such
19 farm and its tools and equipment, or in salvaging timber or
20 clearing land of brush and other debris left by a hurricane if
21 the major part of such service is performed on a farm.

22 (c) In connection with the production or harvesting of
23 any commodity defined as an agricultural commodity in s. 15(g)
24 of the Agricultural Marketing Act, as amended (46 Stat. 1550,
25 s. 3; 12 U.S.C. s. 1141j ~~s. 114j~~); the ginning of cotton; or
26 the operation or maintenance of ditches, canals, reservoirs,
27 or waterways, not owned or operated for profit, used
28 exclusively for supplying and storing water for farming
29 purposes.

30 (d)1. In the employ of the operator of a farm in
31 handling, planting, drying, packing, packaging, processing,

1 freezing, grading, storing, or delivering to storage or to
2 market or to a carrier for transportation to market, in its
3 unmanufactured state, any agricultural or horticultural
4 commodity, but only if such operator produced more than
5 one-half of the commodity with respect to which such service
6 is performed.

7 2. In the employ of a group of operators of farms (or
8 a cooperative organization of which such operators are
9 members) in the performance of service described in
10 subparagraph 1., but only if such operators produced more than
11 one-half of the commodity with respect to which such service
12 is performed.

13 3. The provisions of subparagraphs 1. and 2. shall not
14 be deemed to be applicable with respect to service performed
15 in connection with commercial canning or commercial freezing
16 or in connection with any agricultural or horticultural
17 commodity after its delivery to a terminal market for
18 distribution for consumption or in connection with grading,
19 packing, packaging, or processing fresh citrus fruits.

20 (e) On a farm operated for profit if such service is
21 not in the course of the employer's trade or business.

22 (3)~~(2)~~ AMERICAN AIRCRAFT.--The term "American
23 aircraft" means an aircraft registered under the laws of the
24 United States.

25 (4)~~(3)~~ AMERICAN EMPLOYER.--An "American employer"
26 means:

27 (a) An individual who is a resident of the United
28 States.

29 (b) A partnership, if two-thirds or more of the
30 partners are residents of the United States.

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1 (c) A trust, if all of the trustees are residents of
2 the United States.

3 (d) A corporation organized under the laws of the
4 United States or of any state.

5 (5)~~(4)~~ AMERICAN VESSEL.--The term "American vessel"
6 means any vessel documented or numbered under the laws of the
7 United States and includes any vessel which is neither
8 documented or numbered under the laws of the United States nor
9 documented under the laws of any foreign country, if its crew
10 is employed solely by one or more citizens or residents of the
11 United States or corporations organized under the laws of the
12 United States or of any state.

13 (6) AVAILABLE FOR WORK.--The term "available for work"
14 means actively seeking and being ready and willing to accept
15 suitable employment.

16 (7)~~(5)~~ BASE PERIOD.--"Base period" means the first
17 four of the last five completed calendar quarters immediately
18 preceding the first day of an individual's benefit year.

19 (8)~~(6)~~ BENEFIT YEAR.--"Benefit year," with respect to
20 any individual, means the 1-year period beginning with the
21 first day of the first week with respect to which the
22 individual first files a valid claim for benefits and,
23 thereafter, the 1-year period beginning with the first day of
24 the first week with respect to which the individual next files
25 a valid claim for benefits after the termination of his or her
26 last preceding benefit year. Any claim for benefits made in
27 accordance with s. 443.151(2) shall be deemed to be a "valid
28 claim" for the purposes of this subsection if the individual
29 has been paid wages for insured work in accordance with the
30 provisions of s. 443.091(1)(f)~~s. 443.091(1)(e)~~ and is
31 unemployed as defined in subsection (39)~~(32)~~ at the time of

1 the filing of such claim. However, the division may in its
2 discretion provide by rule for the establishment of a uniform
3 benefit year for all workers in one or more groups or classes
4 of service or within a particular industry when and if it has
5 been determined by the division, after notice to the industry
6 and to the workers in such industry and an opportunity to be
7 heard in the matter, that such groups or classes of workers in
8 a particular industry periodically experience unemployment
9 resulting from layoffs or shutdowns for limited periods of
10 time.

11 (9)~~(7)~~ BENEFITS.--"Benefits" means the money payable
12 to an individual, as provided in this chapter, with respect to
13 his or her unemployment.

14 (10)~~(8)~~ CALENDAR QUARTER.--"Calendar quarter" means
15 each period of 3 consecutive calendar months ending on March
16 31, June 30, September 30, and December 31.

17 (11)~~(9)~~ CASUAL LABOR.--"Casual labor" means labor
18 which is occasional, incidental, or irregular, not exceeding
19 200 person-hours in total duration. "Duration" means the
20 period of time from the commencement to the completion of the
21 particular job or project. However, services performed by an
22 employee for his or her employer during a period of 1 calendar
23 month or any 2 consecutive calendar months shall be deemed to
24 be casual labor only if such service is performed on not more
25 than 10 calendar days, whether or not such days are
26 consecutive. If any of the services of an individual on a
27 particular labor project are not casual labor, as defined,
28 then none of the services of such individual on such job or
29 project shall be deemed casual labor. In order for services to
30 be exempt under this subsection, such services shall

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1 constitute casual labor, as defined, and not in the course of
2 the employer's trade or business, as defined.

3 (12)~~(10)~~ COMMISSION.--"Commission" means the
4 Unemployment Appeals Commission of the Department of Labor and
5 Employment Security.

6 (13)~~(11)~~ CONTRIBUTIONS.--"Contributions" means the
7 money payments to the Unemployment Compensation Trust Fund
8 required by this chapter.

9 (14)~~(12)~~ CREW LEADER.--"Crew leader" means an
10 individual who:

11 (a) Furnishes individuals to perform service in
12 agricultural labor for any other person.

13 (b) Pays, either on his or her own behalf or on behalf
14 of such other person, the individuals so furnished by him or
15 her for the service in agricultural labor performed by them.

16 (c) Has not entered into a written agreement with such
17 other person under which such individual is designated as an
18 employee of such other person.

19 (15)~~(13)~~ DIVISION.--"Division" means the Division of
20 Unemployment Compensation of the Department of Labor and
21 Employment Security.

22 (16)~~(14)~~ EARNED INCOME.--The term "earned income"
23 means gross remuneration derived from work, professional
24 service, or self-employment but does not include income
25 derived from invested capital or ownership of property. The
26 term includes commissions, bonuses, back pay awards, and the
27 cash value of all remuneration paid in any medium other than
28 cash.

29 (17)~~(15)~~ EDUCATIONAL INSTITUTION.--With the exception
30 of an institution of higher education as defined in subsection
31 (26)~~(24)~~, "educational institution" means an institution:

1 (a) In which participants, trainees, or students are
2 offered an organized course of study or training designed to
3 transfer to them knowledge, skills, information, doctrines,
4 attitudes, or abilities from, by, or under the guidance of, an
5 instructor or teacher;

6 (b) Which is approved, licensed, or issued a permit to
7 operate as a school by the Department of Education or other
8 governmental agency that is authorized within the state to
9 approve, license, or issue a permit for the operation of a
10 school; and

11 (c) Which offers courses of study or training which
12 are academic, technical, trade, or preparation for gainful
13 employment in a recognized occupation.

14 (18)~~(16)~~ EMPLOYEE LEASING COMPANY.--The term "employee
15 leasing company" means an employing unit which maintains a
16 valid and active license under chapter 468 and which maintains
17 the records required by s. 443.171(7) and, in addition,
18 maintains a listing of the clients of the employee leasing
19 company and of the employees, including their social security
20 numbers, who have been assigned to work at each client company
21 job site. Further, each client company job site must be
22 identified by industry, products or services, and address. The
23 client list shall be provided to the division by June 30 and
24 by December 31 of each year. For purposes of this subsection,
25 "client" means a party who has contracted with an employee
26 leasing company to provide a worker, or workers, to perform
27 services for the client. Leased employees shall include
28 employees subsequently placed on the payroll of the employee
29 leasing company on behalf of the client. The employee leasing
30 company shall notify the division within 30 days of the
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1 initiation or termination of the company's relationship with
2 any client company pursuant to chapter 468.

3 (19)~~(17)~~ EMPLOYER.--"Employer" means:

4 (a) Any employing unit which:

5 1. In any calendar quarter in either the current or
6 preceding calendar year paid for service in employment wages
7 of \$1,500 or more; or

8 2. For any portion of a day in each of 20 different
9 calendar weeks, whether or not such weeks were consecutive, in
10 either the current or the preceding calendar year, had in
11 employment at least one individual, irrespective of whether
12 the same individual was in employment in each such day.

13 (b) Any employing unit for which service in
14 employment, as defined in paragraph(21)(b)~~(19)(b)~~, is
15 performed, except as provided in paragraph (e).

16 (c) Any employing unit for which service in
17 employment, as defined in paragraph(21)(c)~~(19)(c)~~, is
18 performed, except as provided in paragraph (e).

19 (d)1. Any employing unit for which agricultural labor,
20 as defined in paragraph(21)(e)~~(19)(e)~~, is performed after
21 December 31, 1977.

22 2. Any employing unit for which domestic service in
23 employment, as defined in paragraph(21)(g)~~(19)(g)~~, is
24 performed after December 31, 1977.

25 (e)1. In determining whether or not an employing unit
26 for which service other than domestic service is also
27 performed is an employer under paragraph (a), paragraph (b),
28 or paragraph (c) or subparagraph (d)1., the wages earned or
29 the employment of an employee performing domestic service
30 after December 31, 1977, shall not be taken into account.

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1 2. In determining whether or not an employing unit for
2 which service other than agricultural labor is also performed
3 is an employer under paragraph (a), paragraph (b), or
4 paragraph (c) or subparagraph (d)2., the wages earned or the
5 employment of an employee performing service in agricultural
6 labor after December 31, 1977, shall not be taken into
7 account. If an employing unit is determined to be an employer
8 of agricultural labor, the employing unit shall be determined
9 an employer for the purposes of paragraph (a).

10 (f) Any individual or employing unit which acquired
11 the organization, trade, or business, or substantially all the
12 assets thereof, of another which at the time of such
13 acquisition was an employer subject to this chapter or which
14 acquired a part of the organization, trade, or business of
15 another which at the time of such acquisition was an employer
16 subject to this chapter, provided such other would have been
17 an employer under paragraph (a) if such part had constituted
18 its entire organization, trade, or business.

19 (g) Any individual or employing unit which acquired
20 the organization, trade, or business, or substantially all the
21 assets thereof, of another employing unit, if the employment
22 record of the predecessor prior to such acquisition together
23 with the employment record of such individual or employing
24 unit subsequent to such acquisition, both within the same
25 calendar year, would be sufficient to render an employing unit
26 subject to this chapter as an employer under paragraph (a).

27 (h) Any employing unit not an employer by reason of
28 any other paragraph of this subsection:

29 1. For which, within either the current or preceding
30 calendar year, service is or was performed with respect to
31 which such employing unit is liable for any federal tax

1 against which credit may be taken for contributions required
2 to be paid into a state unemployment fund.

3 2. Which, as a condition for approval of this chapter
4 for full tax credit against the tax imposed by the Federal
5 Unemployment Tax Act, is required pursuant to such act to be
6 an "employer" under this chapter.

7 (i) Any employing unit which has become an employer
8 under paragraph (a), paragraph (b), paragraph (c), paragraph
9 (d), paragraph (e), paragraph (f), paragraph (g), or paragraph
10 (h) and has not ceased to be an employer subject to this
11 chapter, as provided in s. 443.121.

12 (j) For the effective period of its election, any
13 other employing unit which has elected to become subject to
14 this chapter.

15 (k) Any employing unit which fails to keep the records
16 of employment required by this chapter and by the rules of the
17 division shall be presumed to be an employer liable for the
18 payment of contributions pursuant to the provisions of this
19 chapter, regardless of the number of individuals employed by
20 such employing unit. However, the division shall make written
21 demand that such employing unit keep and maintain required
22 payroll records, and such demand shall have been made not less
23 than 6 months before assessing contributions against any
24 employing unit determined to have become an "employer" solely
25 by reason of this paragraph.

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27 For purposes of this subsection, if any week includes both
28 December 31 and January 1, the days of that week up to January
29 1 shall be deemed 1 calendar week, and the days beginning
30 January 1, another such week.

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1 (20)~~(18)~~ EMPLOYING UNIT.--"Employing unit" means any
2 individual or type of organization, including any partnership,
3 association, trust, estate, joint-stock company, insurance
4 company, or corporation, whether domestic or foreign; the
5 receiver, trustee in bankruptcy, trustee, or successor of any
6 of the foregoing; or the legal representative of a deceased
7 person, which has or had in its employ one or more individuals
8 performing services for it within this state.

9 (a) Each individual employed to perform or to assist
10 in performing the work of any agent or employee of an
11 employing unit shall be deemed to be employed by such
12 employing unit for all the purposes of this chapter, whether
13 such individual was hired or paid directly by such employing
14 unit or by such agent or employee, provided the employing unit
15 had actual or constructive knowledge of the work.

16 (b) All individuals performing services within this
17 state for any employing unit which maintains two or more
18 separate establishments within this state shall be deemed to
19 be performing services for a single employing unit for all the
20 purposes of this chapter.

21 (c) Any person who is an officer of a corporation and
22 who performs services for such corporation within this state,
23 whether or not such services are continuous, shall be deemed
24 an employee of the corporation during all of each week of his
25 or her tenure of office, regardless of whether or not he or
26 she is compensated for such services. Services shall be
27 presumed to have been rendered the corporation in cases where
28 such officer is compensated by means other than dividends upon
29 shares of stock of such corporation owned by him or her.

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1 (21)~~(19)~~ EMPLOYMENT.--"Employment," subject to the
2 other provisions of this chapter, means any service performed
3 by an employee for the person employing him or her.

4 (a) Generally.--

5 1. The term "employment" includes any service
6 performed prior to January 1, 1978, which was employment as
7 defined in this subsection prior to such date and, subject to
8 the other provisions of this subsection, service performed
9 after December 31, 1977, including service in interstate
10 commerce, by:

11 a. Any officer of a corporation.

12 b. Any individual who, under the usual common-law
13 rules applicable in determining the employer-employee
14 relationship, has the status of an employee. However, whenever
15 a company, hereafter referred to as "client," which would
16 otherwise be designated as an employing unit has contracted
17 with an employee leasing company to supply it with workers,
18 those workers shall, after December 31, 1986, be considered
19 employees of the employee leasing company. The employee
20 leasing company shall be permitted to lease corporate officers
21 of the client to the client and such other workers where not
22 prohibited by Internal Revenue Service regulations. Employees
23 of the employee leasing company shall be reported under the
24 employee leasing company's tax identification number and tax
25 rate for work performed for the employee leasing company.

26 c. Any individual other than an individual who is an
27 employee under sub-subparagraph a. or sub-subparagraph b., who
28 performs services for remuneration for any person:

29 (I) As an agent-driver or commission-driver engaged in
30 distributing meat products, vegetable products, fruit
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1 products, bakery products, beverages (other than milk), or
2 laundry or drycleaning services for his or her principal.

3 (II) As a traveling or city salesperson, other than as
4 an agent-driver or commission-driver, engaged on a full-time
5 basis in the solicitation on behalf of, and the transmission
6 to, his or her principal (except for sideline sales activities
7 on behalf of some other person) of orders from wholesalers,
8 retailers, contractors, or operators of hotels, restaurants,
9 or other similar establishments for merchandise for resale or
10 supplies for use in their business operations.

11
12 For purposes of sub-subparagraph c., the term "employment"
13 includes services described in sub-sub-subparagraphs (I) and
14 (II) only if: The contract of service contemplates that
15 substantially all of the services are to be performed
16 personally by such individual; the individual does not have a
17 substantial investment in facilities used in connection with
18 the performance of the services, other than in facilities for
19 transportation; and the services are not in the nature of a
20 single transaction that is not part of a continuing
21 relationship with the person for whom the services are
22 performed.

23 2. Notwithstanding any other provisions of this
24 subsection, service with respect to which a tax is required to
25 be paid under any federal law imposing a tax against which
26 credit may be taken for contributions required to be paid into
27 a state unemployment fund or which as a condition for full tax
28 credit against the tax imposed by the Federal Unemployment Tax
29 Act is required to be covered under this chapter.

30 3. If the services performed during one-half or more
31 of any pay period by an employee for the person employing him

1 or her constitute employment, all of the services of such
2 employee for such period shall be deemed to be employment, but
3 if the services performed during more than one-half of any
4 such pay period by an employee for the person employing him or
5 her do not constitute employment, then none of the services of
6 such employee for such period shall be deemed to be
7 employment. This subparagraph shall not be applicable with
8 respect to services performed in a pay period by an employee
9 for the person employing him or her, when any of such service
10 is excepted by subparagraph (n)7.

11 4. If two or more related corporations concurrently
12 employ the same individual and compensate such individual
13 through a common paymaster, each related corporation shall be
14 considered to have paid as wages to such individual only the
15 amounts actually disbursed by it to such individual and shall
16 not be considered to have paid as wages to such individual any
17 amounts actually disbursed to such individual by another of
18 such corporations.

19 a. A "common paymaster" is any member of a group of
20 related corporations that disburses wages to concurrent
21 employees on behalf of the related corporations and that is
22 responsible for keeping payroll records with respect to those
23 concurrent employees. The common paymaster is not required to
24 disburse wages to all the employees of the related
25 corporations, but the provisions of this section shall not
26 apply to any wages to concurrent employees that are not
27 disbursed through a common paymaster. The common paymaster
28 shall pay concurrently employed individuals under this section
29 by one combined paycheck.

30 b. "Concurrent employment" means the existence of
31 simultaneous employment relationships, as defined in this

1 chapter, between an individual and related corporations. Such
2 relationships require the performance of services by the
3 employee for the benefit of the related corporations,
4 including the common paymaster, in exchange for wages which,
5 if deductible for the purposes of federal income tax, would be
6 deductible by the related corporations.

7 c. Corporations shall be considered related
8 corporations for an entire calendar quarter, as defined in
9 subsection (10)~~(8)~~, if they satisfy any one of the following
10 four tests at any time during that calendar quarter:

11 (I) The corporations are members of a "controlled
12 group of corporations" as defined in s. 1563 of the Internal
13 Revenue Code of 1986 or would be members if paragraph
14 1563(a)(4) and subsection 1563(b) did not apply.

15 (II) In the case of a corporation that does not issue
16 stock, either 50 percent or more of the members of the board
17 of directors or other governing body of one corporation are
18 members of the board of directors or other governing body of
19 the other corporation, or the holders of 50 percent or more of
20 the voting power to select such members are concurrently the
21 holders of more than 50 percent of that power with respect to
22 the other corporation.

23 (III) Fifty percent or more of the officers of one
24 corporation are concurrently officers of the other
25 corporation.

26 (IV) Thirty percent or more of the employees of one
27 corporation are concurrently employees of the other
28 corporation.

29 d. The common paymaster shall report to the division,
30 as a part of the unemployment compensation quarterly tax and
31 wage report, the state unemployment compensation account

1 number and name of each related corporation for which
2 concurrent employees are being reported. Failure to timely
3 report this information shall result in the related
4 corporations being denied common paymaster status for that
5 calendar quarter.

6 e. The common paymaster shall also have the primary
7 responsibility for remitting contributions due under this
8 chapter with respect to the wages it disburses as the common
9 paymaster. The common paymaster shall compute these
10 contributions as though it were the sole employer of the
11 concurrently employed individuals. If the common paymaster
12 fails to timely remit these contributions or reports, in whole
13 or in part, it shall remain liable for the full amount of the
14 unpaid portion of these taxes. In addition, each of the other
15 related corporations using the common paymaster shall be
16 jointly and severally liable for its appropriate share of
17 these contributions. Such share shall be an amount equal to
18 the greater of the following:

19 (I) The amount of the liability of the common
20 paymaster under this chapter, after taking into account any
21 contributions made.

22 (II) The amount of the liability under this chapter
23 which, but for this section, would have existed with respect
24 to the wages from such other related corporations, reduced by
25 an allocable portion of any contributions previously paid by
26 the common paymaster with respect to those wages.

27 f. This subsection may apply to all contributions and
28 reports due for the first quarter of 1997 and thereafter.

29 (b) Public employees.--The term "employment" includes
30 service performed in the employ of this state or any of its
31 instrumentalities or any political subdivision thereof or any

1 of its instrumentalities, any instrumentality of more than one
2 of the foregoing, or any instrumentality of any of the
3 foregoing and one or more other states or political
4 subdivisions, provided such service is excluded from
5 "employment" as defined in s. 3306(c)(7) of the Federal
6 Unemployment Tax Act and is not excluded from "employment"
7 under paragraph (d) of this subsection.

8 (c) Religious, charitable, etc., employees.--The term
9 "employment" includes service performed by an individual in
10 the employ of a religious, charitable, educational, or other
11 organization, but only if the following conditions are met:

12 1. The service is excluded from "employment" as
13 defined in the Federal Unemployment Tax Act solely by reason
14 of s. 3306(c)(8) of that act; and

15 2. The organization had four or more individuals in
16 employment for some portion of a day in each of 20 different
17 weeks, whether or not such weeks were consecutive, within
18 either the current or preceding calendar year, regardless of
19 whether they were employed at the same moment of time.

20 (d) Exclusions from paragraphs (b) and (c).--For the
21 purposes of paragraphs (b) and (c), the term "employment" does
22 not apply to service performed:

23 1. In the employ of:

24 a. A church or convention or association of churches.

25 b. An organization which is operated primarily for
26 religious purposes and which is operated, supervised,
27 controlled, or principally supported by a church or convention
28 or association of churches.

29 2. By a duly ordained, commissioned, or licensed
30 minister of a church in the exercise of his or her ministry or
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1 by a member of a religious order in the exercise of duties
2 required by such order.

3 3. Prior to January 1, 1978, in the employ of a
4 nonprofit educational institution which is not an institution
5 of higher education and which would otherwise be employment as
6 defined in paragraph (c).

7 4. In the employ of a governmental entity referred to
8 in paragraph (b), if such service is performed by an
9 individual in the exercise of duties:

10 a. As an elected official.

11 b. As a member of a legislative body, or a member of
12 the judiciary, of a state or political subdivision.

13 c. As an employee serving on a temporary basis in case
14 of fire, storm, snow, earthquake, flood, or similar emergency.

15 d. In a position which, under or pursuant to the laws
16 of this state, is designated as a major nontenured
17 policymaking or advisory position or a policymaking or
18 advisory position, the performance of the duties of which
19 ordinarily does not require more than 8 hours per week.

20 5. In a facility conducted for the purpose of carrying
21 out a program of rehabilitation for individuals whose earning
22 capacity is impaired by age or physical or mental deficiency
23 or injury or providing remunerative work for individuals who,
24 because of their impaired physical or mental capacity, cannot
25 be readily absorbed in the competitive labor market, by an
26 individual receiving such rehabilitation or remunerative work.

27 6. As part of an unemployment work-relief or
28 work-training program assisted or financed in whole or in part
29 by any federal agency or an agency of a state or political
30 subdivision thereof, by an individual receiving such work
31 relief or work training, except that this subparagraph does

1 not apply to unemployment work-relief or work-training
2 programs for which unemployment compensation coverage is
3 required under a federal law, rule, or regulation.

4 7. By an inmate of a custodial or penal institution.

5 (e) Agricultural service.--The term "employment"
6 includes service performed after December 31, 1977, by an
7 individual in agricultural labor, as defined in subsection(2)
8 ~~(1)~~, when:

9 1. Such service is performed before January 1, 1988,
10 for a person who:

11 a. During any calendar quarter in either the current
12 or the preceding calendar year paid remuneration in cash of
13 \$20,000 or more to individuals employed in agricultural labor.

14 b. For some portion of a day in each of 20 different
15 calendar weeks, whether or not such weeks were consecutive, in
16 either the current or the preceding calendar year, employed in
17 agricultural labor 10 or more individuals, regardless of
18 whether they were employed at the same moment of time.

19 2. Such service is performed after December 31, 1987,
20 for a person who:

21 a. During any calendar quarter in either the current
22 or the preceding calendar year paid remuneration in cash of
23 \$10,000 or more to individuals employed in agricultural labor.

24 b. For some portion of a day in each of 20 different
25 calendar weeks, whether or not such weeks were consecutive, in
26 either the current or the preceding calendar year, employed in
27 agricultural labor five or more individuals, regardless of
28 whether they were employed at the same moment of time.

29 3. Such service is performed by any individual who is
30 a member of a crew furnished by a crew leader to perform
31 service in agricultural labor for any other person.

1 a. For the purposes of this subparagraph, a crew
2 member shall be treated as an employee of the crew leader:

3 (I) If the crew leader holds a valid certificate of
4 registration under the Migrant and Seasonal Agricultural
5 Worker Protection Act of 1983 or if substantially all of the
6 members of the crew operate or maintain tractors, mechanized
7 harvesting or crop-dusting equipment, or any other mechanized
8 equipment which is provided by the crew leader; and

9 (II) If such individual is not an employee of such
10 other person within the meaning of paragraph (a).

11 b. For the purposes of this subparagraph, in the case
12 of an individual who is furnished by a crew leader to perform
13 service in agricultural labor for any other person and who is
14 not treated as an employee of the crew leader under
15 sub-subparagraph a.:

16 (I) Such other person and not the crew leader shall be
17 treated as the employer of such individual; and

18 (II) Such other person shall be treated as having paid
19 cash remuneration to such individual in an amount equal to the
20 amount of cash remuneration paid to such individual by the
21 crew leader, either on his or her own behalf or on the behalf
22 of such other person, for the service in agricultural labor
23 performed for such other person.

24 (f) Exclusion from paragraph (e).--The term
25 "employment" does not include service performed by an
26 individual in agricultural labor, except as provided in
27 paragraph (e); however, the provisions of paragraph (e) shall
28 not reduce the coverage provided under subparagraph (d)3.

29 (g) Domestic service.--The term "employment" includes
30 domestic service after December 31, 1977, performed by maids,
31 cooks, maintenance workers, chauffeurs, social secretaries,

1 caretakers, private yacht crews, butlers, and houseparents, in
2 a private home, local college club, or local chapter of a
3 college fraternity or sorority performed for a person who paid
4 cash remuneration of \$1,000 or more after December 31, 1977,
5 in any calendar quarter in the current calendar year or the
6 preceding calendar year to individuals employed in such
7 domestic service.

8 (h) Service outside state.--The term "employment"
9 includes an individual's entire service, performed within or
10 both within and without this state if:

11 1. The service is localized in this state; or

12 2. The service is not localized in any state, but some
13 of the service is performed in this state, and:

14 a. The base of operations, or, if there is no base of
15 operations, then the place from which such service is directed
16 or controlled, is in this state; or

17 b. The base of operations or place from which such
18 service is directed or controlled is not in any state in which
19 some part of the service is performed, but the individual's
20 residence is in this state.

21 (i) Employer election to include service outside
22 state.--Services not covered under subparagraph (h)2. and
23 performed entirely without this state, with respect to no part
24 of which contributions are required and paid under an
25 unemployment compensation law of any other state or of the
26 Federal Government, shall be deemed to be employment subject
27 to this chapter if the individual performing such services is
28 a resident of this state and the division approves the
29 election of the employing unit for whom such services are
30 performed that the entire service of such individual shall be
31 deemed to be employment subject to this chapter.

1 (j) Service deemed to be localized within
2 state.--Service shall be deemed to be localized within a state
3 if:

4 1. The service is performed entirely within such
5 state; or

6 2. The service is performed both within and without
7 such state, but the service performed without such state is
8 incidental to the individual's service within the state; for
9 example, it is temporary or transitory in nature or consists
10 of isolated transactions.

11 (k) Service outside United States.--The term
12 "employment" includes the service of an individual who is a
13 citizen of the United States, performed outside the United
14 States (except in Canada) in the employ of an American
15 employer, other than service which is deemed "employment"
16 under the provisions of paragraph (b) or paragraph (c) or the
17 parallel provisions of another state's law, if:

18 1. The employer's principal place of business in the
19 United States is located in this state.

20 2. The employer has no place of business in the United
21 States, but:

22 a. The employer is an individual who is a resident of
23 this state.

24 b. The employer is a corporation which is organized
25 under the laws of this state.

26 c. The employer is a partnership or a trust and the
27 number of the partners or trustees who are residents of this
28 state is greater than the number who are residents of any one
29 other state.

30 3. None of the criteria of subsection (4)~~(3)~~ and this
31 paragraph is met, but the employer has elected coverage in

1 this state, or, the employer having failed to elect coverage
2 in any state, the individual has filed a claim for benefits,
3 based on such service, under the laws of this state.

4 (l) Service on American vessel or aircraft.--The term
5 "employment" includes all service performed by an officer or
6 member of a crew of an American vessel or American aircraft on
7 or in connection with such vessel or aircraft, provided that
8 the operating office, from which the operations of such vessel
9 or aircraft operating within or within and without the United
10 States is ordinarily and regularly supervised, managed,
11 directed, and controlled, is within this state.

12 (m) Service under other unemployment compensation
13 law.--The term "employment" includes services covered by an
14 arrangement pursuant to s. 443.221 between the division and
15 the agency charged with the administration of any other state
16 unemployment compensation law or Federal Unemployment
17 Compensation Law, pursuant to which all services performed by
18 an individual for an employing unit are deemed to be performed
19 entirely within this state, if the division has approved an
20 election of the employing unit for which such services are
21 performed, pursuant to which the entire service of such
22 individual during the period covered by such election is
23 deemed to be insured work.

24 (n) Exclusions generally.--The term "employment" does
25 not include:

26 1. Domestic service in a private home, local college
27 club, or local chapter of a college fraternity or sorority,
28 except as provided in paragraph (g).

29 2. Service performed on or in connection with a vessel
30 or aircraft not an American vessel or American aircraft, if
31

1 the employee is employed on and in connection with such vessel
2 or aircraft when outside the United States.

3 3. Service performed by an individual in, or as an
4 officer or member of the crew of a vessel while it is engaged
5 in, the catching, taking, harvesting, cultivating, or farming
6 of any kind of fish, shellfish, crustacea, sponges, seaweeds,
7 or other aquatic forms of animal and vegetable life, including
8 service performed by any such individual as an ordinary
9 incident to any such activity, except:

10 a. Service performed in connection with the catching
11 or taking of salmon or halibut for commercial purposes.

12 b. Service performed on, or in connection with, a
13 vessel of more than 10 net tons, determined in the manner
14 provided for determining the register tonnage of merchant
15 vessels under the laws of the United States.

16 4. Service performed by an individual in the employ of
17 his or her son, daughter, or spouse, including step
18 relationships, and service performed by a child, or stepchild,
19 under the age of 21 in the employ of his or her father or
20 mother, or stepfather or stepmother.

21 5. Service performed in the employ of the United
22 States Government or of an instrumentality of the United
23 States which is:

24 a. Wholly or partially owned by the United States.

25 b. Exempt from the tax imposed by s. 3301 of the
26 Internal Revenue Code by virtue of any provision of federal
27 law which specifically refers to such section, or the
28 corresponding section of prior law, in granting such
29 exemption; except that to the extent that the Congress shall
30 permit states to require any instrumentalities of the United
31 States to make payments into an unemployment fund under a

1 state unemployment compensation law, all of the provisions of
2 this law shall be applicable to such instrumentalities, and to
3 services performed for such instrumentalities, in the same
4 manner, to the same extent, and on the same terms as to all
5 other employers, employing units, individuals, and services.
6 If this state is not certified for any year by the Secretary
7 of Labor under s. 3304 of the federal Internal Revenue Code,
8 the payments required of such instrumentalities with respect
9 to such year shall be refunded by the division from the fund
10 in the same manner and within the same period as is provided
11 in s. 443.141(6) with respect to contributions erroneously
12 collected.

13 6. Service performed in the employ of a state, or any
14 political subdivision thereof, or any instrumentality of any
15 one or more of the foregoing which is wholly owned by one or
16 more states or political subdivisions, except as provided in
17 paragraph (b), and any service performed in the employ of any
18 instrumentality of one or more states or political
19 subdivisions, to the extent that the instrumentality is, with
20 respect to such service, immune under the Constitution of the
21 United States from the tax imposed by s. 3301 of the Internal
22 Revenue Code.

23 7. Service performed in the employ of a corporation,
24 community chest, fund, or foundation, organized and operated
25 exclusively for religious, charitable, scientific, testing for
26 public safety, literary, or educational purposes, or for the
27 prevention of cruelty to children or animals, no part of the
28 net earnings of which inures to the benefit of any private
29 shareholder or individual, no substantial part of the
30 activities of which is carrying on propaganda or otherwise
31 attempting to influence legislation, and which does not

1 participate in, or intervene in (including the publishing or
2 distributing of statements), any political campaign on behalf
3 of any candidate for public office, except as provided in
4 paragraph (c).

5 8. Service with respect to which unemployment
6 compensation is payable under an unemployment compensation
7 system established by an Act of Congress.

8 9.a. Service performed in any calendar quarter in the
9 employ of any organization exempt from income tax under s.
10 501(a) of the Internal Revenue Code, other than an
11 organization described in s. 401(a), or under s. 521, if the
12 remuneration for such service is less than \$50.

13 b. Service performed in the employ of a school,
14 college, or university, if such service is performed by a
15 student who is enrolled and is regularly attending classes at
16 such school, college, or university.

17 10. Service performed in the employ of a foreign
18 government, including service as a consular or other officer
19 or employee of a nondiplomatic representative.

20 11. Service performed in the employ of an
21 instrumentality wholly owned by a foreign government:

22 a. If the service is of a character similar to that
23 performed in foreign countries by employees of the United
24 States Government or of an instrumentality thereof; and

25 b. The Secretary of State shall certify to the
26 Secretary of the Treasury that the foreign government, with
27 respect to whose instrumentality exemption is claimed, grants
28 an equivalent exemption with respect to similar service
29 performed in the foreign country by employees of the United
30 States Government and of instrumentalities thereof.

31

1 12. Service performed as a student nurse in the employ
2 of a hospital or a nurses' training school by an individual
3 who is enrolled and is regularly attending classes in a
4 nurses' training school chartered or approved pursuant to a
5 state law; service performed as an intern in the employ of a
6 hospital by an individual who has completed a 4-year course in
7 a medical school chartered or approved pursuant to state law;
8 and service performed by a patient of a hospital for such
9 hospital.

10 13. Service performed by an individual for a person as
11 an insurance agent or as an insurance solicitor, if all such
12 service performed by such individual for such person is
13 performed for remuneration solely by way of commission, except
14 for such services performed in accordance with 26 U.S.C.S. s.
15 3306(c)(7) and (8). For purposes of this subsection, those
16 benefits excluded from the definition of wages pursuant to
17 subparagraphs (33)(b)2.-6., inclusive, shall not be considered
18 remuneration.

19 14. Service performed by an individual for a person as
20 a real estate salesperson or agent, if all such service
21 performed by such individual for such person is performed for
22 remuneration solely by way of commission.

23 15. Service performed by an individual under the age
24 of 18 in the delivery or distribution of newspapers or
25 shopping news, not including delivery or distribution to any
26 point for subsequent delivery or distribution.

27 16. Service covered by an arrangement between the
28 division and the agency charged with the administration of any
29 other state or federal unemployment compensation law pursuant
30 to which all services performed by an individual for an
31 employing unit during the period covered by such employing

1 unit's duly approved election are deemed to be performed
2 entirely within such agency's state or under such federal law.

3 17. Service performed by an individual who is enrolled
4 at a nonprofit or public educational institution which
5 normally maintains a regular faculty and curriculum and
6 normally has a regularly organized body of students in
7 attendance at the place where its educational activities are
8 carried on as a student in a full-time program, taken for
9 credit at such institution, which combines academic
10 instruction with work experience, if such service is an
11 integral part of such program, and such institution has so
12 certified to the employer, except that this subparagraph does
13 not apply to service performed in a program established for or
14 on behalf of an employer or group of employers.

15 18. Service performed by an individual for a person as
16 a barber, if all such service performed by such individual for
17 such person is performed for remuneration solely by way of
18 commission.

19 19. Casual labor not in the course of the employer's
20 trade or business.

21 20. Service performed by a speech therapist,
22 occupational therapist, or physical therapist who is
23 nonsalaried and working pursuant to a written contract with a
24 home health agency as defined in s. 400.462.

25 21. Service performed by a direct seller. For purposes
26 of this subparagraph, the term "direct seller" means a person:

27 a.(I) Who is engaged in the trade or business of
28 selling or soliciting the sale of consumer products to buyers
29 on a buy-sell basis or a deposit-commission basis, or on any
30 similar basis, for resale in the home or in any other place
31 that is not a permanent retail establishment; or

1 (II) Who is engaged in the trade or business of
2 selling or soliciting the sale of consumer products in the
3 home or in any other place that is not a permanent retail
4 establishment;

5 b. Substantially all of whose remuneration for
6 services described in sub-subparagraph a., whether or not paid
7 in cash, is directly related to sales or other output, rather
8 than to the number of hours worked; and

9 c. Who performs such services pursuant to a written
10 contract with the person for whom the services are performed,
11 which contract provides that the person will not be treated as
12 an employee with respect to such services for federal tax
13 purposes.

14 22. Service performed by a nonresident alien
15 individual for the period he or she is temporarily present in
16 the United States as a nonimmigrant under subparagraph (F) or
17 subparagraph (J) of s. 101(a)(15) of the Immigration and
18 Nationality Act, and which is performed to carry out the
19 purpose specified in subparagraph (F) or subparagraph (J), as
20 the case may be.

21 23. Service performed by an individual for
22 remuneration for a private, for-profit delivery or messenger
23 service, if the individual:

24 a. Is free to accept or reject jobs from the delivery
25 or messenger service and the delivery or messenger service has
26 no control over when the individual works;

27 b. Is remunerated for each delivery, or the
28 remuneration is based on factors that relate to the work
29 performed, including receipt of a percentage of any rate
30 schedule;

31

1 c. Pays all expenses and the opportunity for profit or
2 loss rests solely with the individual;

3 d. Is responsible for operating costs, including fuel,
4 repairs, supplies, and motor vehicle insurance;

5 e. Determines the method of performing the service,
6 including selection of routes and order of deliveries;

7 f. Is responsible for the completion of a specific job
8 and is liable for any failure to complete that job;

9 g. Enters into a contract with the delivery or
10 messenger service which specifies the relationship of the
11 individual to the delivery or messenger service to be that of
12 an independent contractor and not that of an employee; and

13 h. Provides the vehicle used to perform the service.

14 24. Service performed in agricultural labor by an
15 individual who is an alien admitted to the United States to
16 perform service in agricultural labor pursuant to ss.
17 101(a)(15)(H) and 214(c) of the Immigration and Nationality
18 Act.

19 (22)~~(20)~~ EMPLOYMENT OFFICE.--"Employment office" means
20 a free public employment office or branch thereof operated by
21 this or any other state as a part of a state-controlled system
22 of public employment offices or by a federal agency charged
23 with the administration of an unemployment compensation
24 program or free public employment offices.

25 (23)~~(21)~~ FARM.--"Farm" includes stock, dairy, poultry,
26 fruit, fur-bearing animal, and truck farms, plantations,
27 ranches, nurseries, ranges, greenhouses or other similar
28 structures used primarily for the raising of agricultural or
29 horticultural commodities, and orchards.

30 (24)~~(22)~~ FUND.--"Fund" means the Unemployment
31 Compensation Trust Fund created by this chapter, to which all

1 contributions required and from which all benefits provided
2 under this chapter shall be paid.

3 (25)~~(23)~~ HOSPITAL.--"Hospital" means an institution
4 which has been licensed, certified, or approved by the
5 Department of Health and Rehabilitative Services as a
6 hospital.

7 (26)~~(24)~~ INSTITUTION OF HIGHER
8 EDUCATION.--"Institution of higher education" means an
9 educational institution which:

10 (a) Admits as regular students only individuals having
11 a certificate of graduation from a high school, or the
12 recognized equivalent of such a certificate;

13 (b) Is legally authorized in this state to provide a
14 program of education beyond high school;

15 (c) Provides an educational program for which it
16 awards a bachelor's or higher degree, or provides a program
17 which is acceptable for full credit toward such a degree, a
18 program of postgraduate or postdoctoral studies, or a program
19 of training to prepare students for gainful employment in a
20 recognized occupation; and

21 (d) Is a public or other nonprofit institution.

22
23 Notwithstanding any of the foregoing provisions of this
24 subsection, all colleges and universities in this state and
25 recognized as such by this state are institutions of higher
26 education for purposes of this section.

27 (27)~~(25)~~ INSURED WORK.--"Insured work" means
28 employment for employers.

29 (28) LEAVE OF ABSENCE.--The term "leave of absence"
30 means a temporary break in service to an employer, for a
31 specified period of time, during which the employing unit

1 guarantees the same or a comparable position to the worker at
2 the expiration of the leave.

3 (29)(26) MISCONDUCT.--"Misconduct" includes, but is
4 not limited to, the following, which shall not be construed in
5 pari materia with each other:

6 (a) Conduct evincing such willful or wanton disregard
7 of an employer's interests as is found in deliberate violation
8 or disregard of standards of behavior which the employer has
9 the right to expect of his or her employee; or

10 (b) Carelessness or negligence of such a degree or
11 recurrence as to manifest culpability, wrongful intent, or
12 evil design or to show an intentional and substantial
13 disregard of the employer's interests or of the employee's
14 duties and obligations to his or her employer.

15 (30) MONETARY DETERMINATION.--The term "monetary
16 determination" means a determination of whether and in what
17 amount a claimant is eligible for benefits based on the
18 claimant's employment during the base period of the claim.

19 (31) NONMONETARY DETERMINATION.--The term "nonmonetary
20 determination" means a determination of the claimant's
21 eligibility for benefits on all issues other than monetary
22 entitlement and benefit overpayment.

23 (32)(27) NOT IN THE COURSE OF THE EMPLOYER'S TRADE OR
24 BUSINESS.--"Not in the course of the employer's trade or
25 business" means that which does not promote or advance the
26 trade or business of the employer.

27 (33)(28) PAY PERIOD.--"Pay period" means a period of
28 not more than 31 consecutive days for which a payment or
29 remuneration is ordinarily made to the employee by the person
30 employing him or her.

31

1 (34) REASONABLE ASSURANCE.--The term "reasonable
2 assurance" means a written or verbal agreement or an agreement
3 between the employer and the worker understood through
4 tradition within the trade or occupation or as defined in
5 employer policy.

6 (35)~~(29)~~ REIMBURSABLE EMPLOYER.--"Reimbursable
7 employer" means an employer who is liable for payments in lieu
8 of contributions as required by this chapter.

9 (36)~~(30)~~ STATE.--"State" includes the states of the
10 United States, the District of Columbia, Canada, the
11 Commonwealth of Puerto Rico, and the Virgin Islands.

12 (37)~~(31)~~ STATE LAW.--"State law" means the
13 unemployment insurance law of any state, approved by the
14 United States Secretary of Labor under s. 3304 of the Internal
15 Revenue Code of 1954.

16 (38) TEMPORARY LAYOFF.--The term "temporary layoff"
17 means a job separation due to lack of work which does not
18 exceed 8 weeks in duration and which has a fixed or
19 approximate return to work date.

20 (39)~~(32)~~ UNEMPLOYMENT.--"Unemployment" means:

21 (a) An individual shall be deemed "totally unemployed"
22 in any week during which he or she performs no services and
23 with respect to which no earned income is payable to him or
24 her, or shall be deemed "partially unemployed" in any week of
25 less than full-time work if the earned income payable to him
26 or her with respect to such week is less than his or her
27 weekly benefit amount. The division shall prescribe
28 regulations applicable to unemployed individuals making such
29 distinctions in the procedures as to total unemployment,
30 part-time unemployment, partial unemployment of individuals

31

1 attached to their regular jobs, and other forms of short-time
2 work, as the division deems necessary.

3 (b) An individual's week of unemployment shall be
4 deemed to commence only after his or her registration at an
5 employment office, except as the division may by rule
6 otherwise prescribe.

7 (40)~~(33)~~ WAGES.--

8 (a) "Wages" means all remuneration for employment,
9 including commissions, bonuses, back pay awards, and the cash
10 value of all remuneration paid in any medium other than cash.
11 The reasonable cash value of remuneration in any medium other
12 than cash shall be estimated and determined in accordance with
13 rules prescribed by the division. After January 1, 1986, the
14 term "wages" includes tips or gratuities which are received
15 while performing services which constitute employment and are
16 included in a written statement furnished to the employer
17 pursuant to s. 6053(a) of the Internal Revenue Code of 1954.

18 (b) "Wages" does not include:

19 1. That part of remuneration which, after remuneration
20 equal to \$6,000 prior to January 1, 1983, and \$7,000 after
21 December 31, 1982, has been paid in a calendar year to an
22 individual by an employer or his or her predecessor with
23 respect to employment during any calendar year, is paid to
24 such individual by such employer during such calendar year,
25 unless that part of the remuneration is subject to a tax,
26 under a federal law imposing the tax, against which credit may
27 be taken for contributions required to be paid into a state
28 unemployment fund. For the purposes of this subsection, the
29 term "employment" includes services constituting employment
30 under any employment security law of another state or of the
31 Federal Government.

1 2. The amount of any payment, with respect to services
2 performed, to, or on behalf of, an individual in its employ
3 under a plan or system established by an employing unit which
4 makes provision for individuals in its employ generally or for
5 a class or classes of such individuals, including any amount
6 paid by an employing unit for insurance or annuities, or into
7 a fund, to provide for any such payment, on account of:

8 a. Sickness or accident disability, but, in the case
9 of payments made to an employee or any of his or her
10 dependents, this subparagraph shall exclude from the term
11 "wages" only those payments received under a workers'
12 compensation law.

13 b. Medical and hospitalization expenses in connection
14 with sickness or accident disability.

15 c. Death, provided the individual in its employ:

16 (I) Has not the option to receive, instead of
17 provision for such death benefit, any part of such payment or,
18 if such death benefit is insured, any part of the premiums, or
19 contributions to premiums, paid by his or her employing unit;
20 and

21 (II) Has not the right, under the provisions of the
22 plan or system or policy of insurance providing for such death
23 benefit, to assign such benefit or to receive cash
24 consideration in lieu of such benefit either upon his or her
25 withdrawal from the plan or system providing for such benefit
26 or upon termination of such plan or system or policy of
27 insurance or of his or her services with such employing unit.

28 3. The amount of any payment on account of sickness or
29 accident disability, or medical or hospitalization expenses in
30 connection with sickness or accident disability, made by an
31 employing unit to, or on behalf of, an individual performing

1 services for it after the expiration of 6 calendar months
2 following the last calendar month in which the individual
3 performed services for such employing unit.

4 4. The payment by an employing unit, without deduction
5 from the remuneration of the individual in its employ, of the
6 tax imposed upon an individual in its employ under s. 3101 of
7 the federal Internal Revenue Code with respect to services
8 performed.

9 5. The value of:

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

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

17 6. The amount of any payment made by an employing unit
18 to, or on behalf of, an individual performing services for it
19 or a beneficiary of such individual:

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

26 b. Under or to an annuity plan which, at the time of
27 such payment, is a plan described in s. 403(a) of the Internal
28 Revenue Code of 1954;

29 c. Under a simplified employee pension if, at the time
30 of the payment, it is reasonable to believe that the employee
31

1 will be entitled to a deduction under s. 219(b)(2) of the
2 Internal Revenue Code of 1954 for such payment;

3 d. Under or to an annuity contract described in s.
4 403(b) of the Internal Revenue Code of 1954, other than a
5 payment for the purchase of such contract which is made by
6 reason of a salary reduction agreement, whether evidenced by a
7 written instrument or otherwise;

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

11 f. To supplement pension benefits under a plan or
12 trust described in any of the foregoing provisions of this
13 subparagraph to take into account some portion or all of the
14 increase in the cost of living, as determined by the United
15 States Secretary of Labor, since retirement, but only if such
16 supplemental payments are under a plan which is treated as a
17 welfare plan under s. 3(2)(B)(ii) of the Employee Retirement
18 Income Security Act of 1974.

19 g. Under a cafeteria plan, within the meaning of s.
20 125 of the Internal Revenue Code of 1986, as amended, if such
21 payment would not be treated as wages without regard to such
22 plan and it is reasonable to believe that, if s. 125 of the
23 Internal Revenue Code of 1986, as amended, applied for
24 purposes of this section, s. 125 of the Internal Revenue Code
25 of 1986, as amended, would not treat any wages as
26 constructively received.

27 (41)~~(34)~~ WEEK.--"Week" means such period of 7
28 consecutive days as the division may by rule prescribe. The
29 division may by rule prescribe that a week shall be deemed to
30 be "in," "within," or "during" that benefit year which
31 includes the greater part of such week.

1 (42)~~(35)~~ HIGH QUARTER.--"High quarter" means that
2 quarter in the base period in which the claimant had the
3 greatest amount of wages paid, regardless of the number of
4 employers paying wages in that quarter.

5 (43)~~(36)~~ VOLUNTARY CONTRIBUTION.--"Voluntary
6 contribution" means any payment made to the Unemployment
7 Compensation Trust Fund in excess of any payments required
8 under this chapter.

9 Section 5. Section 443.091, Florida Statutes, is
10 amended to read:

11 443.091 Benefit eligibility conditions.--

12 (1) An unemployed individual shall be eligible to
13 receive benefits with respect to any week only if the division
14 finds that:

15 (a) She or he has made a claim for benefits with
16 respect to such week in accordance with such rules as the
17 division may prescribe.

18 (b) She or he has registered for work at, and
19 thereafter continued to report at, the division, which shall
20 be responsible for notification of the Division of Jobs and
21 Benefits ~~Florida State Employment Service~~ in accordance with
22 such rules as the division may prescribe; except that the
23 division may, by rule not inconsistent with the purposes of
24 this law, waive or alter either or both of the requirements of
25 this subsection as to individuals attached to regular jobs;
26 but no such rule shall conflict with s. 443.111(1).

27 (c)1. She or he is able to work and is available for
28 work. In order to assess eligibility for a claimed week of
29 unemployment, the division shall develop criteria to determine
30 a claimant's ability to work and availability for work.

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1 2. Notwithstanding any other provisions in this
2 section, no otherwise eligible individual shall be denied
3 benefits for any week because she or he is in training with
4 the approval of the division, nor shall such individual be
5 denied benefits with respect to any week in which she or he is
6 in training with the approval of the division by reason of the
7 application of provisions in subparagraph 1. relating to
8 availability for work, or the provisions of s. 443.101(2)
9 relating to failure to apply for, or refusal to accept,
10 suitable work. Training may be approved by the division in
11 accordance with criteria prescribed by rule. A claimant's
12 eligibility during approved training is contingent upon
13 satisfying eligibility conditions prescribed by rule.

14 3. Notwithstanding any other provision of this
15 chapter, an individual who is in training approved under s.
16 236(a)(1) of the Trade Act of 1974, as amended, may not be
17 determined to be ineligible or disqualified for benefits with
18 respect to her or his enrollment in such training or because
19 of leaving work which is not suitable employment to enter such
20 training. For the purposes of this subparagraph, the term
21 "suitable employment" means, with respect to a worker, work of
22 a substantially equal or higher skill level than the worker's
23 past adversely affected employment, as defined for purposes of
24 the Trade Act of 1974, as amended, the wages for which are not
25 less than 80 percent of the worker's average weekly wage as
26 determined for purposes of the Trade Act of 1974, as amended.

27 4. Notwithstanding any other provision of this
28 section, an otherwise eligible individual shall not be denied
29 benefits for any week by reason of the application of
30 subparagraph 1. because she or he is before any court of the
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1 United States or any state pursuant to a lawfully issued
2 summons to appear for jury duty.

3 (d) She or he participates in reemployment services,
4 such as job search assistance services, whenever the
5 individual has been determined, pursuant to a profiling system
6 established by rule of the division, to be likely to exhaust
7 regular benefits and to be in need of reemployment services.

8 (e) She or he has been unemployed for a waiting period
9 of 1 week. No week shall be counted as a week of unemployment
10 for the purposes of this subsection:

11 1. Unless it occurs within the benefit year which
12 includes the week with respect to which she or he claims
13 payment of benefits.

14 2. If benefits have been paid with respect thereto.

15 3. Unless the individual was eligible for benefits
16 with respect thereto as provided in this section and s.
17 443.101 except for the requirements of this subsection and of
18 s. 443.101(5).

19 (f) She or he has been paid wages for insured work
20 equal to 1.5 times her or his high quarter wages during her or
21 his base period, except that an unemployed individual is not
22 eligible to receive benefits if the base period wages are less
23 than \$3,400. As amended by this act, this paragraph applies
24 only to benefit years beginning on or after July 1, 1996.

25 (2) No individual may receive benefits in a benefit
26 year unless, subsequent to the beginning of the next preceding
27 benefit year during which she or he received benefits, she or
28 he performed service, whether or not in employment as defined
29 in s. 443.036, and earned remuneration for such service in an
30 amount equal to not less than 3 times her or his weekly
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1 benefit amount as determined for her or his current benefit
2 year.

3 (3) Benefits based on service in employment defined in
4 s. 443.036(21)(b)~~s. 443.036(19)(b)~~ and (c) shall be payable
5 in the same amount, on the same terms, and subject to the same
6 conditions as benefits payable on the basis of other service
7 subject to this chapter, except that:

8 (a) Benefits shall not be paid based on services in an
9 instructional, research, or principal administrative capacity
10 for an educational institution or an institution of higher
11 education for any week of unemployment commencing during the
12 period between 2 successive academic years; during a similar
13 period between two regular terms, whether or not successive;
14 or during a period of paid sabbatical leave provided for in
15 the individual's contract, to any individual, if such
16 individual performs such services in the first of such
17 academic years or terms and there is a contract or a
18 reasonable assurance that such individual will perform
19 services in any such capacity for any educational institution
20 or institution of higher education in the second of such
21 academic years or terms.

22 (b) Benefits shall not be based on services in any
23 other capacity for an educational institution or an
24 institution of higher education to any individual for any week
25 which commences during a period between 2 successive academic
26 years or terms if such individual performs such services in
27 the first of the academic years or terms and there is a
28 reasonable assurance that such individual will perform such
29 services in the second of the academic years or terms; except
30 that, if compensation is denied to any individual under this
31 paragraph and such individual was not offered an opportunity

1 to perform such services for the educational institution for
2 the second of such academic years or terms, that individual
3 shall be entitled to a retroactive payment of compensation for
4 each week for which the individual filed a timely claim for
5 compensation and for which compensation was denied solely by
6 reason of this paragraph.

7 (c) Benefits shall not be paid to any individual for
8 any week which commences during an established and customary
9 vacation period or holiday recess if such individual performs
10 any services described in paragraph (a) or paragraph (b) in
11 the period immediately before such vacation period or holiday
12 recess and there is a reasonable assurance that such
13 individual will perform any such service in the period
14 immediately following such vacation period or holiday recess.

15 (d) Benefits shall not be payable on the basis of
16 services in any such capacities as specified in paragraphs
17 (a), (b), and (c) to any individual who performed such
18 services in an educational institution while in the employ of
19 a governmental agency or governmental entity which is
20 established and operated exclusively for the purpose of
21 providing such services to one or more educational
22 institutions.

23 (e) Benefits shall not be payable on the basis of
24 services in any such capacities as specified in paragraphs
25 (a), (b), (c), and (d) to any individual who provided such
26 services to or on behalf of an educational institution, or an
27 institution of higher education.

28 (f) As used in this subsection, the term "fixed
29 contract" means a written agreement of employment for a
30 specified period of time, and the term "continuing contract"

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1 means a written agreement that is automatically renewed until
2 terminated by one of the parties to the contract.

3 (4) In the event of national emergency, in the course
4 of which the Federal Emergency Unemployment Payment Plan is,
5 at the request of the Governor, invoked for all or any part of
6 the state, such plan shall supersede the procedures prescribed
7 by this chapter, and by rules adopted hereunder, and the
8 division shall act as the Florida agency for the United States
9 Department of Labor in the administration of such plan.

10 (5) Benefits shall not be paid to any individual on
11 the basis of any service, 90 percent or more ~~substantially all~~
12 of which consists of participating in sports or athletic
13 events or training, or preparing to so participate, for any
14 week which commences during the period between two successive
15 sport seasons (or similar periods) if such individual
16 performed such service in the first of such seasons (or
17 similar periods) and there is a reasonable assurance that such
18 individual will perform such services in the later of such
19 seasons (or similar periods).

20 (6) With respect to weeks of unemployment beginning on
21 or after January 1, 1978, wages for insured work shall include
22 wages paid for previously uncovered services. For the
23 purposes of this subsection, except to the extent that
24 assistance under Title II of the Emergency Jobs and
25 Unemployment Assistance Act of 1974 was paid on the basis of
26 such services, the term "previously uncovered services" means
27 services:

28 (a) Which were not employment as defined in this
29 chapter prior to January 1, 1978, and were not services
30 covered pursuant to s. 443.121(3) at any time during the
31 1-year period ending December 31, 1975; and

1 (b) Which are:

2 1. Agricultural labor or domestic service as defined
3 in s. 443.036; or

4 2. Services performed by an employee of this state or
5 a political subdivision thereof, as provided in s.
6 443.036(21)(b)~~s. 443.036(19)(b)~~, or by an employee of a
7 nonprofit educational institution which is not an institution
8 of higher education.

9 (7) Benefits paid to any individual whose base period
10 wages include wages for previously uncovered services, as
11 defined in subsection (6), shall not be charged to the
12 employer or the employer's experience rating account, to the
13 extent that such individual would not have been eligible to
14 receive such compensation had the state not provided for
15 payment of compensation on the basis of such previously
16 uncovered services, and provided benefits shall be paid for
17 such previously uncovered service only to the extent that the
18 division determines that the unemployment compensation fund
19 may be reimbursed for such benefits pursuant to Pub. L. No.
20 94-566, s. 121.

21 Section 6. Subsection (1), subsection (2), and
22 paragraph (c) of subsection (3) of section 443.121, Florida
23 Statutes, are amended to read:

24 443.121 Employing units affected.--

25 (1) PERIODS OF LIABILITY.--

26 (a) Any employing unit which is or becomes an employer
27 subject to this chapter as defined in s. 443.036(19)(a)~~s.~~
28 ~~443.036(17)(a)~~, (b), (c), (d), or (e) within any calendar year
29 shall be subject to this chapter during the whole of such
30 calendar year.

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1 (b) Any employing unit which is or becomes an employer
2 subject to this chapter solely by reason of the provisions of
3 s. 443.036(19)(f)~~s. 443.036(17)(f)~~ shall be subject to this
4 chapter only during its operation of the business acquired.

5 (c) Any employing unit which is or becomes an employer
6 subject to this chapter solely by reason of the provisions of
7 s. 443.036(19)(g)~~s. 443.036(17)(g)~~ shall be subject to this
8 chapter only with respect to employment occurring subsequent
9 to the date of such acquisition.

10 (2) TERMINATION OF COVERAGE.--

11 (a) General.--Except as otherwise provided in this
12 section, an employing unit shall cease to be an employer
13 subject to this chapter as of January 1 of any calendar year
14 only if it files with the division, by April 30 of the year
15 for which termination is requested, a written application for
16 termination of coverage and the division finds that the
17 employing unit, in the preceding calendar year, did not meet
18 the requirements of an employer, as defined in s.
19 443.036(19)(a)~~s. 443.036(17)(a)~~, (d), or (e). However, the
20 above-prescribed time limitation for the filing of such
21 written application may be waived by the division in cases
22 where such time limitation had expired prior to the
23 establishment in the records of the division of the liability
24 of such employing unit. For the purposes of this subsection,
25 the two or more employing units mentioned in s. 443.036(19)(f)
26 ~~s. 443.036(17)(f)~~, (g), and (i) shall be treated as a single
27 employing unit.

28 (b) Nonprofit organizations.--Except as otherwise
29 provided in subsection (4), an employing unit subject to this
30 chapter by reason of s. 443.036(21)(c)~~s. 443.036(19)(c)~~ shall
31 cease to be an employer so subject as of January 1 of any

1 calendar year only if it files with the division, by April 30
2 of the year for which termination is requested, a written
3 application for termination of coverage and the division finds
4 that there were no 20 different days, each day being in a
5 different week within the preceding calendar year, within
6 which such employing unit employed four or more individuals in
7 employment subject to this chapter. The timely filing of
8 application may be waived as provided in paragraph (a).

9 (c) State and political subdivisions.--The state and
10 any political subdivision of the state shall remain an
11 employer subject to this chapter for the duration of any
12 employment defined in s. 443.036(21)(b)~~s. 443.036(19)(b)~~ and
13 shall cease being so subject only pursuant to subsection (4).

14 (3) ELECTIVE COVERAGE.--

15 (c) Certain services for political subdivisions.--

16 1. Any political subdivision of this state may elect
17 to cover under this chapter, for not less than 1 calendar
18 year, service performed by employees in all of the hospitals
19 and institutions of higher education operated by such
20 political subdivision. Election is to be made by filing with
21 the division a notice of such election at least 30 days prior
22 to the effective date of such election. The election may
23 exclude any services described in s. 443.036(21)(d)~~s.~~
24 ~~443.036(19)(d)~~. Any political subdivision electing coverage
25 under this paragraph shall make payments in lieu of
26 contributions with respect to benefits attributable to such
27 employment as provided with respect to nonprofit organizations
28 in s. 443.131(4)(b) and (d).

29 2. The provisions in s. 443.091(4) with respect to
30 benefit rights based on service for nonprofit organizations
31 and state hospitals and institutions of higher education shall

1 be applicable also to service covered by an election under
2 this section.

3 3. The amounts required to be paid in lieu of
4 contributions by any political subdivision under this
5 paragraph shall be billed and payment made as provided in s.
6 443.131(4)(b) with respect to similar payments by nonprofit
7 organizations.

8 4. An election under this paragraph may be terminated
9 after not less than 1 calendar year of coverage by filing with
10 the division written notice not later than 30 days preceding
11 the last day of the calendar year in which the termination is
12 to be effective. Such termination becomes effective as of
13 January 1 of the next ensuing calendar year with respect to
14 services performed after that date.

15 Section 7. Subsection (1), paragraph (g) of subsection
16 (3), paragraph (a) of subsection (4), paragraphs (a), (b), and
17 (d) of subsection (5), and paragraph (b) of subsection (6) of
18 section 443.131, Florida Statutes, are amended to read:

19 443.131 Contributions.--

20 (1) WHEN PAYABLE.--Contributions shall accrue and
21 become payable by each employer for each calendar quarter in
22 which he or she is subject to this chapter, with respect to
23 wages paid during such calendar quarter for employment. Such
24 contributions shall become due and be paid by each employer to
25 the division for the fund, in accordance with such rules as
26 the division may prescribe. However, nothing in this
27 subsection shall be construed to prohibit the division from
28 allowing, on a limited basis, at the request of the employer,
29 certain employers of employees performing domestic services,
30 as defined in s. 443.036(21)(g)~~s. 443.036(19)(g)~~ and by rule
31 of the division, to pay contributions or report wages at

1 intervals other than quarterly when such payment or reporting
2 is to the advantage of the division and the employers, and
3 when such nonquarterly payment and reporting is authorized
4 under federal law. This provision gives employers of
5 employees performing domestic services the option to elect to
6 report wages and pay taxes annually, with a due date of April
7 1 and a delinquency date of April 30. In order to qualify for
8 this election, the employer must have only domestic employees,
9 be in good standing, apply to this program no later than
10 December 30 of the preceding calendar year, and agree to
11 provide the division with any special reports which might be
12 requested, as required by rule 38B-2.025(5), including copies
13 of all federal employment tax forms. Failure to furnish any
14 information when required may result in the employer's loss of
15 the privilege to elect participation in this program.

16 Contributions shall not be deducted, in whole or in part, from
17 the wages of individuals in such employer's employ. In the
18 payment of any contributions, a fractional part of a cent
19 shall be disregarded unless it amounts to one-half cent or
20 more, in which case it shall be increased to 1 cent.

21 (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

22 (g)1. For the purposes of this subsection, two or more
23 employers who are parties to a transfer of business or the
24 subject of a merger, consolidation, or other form of
25 reorganization, effecting a change in legal identity or form,
26 shall be deemed to be a single employer and shall be
27 considered as one employer with a continuous employment record
28 if the division finds that the successor employer continues to
29 carry on the employing enterprises of the predecessor employer
30 or employers and that the successor employer has paid all
31 contributions required of and due from the predecessor

1 employer or employers and has assumed liability for all
2 contributions that may become due from the predecessor
3 employer or employers. As used in this paragraph, the term
4 "contributions" means all indebtedness to the division,
5 including, but not limited to, interest, penalty, collection
6 fee, and service fee. A successor has 30 days from the date of
7 the official notification of liability by succession to accept
8 the transfer of the predecessor's or predecessors' employment
9 record or records. If the predecessor or predecessors have
10 unpaid contributions or outstanding quarterly reports, the
11 successor has 30 days from the date of the notice listing the
12 total amount due to pay the total amount with certified funds.
13 After the total indebtedness has been paid, the employment
14 record or records of the predecessor or predecessors will be
15 transferred to the successor. Employment records may be
16 transferred by the division. The tax rate of total successor
17 and predecessor upon the transfer of employment records shall
18 be determined by the division as prescribed by rule in order
19 to calculate any tax rate change resulting from the transfer
20 of employment records.

21 2. Whether or not there is a transfer of employment
22 record as contemplated in this paragraph, the predecessor
23 shall in the event he or she again employs persons be treated
24 as an employer without previous employment record or, if his
25 or her coverage has been terminated as provided in s. 443.121,
26 as a new employing unit.

27 3. The division may provide by rule for partial
28 transfer of experience rating when an employer has transferred
29 at any time an identifiable and segregable portion of his or
30 her payrolls and business to a successor employing unit. As a
31 condition of such partial transfer of experience, the rules

1 shall require an application by the successor, agreement by
2 the predecessor, and such evidence as the division may
3 prescribe of the experience and payrolls attributable to the
4 transferred portion up to the date of transfer. The rules
5 shall provide that the successor employing unit, if not
6 already an employer, shall become an employer as of the date
7 of the transfer and that the experience of the transferred
8 portion of the predecessor's account shall be removed from the
9 experience-rating record of the predecessor, and for each
10 calendar year following the date of the transfer of the
11 employment record on the books of the division, the division
12 shall compute the rate of contribution payable by the
13 successor on the basis of his or her experience, if any,
14 combined with the experience of the portion of the record
15 transferred. The rules may also provide what rates shall be
16 payable by the predecessor and successor employers for the
17 period between the date of the transfer of the employment
18 record of the transferred unit on the books of the division
19 and the first day of the next calendar year.

20 4. This paragraph shall not apply to the employee
21 leasing company and client contractual agreement as defined in
22 s. 443.036. The client shall, in the event of termination of
23 the contractual agreement or failure by the employee leasing
24 company to submit reports or pay contributions as required by
25 the division, be treated as a new employer without previous
26 employment record unless otherwise eligible for a rate
27 computation.

28 (4) FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT
29 ORGANIZATIONS.--Benefits paid to employees of nonprofit
30 organizations shall be financed in accordance with the
31 provisions of this subsection. For the purpose of this

1 subsection, a "nonprofit" organization is an organization or
2 group of organizations described in s. 501(c)(3) of the United
3 States Internal Revenue Code which is exempt from income tax
4 under s. 501(a) of such code.

5 (a) Liability for contributions and election of
6 reimbursement.--Any nonprofit organization which, pursuant to
7 s. 443.036(19)(c)~~s. 443.036(17)(c)~~ or s. 443.121(3)(a) is, or
8 becomes, subject to this chapter shall pay contributions under
9 the provisions of subsection (1), unless it elects, in
10 accordance with this paragraph, to pay to the division for the
11 Unemployment Compensation Trust Fund an amount equal to the
12 amount of regular benefits and of one-half of the extended
13 benefits paid, that is attributable to service in the employ
14 of such nonprofit organization, to individuals for weeks of
15 unemployment which begin during the effective period of such
16 election.

17 1. Any nonprofit organization which becomes subject to
18 this chapter may elect to become liable for payments in lieu
19 of contributions for not less than the period beginning with
20 the date on which such subjectivity begins and ending at the
21 end of the next calendar year by filing a written notice of
22 its election with the division not later than 30 days
23 immediately following the date of the determination of such
24 subjectivity.

25 2. Any nonprofit organization which makes an election
26 in accordance with subparagraph 1. will continue to be liable
27 for payments in lieu of contributions until it files with the
28 division a written notice terminating its election not later
29 than 30 days prior to the beginning of the calendar year for
30 which such termination shall first be effective.

31

1 3. Any nonprofit organization which has been paying
2 contributions under this chapter may change to a reimbursable
3 basis by filing with the division not later than 30 days prior
4 to the beginning of any calendar year a written notice of
5 election to become liable for payments in lieu of
6 contributions. Such election shall not be terminable by the
7 organization for that and the next calendar year.

8 4. The division, in accordance with such rules as the
9 division may prescribe, shall notify each nonprofit
10 organization of any determination of its status as an employer
11 and of the effective date of any election which it makes and
12 of any termination of such election. Such determinations
13 shall be subject to reconsideration, appeal, and review in
14 accordance with the provisions of s. 443.141(2)(b).

15 (5) FINANCING BENEFITS PAID TO EMPLOYEES OF THE STATE
16 AND POLITICAL SUBDIVISIONS OF THE STATE.--Benefits paid to
17 employees of this state or any instrumentality of this state,
18 or to employees of any political subdivision of this state or
19 any instrumentality thereof, based upon service defined in s.
20 443.036(21)(b)~~s. 443.036(19)(b)~~, shall be financed in
21 accordance with this subsection.

22 (a)1. Unless an election is made as provided in
23 paragraph (c), the state or any political subdivision of the
24 state shall pay into the Unemployment Compensation Trust Fund
25 an amount equivalent to the amount of regular benefits,
26 short-time compensation benefits, and extended benefits paid
27 to individuals, based on wages paid by the state or the
28 political subdivision for service defined in s. 443.036(21)(b)
29 ~~s. 443.036(19)(b)~~.

30 2. Should any state agency become more than 120 days
31 delinquent on reimbursements due to the Unemployment

1 Compensation Trust Fund, the division shall certify to the
2 Comptroller the amount due and the Comptroller shall transfer
3 the amount due to the Unemployment Compensation Trust Fund
4 from the funds of such agency that may legally be used for
5 such purpose. In the event any political subdivision of the
6 state or any instrumentality thereof becomes more than 120
7 days delinquent on reimbursements due to the Unemployment
8 Compensation Trust Fund, then, upon request by the division
9 after a hearing, the Department of Revenue or the Department
10 of Banking and Finance, as the case may be, shall deduct the
11 amount owed by the political subdivision or instrumentality
12 from any funds to be distributed by it to the county, city,
13 special district, or consolidated form of government for
14 further distribution to the trust fund in accordance with this
15 chapter. Should any employer for whom the city or county tax
16 collector collects taxes fail to make the reimbursements to
17 the Unemployment Compensation Trust Fund required by this
18 chapter, the tax collector after a hearing, at the request of
19 the division and upon receipt of a certificate showing the
20 amount owed by the employer, shall deduct the amount so
21 certified from any taxes collected for the employer and remit
22 same to the Department of Labor and Employment Security for
23 further distribution to the trust fund in accordance with this
24 chapter. This subparagraph does not apply to those amounts due
25 for benefits paid prior to October 1, 1979. This subparagraph
26 does not apply to amounts owed by a political subdivision for
27 benefits erroneously paid where the claimant is required to
28 repay to the division under s. 443.151(6)(a) or (b) any sum as
29 benefits received.

30 (b) The provisions of paragraphs (4)(b), (d), and (e),
31 relating to reimbursement payments, allocation of benefit

1 costs, and group accounts with respect to nonprofit
 2 organizations, are applicable also, to the extent allowed by
 3 federal law, with respect to the duties of this state or any
 4 political subdivision of this state as an employer by reason
 5 of s. 443.036(19)(b)~~s. 443.036(17)(b)~~.

6 (d) Upon establishing a financing method as provided
 7 by this subsection, such financing method shall be applicable
 8 for not less than 2 calendar years. Nothing herein shall be
 9 construed to prevent an employer subject to the provisions of
 10 this subsection from electing to change its method of
 11 financing or its method of reporting after completing 2
 12 calendar years under another financing method, so long as such
 13 new election is timely filed. The division may prescribe by
 14 rule the procedures for changing methods of reporting.

15 (6) PUBLIC EMPLOYERS UNEMPLOYMENT COMPENSATION BENEFIT
 16 ACCOUNT.--

17 (b) Governmental entities subject to the Florida
 18 Unemployment Compensation Law under s. 443.036(21)(b)~~s.~~
 19 ~~443.036(19)(b)~~ who exercise the option to elect the
 20 contributory system of financing unemployment compensation
 21 benefits shall have their accounts maintained and shall be
 22 subject to the provisions of subsections (1), (2), and (3),
 23 except that:

24 1. The term "taxable wages" means total gross wages.

25 2. The initial contribution rate shall be 0.25
 26 percent.

27 3. Any election by an employer to be taxed under this
 28 subsection shall be effective January 1 and shall be taxed at
 29 the initial rate. Effective January 1 of the following year,
 30 the rate shall be computed based on 2 calendar quarters of
 31 chargeability and payroll; effective January 1 of the second

1 year after such election, the rate shall be computed based on
2 6 quarters of chargeability and payroll; and effective January
3 1 of the third year after such election, the rate shall be
4 computed based on 10 quarters of chargeability and payrolls.
5 Each January 1 thereafter, the tax rates shall be computed
6 based on 12 quarters of chargeability and payroll.

7 4. An employer electing to be taxed under the
8 provisions of this subsection shall make such election not
9 later than 30 days prior to January 1 of the year for which
10 the election is to be effective. Upon electing this financing
11 method, such method shall be applicable for not less than 2
12 years.

13 5. Any election under this subsection may be
14 terminated by filing with the division, not later than 30 days
15 prior to January 1, a written notice of termination.

16 Section 8. Paragraph (b) of subsection (1) of section
17 443.141, Florida Statutes, is amended, paragraph (c) is added
18 to that subsection, and subsection (6) is amended to read:

19 443.141 Collection of contributions.--

20 (1) PAST DUE CONTRIBUTIONS.--

21 (b) Penalty for delinquent reports.--

22 1. Any employing unit which fails to file any reports
23 required by the division in the administration of this
24 chapter, in accordance with rules adopted by the division,
25 shall pay to the division with respect to each such report the
26 sum of \$25 for each 30 days or fraction thereof that such
27 employing unit is delinquent, unless the division finds that
28 such employing unit has or had good reason for failure to file
29 such report or reports.

30

31

1 2. Sums collected as penalties under the provisions of
2 subparagraph 1. shall be deposited by the division in the
3 Special Employment Security Administration Trust Fund.

4 3. A waiver of penalty and interest for delinquent
5 reports may be authorized where impositions of interest or a
6 penalty would be inequitable.

7 (c) Application of partial payments.--When a
8 delinquency exists in the account of an employer not in
9 bankruptcy, and payment in an amount less than the total
10 delinquency is submitted, the division shall apply such
11 partial payment as the payer directs. In the absence of
12 specific direction, the division shall apply the partial
13 payment to the payer's account as prescribed by rule.

14 (6) REFUNDS.--If, not later than 4 years after the
15 date of payment of any amount as contributions, interest, or
16 penalties, an employing unit that has paid such contributions,
17 interest, or penalties makes application for an adjustment
18 thereof in connection with subsequent contribution payments,
19 or for a refund thereof because such adjustment cannot be
20 made, and the division determines that such contributions,
21 interest, or penalties or any portion thereof was erroneously
22 collected, the division shall allow such employing unit to
23 make an adjustment thereof without interest in connection with
24 subsequent contribution payment by it, or if such adjustment
25 cannot be made, the division shall refund said amount, without
26 interest, from the fund. For like cause, and within the same
27 period, adjustment or refund may be made on the division's own
28 initiative. However, nothing in this chapter shall be
29 construed to authorize a refund of contributions which were
30 properly paid in accordance with the provisions of this
31 chapter at the time of such payment, except as required by s.

1 ~~443.036(21)(n)5.s. 443.036(19)(n)5.~~; further, refunds under
2 this subsection and under s. 443.036(21)(n)5.
3 ~~443.036(19)(n)5.~~ may be paid from either the clearing account
4 or the benefit account of the Unemployment Compensation Trust
5 Fund and from the Special Employment Security Administration
6 Trust Fund with respect to interest or penalties which have
7 been previously paid into such fund, the provisions of s.
8 443.191(2) to the contrary notwithstanding.

9 Section 9. Subsection (2) of section 443.151, Florida
10 Statutes, is amended to read:

11 443.151 Procedure concerning claims.--

12 (2) FILING OF CLAIM INVESTIGATIONS; NOTIFICATION OF
13 CLAIMANTS AND EMPLOYERS.--Claims for benefits shall be made in
14 accordance with such rules as the division may adopt
15 prescribe. The division shall notify claimants and employers
16 regarding monetary and nonmonetary determinations of
17 eligibility. Investigations of issues raised in connection
18 with a claimant which may affect a claimant's eligibility for
19 benefits or charges to an employer's account shall be
20 conducted by the division as prescribed by rule.

21 Section 10. Subsection (5) is added to section
22 450.121, Florida Statutes, to read:

23 450.121 Enforcement of Child Labor Law.--

24 (5) The division may adopt rules:

25 (a) Defining words, phrases, or terms used in the
26 child labor rule or in this part, as long as the word, phrase,
27 or term is not a word, phrase, or term defined in s. 450.012.

28 (b) Prescribing additional documents that may be used
29 to prove the age of a minor and the procedure to be followed
30 before a person who claims his or her disability of nonage has
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1 been removed by a court of competent jurisdiction may be
2 employed.

3 (c) Requiring certain safety equipment and a safe work
4 place environment for employees who are minors.

5 (d) Prescribing the deadlines applicable to a response
6 to a request for records under subsection (2).

7 (e) Providing an official address from which child
8 labor forms, rules, laws, and posters may be requested and
9 prescribing the forms to be used in connection with this part.

10 Section 11. Subsection (8) is added to section 450.30,
11 Florida Statutes, to read:

12 450.30 Requirement of certificate of registration;
13 education and examination program.--

14 (8) The division may adopt rules prescribing the
15 procedures to be followed to register as a farm labor
16 contractor.

17 Section 12. Subsection (5) of section 450.33, Florida
18 Statutes, is amended to read:

19 450.33 Duties of farm labor contractor.--Every farm
20 labor contractor must:

21 (5) Take out a policy of insurance with any insurance
22 carrier which policy insures such registrant against liability
23 for damage to persons or property arising out of the operation
24 or ownership of any vehicle or vehicles for the transportation
25 of individuals in connection with his or her business,
26 activities, or operations as a farm labor contractor. In no
27 event may the amount of such liability insurance be less than
28 that required by the provisions of the financial
29 responsibility law of this state. Any insurance carrier that
30 is licensed to operate in this state and that has issued a
31 policy of liability insurance to operate a vehicle used to

1 transport farm workers shall notify the division when it
2 intends to cancel such policy.

3 Section 13. Subsection (2) of section 450.38, Florida
4 Statutes, is amended to read:

5 450.38 Enforcement of farm labor contractor laws.--

6 (2) Any person who, on or after June 19, 1985, commits
7 a violation of this part or of any rule adopted thereunder may
8 be assessed a civil penalty of not more than \$1,000 for each
9 such violation. Such assessed penalties shall be paid in cash,
10 certified check, or money order and shall be deposited into
11 the General Revenue Fund. The division shall not institute or
12 maintain any administrative proceeding to assess a civil
13 penalty under this subsection when the violation is the
14 subject of a criminal indictment or information under this
15 section which results in a criminal penalty being imposed, or
16 of a criminal, civil, or administrative proceeding by the
17 United States government or an agency thereof which results in
18 a criminal or civil penalty being imposed. The division may
19 adopt rules prescribing the criteria to be used to determine
20 the amount of the civil penalty and to provide notification to
21 persons assessed a civil penalty under this section.

22 Section 14. This act shall take effect upon becoming a
23 law.

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