
A BILL FOR AN ACT

RELATING TO EMPLOYMENT SECURITY.

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

1 SECTION 1. Section 383-168, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§383-168 Definitions.** As used in this part, unless the
4 context clearly requires otherwise:

5 (1) "Extended benefit period" means a period which:

6 (A) Begins with the third week after the first week
7 for which there is a state "on" indicator; and

8 (B) Ends with either of the following weeks,
9 whichever occurs later:

10 (i) The third week after the first week for
11 which there is a state "off" indicator; or

12 (ii) The thirteenth consecutive week of [such]
13 the extended benefit period; provided that
14 no extended benefit period may begin before
15 the fourteenth week following the end of a
16 prior extended benefit period [~~which~~] that
17 was in effect with respect to this State.



1 (2) (A) There is a "state 'on' indicator" for this State
2 for a week [~~which~~] that begins before September
3 26, 1982, if the director of labor and industrial
4 relations determines, in accordance with the
5 regulations of the United States Secretary of
6 Labor, that for the period consisting of [~~such~~]
7 that week and the immediately preceding twelve
8 weeks, the rate of insured unemployment (not
9 seasonally adjusted) under this chapter:

10 (i) Equaled or exceeded 120 per cent of the
11 average of [~~such~~] the rates for the
12 corresponding thirteen-week period ending in
13 each of the preceding two calendar years,
14 and

15 (ii) Equaled or exceeded 4 per cent.

16 (B) There is a "state 'on' indicator" for this State
17 for a week [~~which~~] that begins after
18 September 25, 1982, if the director of labor and
19 industrial relations determines, in accordance
20 with the regulations of the United States
21 Secretary of Labor, that for the period
22 consisting of [~~such~~] the week and the immediately



1 preceding twelve weeks, the rate of insured
2 unemployment (not seasonally adjusted) under this
3 chapter:

4 (i) Equaled or exceeded 120 per cent of the
5 average of [~~such~~] the rates for the
6 corresponding thirteen-week period ending in
7 each of the preceding two calendar years,
8 and

9 (ii) Equaled or exceeded 5 per cent.

10 (3) (A) There is a "state 'off' indicator" for this State
11 for a week [~~which~~] that begins before
12 September 26, 1982, if the director determines,
13 in accordance with the regulations of the United
14 States Secretary of Labor, that for the period
15 consisting of [~~such~~] the week and the immediately
16 preceding twelve weeks, the rate of insured
17 unemployment (not seasonally adjusted) under this
18 chapter:

19 (i) Was less than 120 per cent of the average of
20 [~~such~~] the rates for the corresponding
21 thirteen-week period ending in each of the
22 preceding two calendar years, or



1 (ii) Was less than 4 per cent.

2 (B) There is a "state 'off' indicator" for this State
3 for a week [~~which~~] that begins after
4 September 25, 1982, if the director determines,
5 in accordance with the regulations of the United
6 States Secretary of Labor, that for the period
7 consisting of [~~such~~] the week and the immediately
8 preceding twelve weeks, the rate of insured
9 unemployment (not seasonally adjusted) under this
10 chapter:

11 (i) Was less than 120 per cent of the average of
12 [~~such~~] the rates for the corresponding
13 thirteen-week period ending in each of the
14 preceding two calendar years, or

15 (ii) Was less than 5 per cent.

16 (4) (A) Effective with respect to compensation for weeks
17 of unemployment beginning after December 31,
18 1977, the determination of whether there has been
19 a state "on" or "off" indicator shall be made
20 under paragraphs (2) (A) and (3) (A) of this
21 section as if paragraph (2) (A) did not contain
22 clause (i) thereof and the figure "4" contained



1 in clause (ii) thereof were "5", and as if
2 paragraph (3) (A) did not contain clause (i)
3 thereof and the figure "4" contained in clause
4 (ii) thereof were "5"; except that,
5 notwithstanding the other provisions of this
6 paragraph to the contrary, any week for which
7 there would otherwise be a state "on" indicator
8 shall continue to be such a week and shall not be
9 determined to be a week for which there is a
10 state "off" indicator.

11 (B) Effective with respect to compensation for weeks
12 of unemployment beginning after September 25,
13 1982, the determination of whether there has been
14 a state "on" or "off" indicator shall be made
15 under paragraphs (2) (B) and (3) (B) of this
16 section as if paragraph (2) (B) did not contain
17 clause (i) thereof and the figure "5" contained
18 in clause (ii) thereof were "6"; except that,
19 notwithstanding the other provisions of this
20 paragraph to the contrary, any week for which
21 there would otherwise be a state "on" indicator
22 shall continue to be such a week and shall not be



1 determined to be a week for which there is a
2 state "off" indicator.

3 (5) (A) Notwithstanding paragraphs (2)(B) and (4)(B) of
4 this section, there is a "state 'on' indicator"
5 for this State with respect to weeks of
6 unemployment beginning after January 1, 2011,
7 until the week ending four weeks prior to the
8 last week of unemployment for which one hundred
9 per cent federal sharing is available under
10 Section 2005(a) of Public Law No. 111-5, without
11 regard to the extension of federal sharing for
12 certain claims as provided under Section 2005(c)
13 of that law, if:

14 (i) The average rate of total unemployment in
15 this State (seasonally adjusted), as
16 determined by the United States Secretary of
17 Labor, for the period consisting of the most
18 recent three months for which data for all
19 states are published before the close of the
20 week equals or exceeds 6.5 per cent, and

21 (ii) The average rate of total unemployment in
22 this State (seasonally adjusted), as



1 determined by the United States Secretary of
2 Labor, for the most recent three-month
3 period equals or exceeds 110 per cent of the
4 average for any or all of the corresponding
5 three-month periods ending in the preceding
6 three calendar years during the period
7 beginning January 1, 2011, and ending on
8 December 31, 2011, or the date established
9 in federal law permitting this provision.

10 (B) Notwithstanding paragraphs (3) (B) and (4) (B) of
11 this section, there is a "state 'off' indicator"
12 for this State for a week based on the rate of
13 total unemployment only if for the period
14 consisting of the most recent three months for
15 which data for all States published before the
16 close of the week, subparagraphs (A) (i) and
17 (A) (ii) do not result in an "on" indicator.

18 (C) Notwithstanding paragraph (10) of this section,
19 an individual's eligibility period shall include
20 any eligibility period provided for in Section
21 2005(b) of Public Law No. 111-5.



1 ~~[(+5)]~~ (6) "Rate of insured unemployment," for purposes of
2 paragraphs (2) and (3) of this section, means the
3 percentage derived by dividing:

4 (A) The average weekly number of individuals filing
5 claims for regular compensation in this State for
6 weeks of unemployment with respect to the most
7 recent thirteen-consecutive-week period, as
8 determined by the director on the basis of the
9 director's reports to the United States Secretary
10 of Labor, by

11 (B) The average monthly employment covered under this
12 chapter for the first four of the most recent six
13 completed calendar quarters ending before the end
14 of ~~[such]~~ the thirteen-week period.

15 ~~[(+6)]~~ (7) "Regular benefits" means benefits payable to an
16 individual under this chapter or under any other state
17 law (including benefits payable to federal civilian
18 employees and ex-servicemen pursuant to Title 5 United
19 States Code ~~[chapter]~~ Chapter 85) other than extended
20 benefits and additional benefits.

21 ~~[(+7)]~~ (8) "Extended benefits" means benefits (including
22 benefits payable to federal civilian employees and to



1 ex-servicemen pursuant to Title 5 United States Code
2 [~~chapter~~] Chapter 85) payable to an individual under
3 [~~the provisions of~~] this part for weeks of
4 unemployment in the individual's eligibility period.

5 [~~(8)~~] (9) "Additional benefits" means benefits payable to
6 exhaustees by reason of conditions of high
7 unemployment or by reason of other special factors
8 under the provisions of any state law, including but
9 not limited to chapter 385.

10 [~~(9)~~] (10) "Eligibility period" of an individual means the
11 period consisting of the weeks in the individual's
12 benefit year [~~which~~] that begin in an extended benefit
13 period and, if the individual's benefit year ends
14 within [~~such~~] the extended benefit period, any week
15 thereafter [~~which~~] that begins in [~~such~~] the period.

16 [~~(10)~~] (11) "Exhaustee" means an individual who, with
17 respect to any week of unemployment in the
18 individual's eligibility period:

19 (A) Has received, prior to [~~such~~] a week[~~7~~] of
20 unemployment, all of the regular benefits that
21 were available to the individual under this
22 chapter or any other state law (including



1 dependents' allowances and benefits payable to
2 federal civilian employees and ex-servicemen
3 under Title 5 United States Code [~~chapter~~
4 Chapter 85) in the individual's current benefit
5 year that includes [~~such~~] the week[+] of
6 unemployment; provided that for the purposes of
7 this subparagraph, an individual shall be deemed
8 to have received all of the regular benefits that
9 were available to the individual although, as a
10 result of a pending appeal with respect to wages
11 and/or employment that were not considered in the
12 original monetary determination in the
13 individual's benefit year, the individual may
14 subsequently be determined to be entitled to
15 added regular benefits; or

16 (B) The individual's benefit year having expired
17 prior to [~~such~~] the week of unemployment has no,
18 or has insufficient, wages and/or employment on
19 the basis of which the individual could establish
20 a new benefit year that would include [~~such~~] the
21 week[+] of unemployment; and



1 (C) (i) Has no right to unemployment benefits or
2 allowances, as the case may be, under the
3 Railroad Unemployment Insurance Act, the
4 Trade Expansion Act of 1962, the Automotive
5 Products Trade Act of 1965, and [~~such~~] other
6 federal laws as are specified in regulations
7 issued by the United States Secretary of
8 Labor; and

9 (ii) Has not received and is not seeking
10 unemployment benefits under the unemployment
11 compensation law of the Virgin Islands or of
12 Canada; but if the individual is seeking
13 [~~such~~] these benefits and the appropriate
14 agency finally determines that the
15 individual is not entitled to benefits under
16 [~~such~~] the law the individual is considered
17 an exhaustee; provided that this provision
18 shall not be applicable to benefits under
19 the Virgin Islands law beginning on the day
20 after the day on which the United States
21 Secretary of Labor approves under section
22 3304(a) of the Internal Revenue Code of 1954



1 an unemployment compensation law submitted
2 by the Virgin Islands for approval.

3 ~~[-(11)-]~~ (12) "State law" means the unemployment insurance law
4 of any state, approved by the United States Secretary
5 of Labor under section 3304 of the Internal Revenue
6 Code of 1954."

7 SECTION 2. Section 383-172, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§383-172 Total extended benefit amount.** (a) The total
10 extended benefit amount payable to any eligible individual with
11 respect to the individual's applicable benefit year shall be
12 ~~[fifty per cent of the total amount of regular benefits which~~
13 ~~were payable to the individual under this chapter in the~~
14 ~~individual's applicable benefit year; provided that the amount~~
15 ~~so determined shall be reduced by the total amount of additional~~
16 ~~benefits paid (or deemed paid) to the individual for weeks of~~
17 ~~unemployment in the individual's benefit year which began prior~~
18 ~~to the effective date of the extended benefit period which is~~
19 ~~current in the week for which the individual first claims~~
20 ~~extended benefits.] the lesser of the following amounts:~~



1 (1) Fifty per cent of the total amount of regular benefits
2 that were payable to the individual under this chapter
3 in the individual's applicable benefit year; or

4 (2) Thirteen times the individual's weekly benefit amount
5 that was payable to an individual under this chapter
6 for a week of total unemployment in the applicable
7 benefit year.

8 (b) The amount determined under subsection (a) shall be
9 reduced by the total amount of additional benefits paid or
10 deemed paid to the individual for weeks of unemployment in the
11 individual's benefit year that began prior to the effective date
12 of the extended benefit period that is current in the week for
13 which the individual first claims extended benefits.

14 (c) Effective with respect to weeks beginning in a high
15 unemployment period, subsection (a) shall be applied by
16 substituting:

17 (1) "Eighty per cent" for "fifty per cent" in subsection
18 (a) (1); and

19 (2) "Twenty" for "thirteen" in subsection (a) (2).

20 (d) For purposes of this section, "high unemployment
21 period" means any period during which an extended benefit period



1 would be in effect if section 383-168(5)(A)(i) were applied by
2 substituting eight per cent for 6.5 per cent."

3 SECTION 3. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2011-2012 for
6 an automated extended benefit claims system.

7 The sum appropriated shall be expended by the department of
8 labor and industrial relations for the purposes of this Act.

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Employment Security

Description:

Establishes a temporary total unemployment rate trigger pursuant to P.L. No. 111-5. Appropriates an unspecified amount for an automated extended benefit claims system. Effective July 1, 2050. (SD2)

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