

1                   A bill to be entitled  
2           An act relating to unemployment compensation;  
3           providing for temporary reductions in certain  
4           contribution rates for specified employers;  
5           amending s. 443.036, F.S.; revising exemption  
6           criteria for services performed by children  
7           employed by their parents; amending s. 443.111,  
8           F.S.; increasing the maximum weekly benefit  
9           amount for unemployment compensation benefits;  
10          providing an additional amount under certain  
11          circumstances; providing effective dates.

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

14  
15           Section 1. Notwithstanding s. 443.131(3), Florida  
16 Statutes, for the 1998 calendar year or any quarter thereof,  
17 the division shall subtract 0.5 percent from each employer's  
18 assigned tax rate, except for those employers who are assigned  
19 the initial rate or who have been assigned a contribution rate  
20 of 5.4 percent or higher for more than 36 months.  
21 Notwithstanding s. 443.131(2), Florida Statutes, for the 1998  
22 calendar year, each employer whose employment record has been  
23 chargeable with benefit payments for less than eight calendar  
24 quarters shall pay contributions at the initial rate of 2.0  
25 percent.

26           Section 2. Paragraph (n) of subsection (19) of section  
27 443.036, Florida Statutes, 1996 Supplement, is amended to  
28 read:

29           443.036 Definitions.--As used in this chapter, unless  
30 the context clearly requires otherwise:

31

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

4           (n) Exclusions generally.--The term "employment" does  
5 not include:

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

9           2. Service performed on or in connection with a vessel  
10 or aircraft not an American vessel or American aircraft, if  
11 the employee is employed on and in connection with such vessel  
12 or aircraft when outside the United States.

13           3. Service performed by an individual in, or as an  
14 officer or member of the crew of a vessel while it is engaged  
15 in, the catching, taking, harvesting, cultivating, or farming  
16 of any kind of fish, shellfish, crustacea, sponges, seaweeds,  
17 or other aquatic forms of animal and vegetable life, including  
18 service performed by any such individual as an ordinary  
19 incident to any such activity, except:

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

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

26           4. Service performed by an individual in the employ of  
27 his son, daughter, or spouse, and service performed by a child  
28 under the age of 21 ~~18~~ in the employ of his father or mother.

29           5. Service performed in the employ of the United  
30 States Government or of an instrumentality of the United  
31 States which is:

1           a. Wholly or partially owned by the United States.  
2           b. Exempt from the tax imposed by s. 3301 of the  
3 Internal Revenue Code by virtue of any provision of federal  
4 law which specifically refers to such section, or the  
5 corresponding section of prior law, in granting such  
6 exemption; except that to the extent that the Congress shall  
7 permit states to require any instrumentalities of the United  
8 States to make payments into an unemployment fund under a  
9 state unemployment compensation law, all of the provisions of  
10 this law shall be applicable to such instrumentalities, and to  
11 services performed for such instrumentalities, in the same  
12 manner, to the same extent, and on the same terms as to all  
13 other employers, employing units, individuals, and services.  
14 If this state is not certified for any year by the Secretary  
15 of Labor under s. 3304 of the federal Internal Revenue Code,  
16 the payments required of such instrumentalities with respect  
17 to such year shall be refunded by the division from the fund  
18 in the same manner and within the same period as is provided  
19 in s. 443.141(6) with respect to contributions erroneously  
20 collected.  
21           6. Service performed in the employ of a state, or any  
22 political subdivision thereof, or any instrumentality of any  
23 one or more of the foregoing which is wholly owned by one or  
24 more states or political subdivisions, except as provided in  
25 paragraph (b), and any service performed in the employ of any  
26 instrumentality of one or more states or political  
27 subdivisions, to the extent that the instrumentality is, with  
28 respect to such service, immune under the Constitution of the  
29 United States from the tax imposed by s. 3301 of the Internal  
30 Revenue Code.  
31

1           7. Service performed in the employ of a corporation,  
2 community chest, fund, or foundation, organized and operated  
3 exclusively for religious, charitable, scientific, testing for  
4 public safety, literary, or educational purposes, or for the  
5 prevention of cruelty to children or animals, no part of the  
6 net earnings of which inures to the benefit of any private  
7 shareholder or individual, no substantial part of the  
8 activities of which is carrying on propaganda or otherwise  
9 attempting to influence legislation, and which does not  
10 participate in, or intervene in (including the publishing or  
11 distributing of statements), any political campaign on behalf  
12 of any candidate for public office, except as provided in  
13 paragraph (c).

14           8. Service with respect to which unemployment  
15 compensation is payable under an unemployment compensation  
16 system established by an Act of Congress.

17           9.a. Service performed in any calendar quarter in the  
18 employ of any organization exempt from income tax under s.  
19 501(a) of the Internal Revenue Code, other than an  
20 organization described in s. 401(a), or under s. 521, if the  
21 remuneration for such service is less than \$50.

22           b. Service performed in the employ of a school,  
23 college, or university, if such service is performed by a  
24 student who is enrolled and is regularly attending classes at  
25 such school, college, or university.

26           10. Service performed in the employ of a foreign  
27 government, including service as a consular or other officer  
28 or employee of a nondiplomatic representative.

29           11. Service performed in the employ of an  
30 instrumentality wholly owned by a foreign government:  
31

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

4           b. The Secretary of State shall certify to the  
5 Secretary of the Treasury that the foreign government, with  
6 respect to whose instrumentality exemption is claimed, grants  
7 an equivalent exemption with respect to similar service  
8 performed in the foreign country by employees of the United  
9 States Government and of instrumentalities thereof.

10           12. Service performed as a student nurse in the employ  
11 of a hospital or a nurses' training school by an individual  
12 who is enrolled and is regularly attending classes in a  
13 nurses' training school chartered or approved pursuant to a  
14 state law; service performed as an intern in the employ of a  
15 hospital by an individual who has completed a 4-year course in  
16 a medical school chartered or approved pursuant to state law;  
17 and service performed by a patient of a hospital for such  
18 hospital.

19           13. Service performed by an individual for a person as  
20 an insurance agent or as an insurance solicitor, if all such  
21 service performed by such individual for such person is  
22 performed for remuneration solely by way of commission, except  
23 for such services performed in accordance with 26 U.S.C.S. s.  
24 3306(c)(7) and (8). For purposes of this subsection, those  
25 benefits excluded from the definition of wages pursuant to  
26 subparagraphs (33)(b)2.-6., inclusive, shall not be considered  
27 remuneration.

28           14. Service performed by an individual for a person as  
29 a real estate salesman or agent, if all such service performed  
30 by such individual for such person is performed for  
31 remuneration solely by way of commission.

1           15. Service performed by an individual under the age  
2 of 18 in the delivery or distribution of newspapers or  
3 shopping news, not including delivery or distribution to any  
4 point for subsequent delivery or distribution.

5           16. Service covered by an arrangement between the  
6 division and the agency charged with the administration of any  
7 other state or federal unemployment compensation law pursuant  
8 to which all services performed by an individual for an  
9 employing unit during the period covered by such employing  
10 unit's duly approved election are deemed to be performed  
11 entirely within such agency's state or under such federal law.

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

24           18. Service performed by an individual for a person as  
25 a barber, if all such service performed by such individual for  
26 such person is performed for remuneration solely by way of  
27 commission.

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

30           20. Service performed by a speech therapist,  
31 occupational therapist, or physical therapist who is

1 nonsalaried and working pursuant to a written contract with a  
2 home health agency as defined in s. 400.462.

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

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

10 (II) Who is engaged in the trade or business of  
11 selling or soliciting the sale of consumer products in the  
12 home or in any other place that is not a permanent retail  
13 establishment;

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

18 c. Who performs such services pursuant to a written  
19 contract with the person for whom the services are performed,  
20 which contract provides that the person will not be treated as  
21 an employee with respect to such services for federal tax  
22 purposes.

23 22. Service performed by a nonresident alien  
24 individual for the period he is temporarily present in the  
25 United States as a nonimmigrant under subparagraph (F) or  
26 subparagraph (J) of s. 101(a)(15) of the Immigration and  
27 Nationality Act, and which is performed to carry out the  
28 purpose specified in subparagraph (F) or subparagraph (J), as  
29 the case may be.

30  
31

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

4           a. Is free to accept or reject jobs from the delivery  
5 or messenger service and the delivery or messenger service has  
6 no control over when the individual works;

7           b. Is remunerated for each delivery, or the  
8 remuneration is based on factors that relate to the work  
9 performed, including receipt of a percentage of any rate  
10 schedule;

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

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

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

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

19           g. Enters into a contract with the delivery or  
20 messenger service which specifies the relationship of the  
21 individual to the delivery or messenger service to be that of  
22 an independent contractor and not that of an employee; and

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

24           24. Service performed in agricultural labor by an  
25 individual who is an alien admitted to the United States to  
26 perform service in agricultural labor pursuant to ss.  
27 101(a)(15)(H) and 214(c) of the Immigration and Nationality  
28 Act.

29           Section 3. Effective for benefit years beginning July  
30 1, 1997 and thereafter, subsection (3) and paragraph (a) of  
31



1 subsection (5) of section 443.111, Florida Statutes, 1996  
2 Supplement, are amended to read:

3 443.111 Payment of benefits.--

4 (3) WEEKLY BENEFIT AMOUNT.--An individual's "weekly  
5 benefit amount" shall be an amount equal to one-twenty-sixth  
6 of the total wages for insured work paid during that quarter  
7 of the base period in which such total wages paid were the  
8 highest, but not less than \$32 or more than ~~\$275~~\$250. For  
9 claims with benefit years beginning July 1, 1997 through June  
10 30, 1998, an additional amount of \$25 shall be added for the  
11 first compensable week of benefits paid not to exceed \$300.

12 Such weekly benefit amount, if not a multiple of \$1, shall be  
13 rounded downward to the nearest full dollar amount. The  
14 maximum weekly benefit amount in effect at the time the  
15 claimant establishes an individual weekly benefit amount shall  
16 be the maximum benefit amount applicable throughout the  
17 claimant's benefit year.

18 (5) DURATION OF BENEFITS.--

19 (a)1. Any otherwise eligible individual shall be  
20 entitled during any benefit year to a total amount of benefits  
21 equal to 25 percent of the total wages in the base period, not  
22 to exceed ~~\$7,150~~\$6,500. For claims with benefit years  
23 beginning July 1, 1997 through June 30, 1998, an additional  
24 \$25 will be added to the calculated total amount of benefits.

25 However, such total amount of benefits, if not a multiple of  
26 \$1, shall be rounded downward to the nearest full dollar  
27 amount. Such benefits shall be payable at a weekly rate no  
28 greater than the weekly benefit amount.

29 2. For the purposes of this subsection, wages shall be  
30 counted as "wages for insured work" for benefit purposes with  
31 respect to any benefit year only if such benefit year begins

1 subsequent to the date on which the employing unit by whom  
2 such wages were paid has satisfied the conditions of this  
3 chapter with respect to becoming an employer.

4 Section 4. Except as otherwise provided herein, this  
5 act shall take effect January 1, 1998.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31