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# A BILL FOR AN ACT

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RELATING TO EMPLOYMENT SECURITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the current balance  
2 in the unemployment compensation fund allows for adjustments to  
3 contributions and benefits. The current balance was created  
4 over the past few years by an upswing in the economy, the  
5 contributions paid by employers, and the limited changes to  
6 statutory language for benefits paid to the unemployed.

7           The legislature further finds that since both employees and  
8 employers have contributed to the present balance of the fund,  
9 adjustments that will benefit both the employer and employee are  
10 appropriate and equitable.

11           One purpose of this Act is to provide an adjustment in 2007  
12 and 2008 to the calculation of contributions paid for by  
13 employers. The adjustment should provide some relief to  
14 employers without unnecessarily depleting the fund.

15           The other purpose of this Act is to adjust certain areas of  
16 benefits paid to the unemployed who have gone without  
17 substantial changes to the statutory language on benefits for  
18 many years. This Act also clarifies that the ineligibility for



1 benefits arises from willful or wanton misconduct of an  
2 employee.

3 SECTION 2. Section 383-22, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) In the case of an individual whose benefit year  
6 begins prior to January 5, 1992, the individual's weekly benefit  
7 amount shall be, except as otherwise provided in this section,  
8 an amount equal to one twenty-fifth of the individual's total  
9 wages for insured work paid during the calendar quarter of the  
10 individual's base period in which such total wages were highest.  
11 In the case of an individual whose benefit year begins after  
12 January 4, 1992, the individual's weekly benefit amount shall  
13 be, except as otherwise provided in this section, an amount  
14 equal to one twenty-first of the individual's total wages for  
15 insured work paid during the calendar quarter of the  
16 individual's base period in which such total wages were highest.  
17 The weekly benefit amount, if not a multiple of \$1, shall be  
18 computed to the next higher multiple of \$1. If an individual's  
19 weekly benefit amount is less than \$5, it shall be \$5. The  
20 maximum weekly benefit amount shall be determined annually as  
21 follows: On or before November 30 of each year the total  
22 remuneration paid by employers, as reported on contribution

1 reports submitted on or before such date, with respect to all  
2 employment during the four consecutive calendar quarters ending  
3 on June 30 of the year shall be divided by the average monthly  
4 number of individuals performing services in the employment  
5 during the same four calendar quarters as reported on the  
6 contribution reports. The amount thus obtained shall be divided  
7 by fifty-two and the average weekly wage (rounded to the nearest  
8 cent) thus determined. For benefit years beginning prior to  
9 January 1, 1992, two-thirds of the average weekly wage shall  
10 constitute the maximum weekly benefit amount and shall apply to  
11 all claims for benefits filed by an individual qualifying for  
12 payment at the maximum weekly benefit amount in the benefit year  
13 commencing on or after the first day of the calendar year  
14 immediately following the determination of the maximum weekly  
15 benefit amount. For benefit years beginning January 1, 1992,  
16 and thereafter, seventy per cent of the average weekly wage  
17 shall constitute the maximum weekly benefit amount and shall  
18 apply to all claims for benefits filed by an individual  
19 qualifying for payment at the maximum weekly benefit amount in  
20 the benefit year commencing on or after the first day of the  
21 calendar year immediately following the determination of the  
22 maximum weekly benefit amount. For benefit years beginning



1 January 1, 2007, and thereafter, eighty per cent of the average  
2 weekly wage shall constitute the maximum weekly benefit amount  
3 and shall apply to all claims for benefits filed by an  
4 individual qualifying for payment at the maximum weekly benefit  
5 amount in the benefit year commencing on or after the first day  
6 of the calendar year immediately following the determination of  
7 the maximum weekly benefit amount. The maximum weekly benefit  
8 amount, if not a multiple of \$1, shall be computed to the next  
9 higher multiple of \$1.

10

11	(Column A)	(Column B)	(Column C)	(Column D)
12	High	Basic	Minimum	Maximum
13	Quarter	Weekly	Qualifying	Total Benefits
14	Wages	Benefit	Wages	in Benefit Year

15

16	\$ 37.50 - 125.00	\$ 5.00	\$ 150.00	\$ 130.00
17	125.01 - 150.00	6.00	180.00	156.00
18	150.01 - 175.00	7.00	210.00	182.00
19	175.01 - 200.00	8.00	240.00	208.00
20	200.01 - 225.00	9.00	270.00	234.00
21	225.01 - 250.00	10.00	300.00	260.00
22	250.01 - 275.00	11.00	330.00	286.00

<b>1</b>	275.01 - 300.00	12.00	360.00	312.00
<b>2</b>	300.01 - 325.00	13.00	390.00	338.00
<b>3</b>	325.01 - 350.00	14.00	420.00	364.00
<b>4</b>	350.01 - 375.00	15.00	450.00	390.00
<b>5</b>	375.01 - 400.00	16.00	480.00	416.00
<b>6</b>	400.01 - 425.00	17.00	510.00	442.00
<b>7</b>	425.01 - 450.00	18.00	540.00	468.00
<b>8</b>	450.01 - 475.00	19.00	570.00	494.00
<b>9</b>	475.01 - 500.00	20.00	600.00	520.00
<b>10</b>	500.01 - 525.00	21.00	630.00	546.00
<b>11</b>	525.01 - 550.00	22.00	660.00	572.00
<b>12</b>	550.01 - 575.00	23.00	690.00	598.00
<b>13</b>	575.01 - 600.00	24.00	720.00	624.00
<b>14</b>	600.01 - 625.00	25.00	750.00	650.00
<b>15</b>	625.01 - 650.00	26.00	780.00	676.00
<b>16</b>	650.01 - 675.00	27.00	810.00	702.00
<b>17</b>	675.01 - 700.00	28.00	840.00	728.00
<b>18</b>	700.01 - 725.00	29.00	870.00	754.00
<b>19</b>	725.01 - 750.00	30.00	900.00	780.00
<b>20</b>	750.01 - 775.00	31.00	930.00	806.00
<b>21</b>	775.01 - 800.00	32.00	960.00	832.00
<b>22</b>	800.01 - 825.00	33.00	990.00	858.00



<b>1</b>	825.01 - 850.00	34.00	1020.00	884.00
<b>2</b>	850.01 - 875.00	35.00	1050.00	910.00
<b>3</b>	875.01 - 900.00	36.00	1080.00	936.00
<b>4</b>	900.01 - 925.00	37.00	1110.00	962.00
<b>5</b>	925.01 - 950.00	38.00	1140.00	988.00
<b>6</b>	950.01 - 975.00	39.00	1170.00	1014.00
<b>7</b>	975.01 -1000.00	40.00	1200.00	1040.00
<b>8</b>	1000.01 -1025.00	41.00	1230.00	1066.00
<b>9</b>	1025.01 -1050.00	42.00	1260.00	1092.00
<b>10</b>	1050.01 -1075.00	43.00	1290.00	1118.00
<b>11</b>	1075.01 -1100.00	44.00	1320.00	1144.00
<b>12</b>	1100.01 -1125.00	45.00	1350.00	1170.00
<b>13</b>	1125.01 -1150.00	46.00	1380.00	1196.00
<b>14</b>	1150.01 -1175.00	47.00	1410.00	1222.00
<b>15</b>	1175.01 -1200.00	48.00	1440.00	1248.00
<b>16</b>	1200.01 -1225.00	49.00	1470.00	1274.00
<b>17</b>	1225.01 -1250.00	50.00	1500.00	1300.00
<b>18</b>	1250.01 -1275.00	51.00	1530.00	1326.00
<b>19</b>	1275.01 -1300.00	52.00	1560.00	1352.00
<b>20</b>	1300.01 -1325.00	53.00	1590.00	1378.00
<b>21</b>	1325.01 -1350.00	54.00	1620.00	1404.00
<b>22</b>	1350.01 and over	55.00	1650.00	1430.00 "



1 SECTION 3. Section 383-23, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§383-23 Weekly benefit for unemployment.** For weeks  
4 beginning prior to January 5, 1992, each eligible individual who  
5 is unemployed, as defined in section 383-1, in any week shall be  
6 paid with respect to that week a benefit in an amount equal to  
7 the individual's weekly benefit amount less that part of the  
8 wages (if any) payable to the individual with respect to that  
9 week which is in excess of \$2. Effective for weeks beginning  
10 January 5, 1992, and thereafter, each eligible individual who is  
11 unemployed, as defined in section 383-1, in any week shall be  
12 paid with respect to that week a benefit in an amount equal to  
13 the individual's weekly benefit amount less that part of the  
14 wages (if any) payable to the individual with respect to that  
15 week which is in excess of \$50. Effective for weeks beginning  
16 July 2, 2006, and thereafter, each eligible individual who is  
17 unemployed, as defined in section 383-1, in any week shall be  
18 paid with respect to that week a benefit in an amount equal to  
19 the individual's weekly benefit amount less that part of the  
20 wages, if any, payable to the individual with respect to that  
21 week which is in excess of \$150. The benefit, if not a multiple  
22 of \$1, shall be computed to the next higher multiple of \$1."



1 SECTION 4. Section 383-24, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§383-24 Maximum potential benefits.** The maximum  
4 potential benefits of an eligible individual in a benefit year  
5 shall be twenty-six times the eligible individual's weekly  
6 benefit amount. For claims filed on or after January 1, 2006,  
7 and thereafter, the maximum potential benefits of an eligible  
8 individual's weekly benefit amount shall be thirty times the  
9 eligible individual's weekly benefit amount."

10 SECTION 5. Section 383-30, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§383-30 Disqualification for benefits.** An individual  
13 shall be disqualified for benefits:

- 14 (1) Voluntary separation. For any week prior to  
15 October 1, 1989, in which the individual has left work  
16 voluntarily without good cause, and continuing until  
17 the individual has, subsequent to the week in which  
18 the voluntary separation occurred, been employed for  
19 at least five consecutive weeks of employment. For  
20 the purposes of this paragraph, "weeks of employment"  
21 means all those weeks within each of which the  
22 individual has performed services in employment for





1 not less than two days or four hours per week, for one  
2 or more employers, whether or not such employers are  
3 subject to this chapter. For any week beginning on  
4 and after October 1, 1989, in which the individual has  
5 left the individual's work voluntarily without good  
6 cause, and continuing until the individual has,  
7 subsequent to the week in which the voluntary  
8 separation occurred, been paid wages in covered  
9 employment equal to not less than five times the  
10 individual's weekly benefit amount as determined under  
11 section 383-22(b).

12 An owner-employee of a corporation who brings  
13 about the owner-employee's unemployment by divesting  
14 ownership, leasing the business interest, terminating  
15 the business, or by other similar actions where the  
16 owner-employee is the party initiating termination of  
17 the employment relationship, has voluntarily left  
18 employment.

19 (2) Discharge or suspension for misconduct. For any week  
20 prior to October 1, 1989, in which the individual has  
21 been discharged for wilful or wanton misconduct  
22 connected with work, and continuing until the



1 individual has, subsequent to the week in which the  
2 discharge occurred, been employed for at least five  
3 consecutive weeks of employment. For the week in  
4 which the individual has been suspended for wilful or  
5 wanton misconduct connected with work and for not less  
6 than one or more than four consecutive weeks of  
7 unemployment which immediately follow such week, as  
8 determined in each case in accordance with [~~the~~  
9 ~~seriousness of~~] the wilful or wanton misconduct. For  
10 the purposes of this paragraph, "weeks of employment"  
11 means all those weeks within each of which the  
12 individual has performed services in employment for  
13 not less than two days or four hours per week, for one  
14 or more employers, whether or not such employers are  
15 subject to this chapter. For any week beginning on  
16 and after October 1, 1989, in which the individual has  
17 been discharged for wilful or wanton misconduct  
18 connected with work, and until the individual has,  
19 subsequent to the week in which the discharge  
20 occurred, been paid wages in covered employment equal  
21 to not less than five times the individual's weekly  
22 benefit amount as determined under section 383-22(b).



1 Willful and wanton misconduct consists of actions  
2 which show a willful or wanton disregard of the  
3 employer's interest. It includes deliberate or  
4 intentional violations or deliberate disregard for  
5 established standards of behavior which indicate a  
6 wrongful intent or evil design. Mere inefficiency,  
7 unsatisfactory conduct, poor performance, isolated  
8 instances, or good faith errors in judgment or  
9 discretion shall not constitute willful or wanton  
10 misconduct.

11 (3) Failure to apply for work, etc. For any week prior to  
12 October 1, 1989, in which the individual failed,  
13 without good cause, either to apply for available,  
14 suitable work when so directed by the employment  
15 office or any duly authorized representative of the  
16 department of labor and industrial relations, or to  
17 accept suitable work when offered and continuing until  
18 the individual has, subsequent to the week in which  
19 the failure occurred, been employed for at least five  
20 consecutive weeks of employment. For the purposes of  
21 this paragraph, "weeks of employment" means all those  
22 weeks within each of which the individual has



1 performed services in employment for not less than two  
2 days or four hours per week, for one or more  
3 employers, whether or not such employers are subject  
4 to this chapter. For any week beginning on and after  
5 October 1, 1989, in which the individual failed,  
6 without good cause, either to apply for available,  
7 suitable work when so directed by the employment  
8 office or any duly authorized representative of the  
9 department of labor and industrial relations, or to  
10 accept suitable work when offered until the individual  
11 has, subsequent to the week in which the failure  
12 occurred, been paid wages in covered employment equal  
13 to not less than five times the individual's weekly  
14 benefit amount as determined under section 383-22(b).

15 (A) In determining whether or not any work is  
16 suitable for an individual there shall be  
17 considered among other factors and in addition to  
18 those enumerated in paragraph (3)(B), the degree  
19 of risk involved to the individual's health,  
20 safety, and morals, the individual's physical  
21 fitness and prior training, the individual's  
22 experience and prior earnings, the length of



1 unemployment, the individual's prospects for  
2 obtaining work in the individual's customary  
3 occupation, the distance of available work from  
4 the individual's residence, and prospects for  
5 obtaining local work. The same factors so far as  
6 applicable shall be considered in determining the  
7 existence of good cause for an individual's  
8 voluntarily leaving work under paragraph (1).

9 (B) Notwithstanding any other provisions of this  
10 chapter, no work shall be deemed suitable and  
11 benefits shall not be denied under this chapter  
12 to any otherwise eligible individual for refusing  
13 to accept new work under any of the following  
14 conditions:

15 (i) If the position offered is vacant due  
16 directly to a strike, lockout, or other  
17 labor dispute;

18 (ii) If the wages, hours, or other conditions of  
19 the work offered are substantially less  
20 favorable to the individual than those  
21 prevailing for similar work in the locality;

22 and

1 (iii) If as a condition of being employed the  
2 individual would be required to join a  
3 company union or to resign from or refrain  
4 from joining any bona fide labor  
5 organization.

6 (4) Labor dispute. For any week with respect to which it  
7 is found that unemployment is due to a stoppage of  
8 work which exists because of a labor dispute at the  
9 factory, establishment, or other premises at which the  
10 individual is or was last employed; provided that this  
11 paragraph shall not apply if it is shown that:

12 (A) The individual is not participating in or  
13 directly interested in the labor dispute which  
14 caused the stoppage of work; and

15 (B) The individual does not belong to a grade or  
16 class of workers of which, immediately before the  
17 commencement of the stoppage, there were members  
18 employed at the premises at which the stoppage  
19 occurs, any of whom are participating in or  
20 directly interested in the dispute; provided that  
21 if in any case separate branches of work, which  
22 are commonly conducted as separate businesses in

1            separate premises, are conducted in separate  
2            departments of the same premises, each such  
3            department shall, for the purpose of this  
4            paragraph, be deemed to be a separate factory,  
5            establishment, or other premises.

6            (5) If the department finds that the individual has within  
7            the twenty-four calendar months immediately preceding  
8            any week of unemployment made a false statement or  
9            representation of a material fact knowing it to be  
10           false or knowingly failed to disclose a material fact  
11           to obtain any benefits not due under this chapter, the  
12           individual shall be disqualified for benefits  
13           beginning with the week in which the department makes  
14           the determination and for each consecutive week during  
15           the current and subsequent twenty-four calendar months  
16           immediately following such determination, and such  
17           individual shall not be entitled to any benefit under  
18           this chapter for the duration of such period; provided  
19           that no disqualification shall be imposed if  
20           proceedings have been undertaken against the  
21           individual under section 383-141.



1 (6) Other unemployment benefits. For any week or part of  
2 a week with respect to which the individual has  
3 received or is seeking unemployment benefits under any  
4 other employment security law, but this paragraph  
5 shall not apply (A) if the appropriate agency finally  
6 determines that the individual is not entitled to  
7 benefits under such other law, or (B) if benefits are  
8 payable to the individual under an act of Congress  
9 which has as its purpose the supplementation of  
10 unemployment benefits under a state law."

11 SECTION 6. Section 383-61, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§383-61 Payment of contributions; wages not included.**

14 (a) Contributions with respect to wages for employment shall  
15 accrue and become payable by each employer for each calendar  
16 year in which the employer is subject to this chapter. The  
17 contributions shall become due and be paid by each employer to  
18 the director of labor and industrial relations for the fund in  
19 accordance with such rules as the department of labor and  
20 industrial relations may prescribe, and shall not be deducted,  
21 in whole or in part, from the wages of individuals in the  
22 employer's employ.





1 (b) Except as provided in subsections (c) and (d), the  
2 term "wages" does not include remuneration paid with respect to  
3 employment to an individual by an employer during any calendar  
4 year which exceeds the average annual wage, rounded to the  
5 nearest hundred dollars, for the four calendar quarter period  
6 ending on June 30 of the preceding year.

7 The average annual wage shall be computed as follows: on  
8 or before November 30 of each year the total remuneration paid  
9 by employers, as reported on contribution reports on or before  
10 such date, with respect to all employment during the four  
11 consecutive calendar quarters ending on June 30 of such year  
12 shall be divided by the average monthly number of individuals  
13 performing services in such employment during the same four  
14 calendar quarters as reported on such contribution reports and  
15 rounded to the nearest hundred dollars.

16 ~~[(c) For the calendar year 1991 only, the term "wages"~~  
17 ~~does not include remuneration in excess of \$7,000 paid with~~  
18 ~~respect to employment to an individual by an employer.~~

19 ~~(d) For calendar year 1988 only, the term "wages" as used~~  
20 ~~in this part does not include remuneration paid with respect to~~  
21 ~~employment to an individual by an employer during the calendar~~  
22 ~~year which exceeds:~~



1 ~~(1) One hundred per cent of the average annual wage if the~~  
2 ~~most recently computed ratio of the current reserve~~  
3 ~~fund to the adequate reserve fund prior to that~~  
4 ~~calendar year is equal to or less than .80; or~~

5 ~~(2) Seventy five per cent of the average annual wage if~~  
6 ~~the most recently computed ratio of the current~~  
7 ~~reserve fund to the adequate reserve fund prior to~~  
8 ~~that calendar year is greater than .80 but less than~~  
9 ~~1.2; or~~

10 ~~(3) Fifty per cent of the average annual wage if the most~~  
11 ~~recently computed ratio of the current reserve fund to~~  
12 ~~the adequate reserve fund prior to that calendar year~~  
13 ~~is equal to or more than 1.2;~~

14 ~~provided that "wages" with respect to which contributions are~~  
15 ~~paid are not less than that part of remuneration which is~~  
16 ~~subject to tax in accordance with section 3306(b) of the~~  
17 ~~Internal Revenue Code of 1986, as amended.]~~

18 (c) For calendar years 2007 and 2008 only, the term  
19 "wages" as used in this part does not include remuneration in  
20 excess of \$7,000 paid with respect to employment to an  
21 individual by an employer; provided that this subsection shall

1 apply only to the contribution rate paid into the unemployment  
2 insurance trust fund.

3       ~~[(e)]~~ (d) If an employer during any calendar year acquires  
4 substantially all the property used in a trade or business, or  
5 in a separate unit of a trade or business, of another employer,  
6 and after the acquisition employs an individual who prior to the  
7 acquisition was employed by the predecessor, then for the  
8 purpose of determining whether remuneration in excess of the  
9 average annual wages has been paid to the individual for  
10 employment, remuneration paid to the individual by the  
11 predecessor during the calendar year shall be considered as  
12 having been paid by the successor employer. For the purposes of  
13 this subsection, the term "employment" includes services  
14 constituting employment under any employment security law of  
15 another state or of the federal government.

16       ~~[(f)]~~ (e) Subsections (b) through ~~[(e)]~~ (d)  
17 notwithstanding, for the purposes of this part the term "wages"  
18 shall include at least that amount of remuneration paid in a  
19 calendar year to an individual by an employer or the employer's  
20 predecessor with respect to employment during any calendar year  
21 which is subject to a tax under a federal law imposing a tax

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

3        [~~g~~] (f) In accordance with section 303(a)(5) of the  
4 Social Security Act, as amended, and section 3304(a)(4) of the  
5 Internal Revenue Code of 1986, as amended, any contributions  
6 overpaid due to a retroactive reduction in the taxable wage base  
7 may be credited against the employer's future contributions upon  
8 request by the employer; provided that no employer shall be  
9 given a cash refund."

10        SECTION 7. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12        SECTION 8. This Act shall take effect upon its approval.

**Report Title:**

Employment Security; Unemployment Insurance

**Description:**

Provides temporary tax relief to employers by lowering the maximum taxable wage base for calendar years 2007 and 2008. Increases unemployment benefits for eligible individuals. Excludes the payment of benefits to individuals terminated from employment for willful or wanton misconduct. (CD1)

