

A Bill for an Act Relating to Employment Security.

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

"Sec. 383-2 Definition of employment. (a) As used in this chapter, unless the context clearly requires otherwise, "employment", subject to sections 383-3 to 383-9, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(b) "Employment" includes, but is not limited to, any service performed prior to January 1, 1978, which was employment as defined in this section prior to such date and, subject to the other provisions of this section, service performed after December 31, 1977, by an employee as defined in section 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce.

(c) The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada or the Virgin Islands as provided in paragraph (5) of this subsection), after December 31, 1971 in the employ of an American employer or of this State or of any of its instrumentalities or of any of its political subdivisions (other than service which is deemed employment under the provisions of section 383-3 or the parallel provisions of another state's law) if:

- (1) The employer's principal place of business in the United States is located in this State; or
- (2) The employer has no place of business in the United States, but
 - (A) The employer is an individual who is a resident of this State; or
 - (B) The employer is a corporation which is organized under the laws of this State; or
 - (C) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any one other state; or
- (3) None of the criteria of paragraphs (1) and (2) of this subsection is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service under the law of this State.
- (4) An "American employer", for purposes of this subsection, means a person who is:
 - (A) An individual who is a resident of the United States; or
 - (B) A partnership if two-thirds or more of the partners are residents of the United States; or
 - (C) A trust, if all of the trustees are residents of the United States; or
 - (D) A corporation organized under the laws of the United States or of any state.
- (5) As used in this subsection, the term "United States" includes the states, the District of Columbia, and the Commonwealth of Puerto Rico; and,

after December 31 of the year in which the Secretary of Labor approves for the first time an unemployment insurance law of the Virgin Islands submitted to him for approval, the term "United States" shall also include the Virgin Islands.

(d) The term "employment" shall include an individual's service, wherever performed within the United States, the Virgin Islands or Canada, if (a) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada, and (b) the place from which the service is directed or controlled is in this State.

(e) "Employment" includes service performed by an individual in agricultural labor as defined in section 383-9 except for service excluded under paragraph (1) of section 383-7.

(1) For the purposes of this section any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:

(A) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(B) If such employee is not an employee of such other person within the meaning of subsection (b) of this section.

(2) For the purpose of this subsection, in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1) above:

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

(B) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.

(3) For the purposes of this subsection, the term "crew leader" means an individual who:

(A) Furnishes individuals to perform service in agricultural labor for any other person;

(B) Pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and

(C) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person."

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

"Sec. 383-7 Excluded service. "Employment" does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit:
 - (A) Which, during each calendar quarter in both the current and the preceding calendar years, paid less than \$20,000 in cash remuneration to individuals employed in agricultural labor; and
 - (B) Which had, in each of the current and the preceding calendar years:
 - (i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees; or
 - (ii) No more than nine individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid to such individual by an employing unit for such service is less than \$225, and if the total cash remuneration paid to all individuals by an employing unit for such service is less than \$1,000 in each calendar quarter in both the current and preceding calendar years;
- (3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purpose of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs such service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employing unit in the performance of such service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (i) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (ii) the service performed in connection with a vessel of ten net tons or less (determined in

- the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year, and (iii) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
 - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;
 - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
 - (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
 - (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of such Code), if (i) the remuneration for such service is less than \$50, or (ii) the service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
 - (B) Service performed in the employ of a school, college, or university,

- if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
 - (11) Service performed in the employ of an instrumentality wholly owned by a foreign government:
 - (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
 - (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
 - (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-years' course in a medical school chartered or approved pursuant to state law;
 - (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
 - (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
 - (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
 - (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation.
 - (17) Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission.

None of the foregoing exclusions (1) to (17) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a

state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter."

SECTION 3. Section 383-9, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 383-9 Agricultural labor.** "Agricultural labor" includes all service performed prior to January 1, 1972, which was agricultural labor as defined in this section prior to such date, and remunerated service performed after December 31, 1971:

- (1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;
- (2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;
- (3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;
- (4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;
- (B) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subparagraph (A), but only if such operators produced more than one-half of the commodity with respect to which such service is performed;
- (C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or
- (5) On a farm operated for profit if such service is not in the course of the employer's trade or business.

As used in this section, "farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms, plantations, ranches, nurseries, ranges,

greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards."

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

"(b) In the case of an individual whose benefit year begins on or after January 2, 1966, his weekly benefit amount shall be, except as otherwise provided herein, an amount equal to one twenty-fifth of his total wages for insured work paid during the calendar quarter of his base period in which such total wages were highest. The weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1. If an individual's weekly benefit amount is less than five dollars, it shall be five dollars. The maximum weekly benefit amount shall be determined annually as follows: On or before November 30 of each year the total remuneration paid by employers, as reported on contribution reports submitted on or before such date, with respect to all employment during the four consecutive calendar quarters ending on June 30 of the year shall be divided by the average monthly number of individuals performing services in the employment during the same four calendar quarters as reported on the contribution reports. The amount thus obtained shall be divided by fifty-two and the average weekly wage (rounded to the nearest cent) thus determined. Two-thirds of the average weekly wage shall constitute the maximum weekly benefit amount and shall apply to all claims for benefits filed by an individual qualifying for payment at the maximum weekly benefit amount in the benefit year commencing on or after the first day of the calendar year immediately following the determination of the maximum weekly benefit amount. The maximum weekly benefit amount, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work shall include wages paid for previously uncovered services. For the purposes of this subsection, the term "previously uncovered services" means services:

- (1) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
- (2) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.

| (Column A) | (Column B) | (Column C) | (Column D) |
|--------------------------|----------------------------|--------------------------------|--|
| High Quarter Wages | Basic Weekly Benefit | Minimum Qualifying Wages | Maximum Total benefits in Benefit Year |
| \$ 37.50- 125.00 | \$ 5.00 | \$ 150.00 | \$ 130.00 |
| 125.01- 150.00 | 6.00 | 180.00 | 156.00 |
| 150.01- 175.00 | 7.00 | 210.00 | 182.00 |

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|------------------|-------|---------|---------|
| 175.01- 200.00 | 8.00 | 240.00 | 208.00 |
| 200.01- 225.00 | 9.00 | 270.00 | 234.00 |
| 225.01- 250.00 | 10.00 | 300.00 | 260.00 |
| 250.01- 275.00 | 11.00 | 330.00 | 286.00 |
| 275.01- 300.00 | 12.00 | 360.00 | 312.00 |
| 300.01- 325.00 | 13.00 | 390.00 | 338.00 |
| 325.01- 350.00 | 14.00 | 420.00 | 364.00 |
| 350.01- 375.00 | 15.00 | 450.00 | 390.00 |
| 375.01- 400.00 | 16.00 | 480.00 | 416.00 |
| 400.01- 425.00 | 17.00 | 510.00 | 442.00 |
| 425.01- 450.00 | 18.00 | 540.00 | 468.00 |
| 450.01- 475.00 | 19.00 | 570.00 | 494.00 |
| 475.01- 500.00 | 20.00 | 600.00 | 520.00 |
| 500.01- 525.00 | 21.00 | 630.00 | 546.00 |
| 525.01- 550.00 | 22.00 | 660.00 | 572.00 |
| 550.01- 575.00 | 23.00 | 690.00 | 598.00 |
| 575.01- 600.00 | 24.00 | 720.00 | 624.00 |
| 600.01- 625.00 | 25.00 | 750.00 | 650.00 |
| 625.01- 650.00 | 26.00 | 780.00 | 676.00 |
| 650.01- 675.00 | 27.00 | 810.00 | 702.00 |
| 675.01- 700.00 | 28.00 | 840.00 | 728.00 |
| 700.01- 725.00 | 29.00 | 870.00 | 754.00 |
| 725.01- 750.00 | 30.00 | 900.00 | 780.00 |
| 750.01- 775.00 | 31.00 | 930.00 | 806.00 |
| 775.01- 800.00 | 32.00 | 960.00 | 832.00 |
| 800.01- 825.00 | 33.00 | 990.00 | 858.00 |
| 825.01- 850.00 | 34.00 | 1020.00 | 884.00 |
| 850.01- 875.00 | 35.00 | 1050.00 | 910.00 |
| 875.01- 900.00 | 36.00 | 1080.00 | 936.00 |
| 900.01- 925.00 | 37.00 | 1110.00 | 962.00 |
| 925.01- 950.00 | 38.00 | 1140.00 | 988.00 |
| 950.01- 975.00 | 39.00 | 1170.00 | 1014.00 |
| 975.01-1000.00 | 40.00 | 1200.00 | 1040.00 |
| 1000.01-1025.00 | 41.00 | 1230.00 | 1066.00 |
| 1025.01-1050.00 | 42.00 | 1260.00 | 1092.00 |
| 1050.01-1075.00 | 43.00 | 1290.00 | 1118.00 |
| 1075.01-1100.00 | 44.00 | 1320.00 | 1144.00 |
| 1100.01-1125.00 | 45.00 | 1350.00 | 1170.00 |
| 1125.01-1150.00 | 46.00 | 1380.00 | 1196.00 |
| 1150.01-1175.00 | 47.00 | 1410.00 | 1222.00 |
| 1175.01-1200.00 | 48.00 | 1440.00 | 1248.00 |
| 1200.01-1225.00 | 49.00 | 1470.00 | 1274.00 |
| 1225.01-1250.00 | 50.00 | 1500.00 | 1300.00 |
| 1250.01-1275.00 | 51.00 | 1530.00 | 1326.00 |
| 1275.01-1300.00 | 52.00 | 1560.00 | 1352.00 |
| 1300.01-1325.00 | 53.00 | 1590.00 | 1378.00 |
| 1325.01-1350.00 | 54.00 | 1620.00 | 1404.00 |
| 1350.01 and over | 55.00 | 1650.00 | 1430.00 |

SECTION 5. Section 383-29, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 383-29 Eligibility for benefits. (a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

- (1) Claim. He has made a claim for benefits with respect to such week in accordance with such regulations as the department may prescribe.
- (2) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the department may prescribe, except that the department may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such regulation shall conflict with section 383-21.
- (3) Availability. He is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. He has been unemployed for a waiting period of one week within his benefit year, provided that no individual shall be required to serve a waiting week if the first week of his unemployment occurring within a benefit year is immediately preceded by a week of unemployment in the preceding benefit year for which benefits are payable. Notwithstanding any provisions of this section to the contrary, an individual shall be eligible to receive benefits for the waiting period of one week if he is entitled to benefits for each of the twelve consecutive weeks following his waiting period. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph (4).
- (5) Wages for insured work; weeks of employment.
 - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.
 - (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his

base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.

- (C) In the case of an individual whose benefit year begins on or after January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b). For the purpose of this subparagraph, wages for insured work shall include wages paid for services:
- (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
 - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
- (D) For the purposes of this paragraph (5), wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer.

(b) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performed such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any institution of education in the second of such academic years or terms.

(c) Benefits based on services, substantially all of which consists of participating or preparing or training to participate in sports or athletic events, shall not be paid to an individual for any week of unemployment which begins during the period between two successive sport seasons (or similar periods) if the individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that the individual will perform such services

in the second of such seasons (or similar periods).

(d) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act). Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(e) Notwithstanding any provisions of this chapter to the contrary, a claimant shall not be denied benefits because of his regular attendance at a vocational training or retraining course which the director of labor and industrial relations has approved and continues from time to time to approve for the claimant. The director may approve such course for a claimant only if:

- (1) Reasonable employment opportunities for which the claimant is fitted by training and experience do not exist in the locality or are severely curtailed;
- (2) The training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in the locality;
- (3) The training course is offered by a competent and reliable agency; and
- (4) The claimant has the required qualifications and aptitudes to complete the course successfully."

SECTION 6. Section 383-62, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 383-62 Rate of contributions; financing benefits paid to government employees and employees of nonprofit organizations. (a) Each employer shall pay contributions equal to three per cent of wages paid by him during each calendar year with respect to employment except as otherwise prescribed in this part.

Notwithstanding any other provision of this part to the contrary, for the calendar year 1977 each employer (except any employer making payments instead of contributions pursuant to subsection (b) or (d) of this section) shall pay contributions equal to three and one-half per cent (3.5%) of wages paid by him during such calendar year.

(b) In lieu of contributions required of employers under this chapter, the State and its political subdivisions and instrumentalities (hereinafter referred to as "governmental employers" or "governmental employer" as the case may be) shall pay in advance to the director of labor and industrial relations for the fund an amount equivalent to:

- (1) The amount of regular benefits plus one-half the amount of extended benefits payable in each calendar quarter beginning prior to January 1,

1979 to individuals based on wages paid by governmental employers; and

- (2) The amount of regular benefits plus the amount of extended benefits payable in each calendar quarter beginning after December 31, 1978 to individuals based on wages paid by governmental employers.

The director shall notify each governmental employer of the amount of money required to be paid to him. Such amounts shall be paid to the director prior to the commencement of the calendar quarter in which benefits are payable.

If benefits paid an individual are based on wages paid by one or more governmental employers and one or more other employers, or on wages paid by two or more employers, or on wages paid by two or more governmental employers, the amount payable by a governmental employer to the director for the fund shall be in accordance with the provisions of paragraphs (1) and (2) of subsection (e) of this section, governing the allocation of benefit costs among employers liable for payments in lieu of contributions and between such employers and employers liable for contributions.

For the purposes of paragraphs (1) and (2) of subsection (e), governmental employers are employers liable for payments in lieu of contributions. The amount of payment required from governmental employers shall be ascertained by the department of labor and industrial relations and shall be paid from the general funds of such governmental employers upon approval by the comptroller of the State or the director of finance of the respective counties, except that to the extent that benefits are paid on the basis of wages paid by governmental employers from special administrative funds, the payment into the unemployment compensation fund shall be made from such special funds.

(c) Notwithstanding the provisions of subsection (b) of this section to the contrary, any governmental employer which is or becomes subject to this chapter after December 31, 1977 may, in accordance with this subsection (c), elect to pay contributions pursuant to the provisions of this part (with the exception of the provisions in subsection (b) and subsections (d) through (g) of this section) applicable to other employers. For the purposes of this subsection (c) the term "governmental employer" shall apply to the State of Hawaii and to each county of this State, as separate and individual employers.

- (1) Any governmental employer which is subject to this chapter on January 1, 1978 may elect to become liable for contributions for a period of not less than two calendar years beginning with January 1, 1978; provided it files with the department a written notice of its election within the thirty-day period following such date.
- (2) Any governmental employer which becomes subject to this chapter after January 1, 1978 may elect to become liable for contributions for a period beginning with the date on which such subjectivity begins and continuing for not less than two calendar years thereafter by filing with the department a written notice of its election within the thirty-day period following the date on which such subjectivity begins.
- (3) Any governmental employer which has been making payments in lieu of contributions in accordance with subsection (b) of this section for a

period subsequent to January 1, 1978 may elect to become liable for contributions for a period of not less than two calendar years beginning with January 1 of the year following the year in which the election is made by filing with the department a written notice of its election not later than thirty days prior to the beginning of any calendar year.

- (4) Any governmental employer which makes an election in accordance with paragraph (1), (2), or (3) of this subsection shall continue to be liable for contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall be effective.
- (5) The department may for good cause extend the period within which a notice of election or a notice of termination must be filed.
- (6) The department shall notify each governmental employer of any determination which it may make of the effective date of any election which such governmental employer makes and of any termination of such election. Such determination shall be conclusive upon such governmental employer unless, within fifteen days after the notification was mailed or delivered to it, such governmental employer files with the department an application for review and redetermination, setting forth the reasons therefor. The department shall promptly review and reconsider its determination and shall thereafter issue a redetermination in any case in which such application has been filed. Any such redetermination shall be conclusive upon the governmental employer unless, within fifteen days after the redetermination was mailed or otherwise delivered to it, the governmental employer files written notice of appeal with the department setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.
- (7) Should any governmental employer, having made payments in lieu of contributions in accordance with subsection (b) of this section, elect to pay contributions under this part, any amount of positive reserve balance remaining in the self-financing account of such employer after all liabilities against such account under subsection (b) of this section have been satisfied shall be refunded to such employer.
- (8) Any governmental employer which elects to become liable for contributions under this part shall pay contributions for the first year of such election at the rate which applies to employers who become subject to this chapter during such year.

(d) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a nonprofit organization is an organization (or groups of organizations) described in subsection 501(c) (3) of the United States Internal Revenue Code which is exempt from income tax under section 501(a) of such code.

- (1) Liability for contributions and election of reimbursement. Any nonprofit organization which is, or becomes, subject to this chapter on or

after January 1, 1972 shall pay contributions under the provisions of this part (with the exception of the provisions in subsection (b) of this section) applicable to other employers unless it elects, in accordance with this paragraph, to pay to the director of labor and industrial relations for the fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

- (A) Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with January 1, 1972, provided it files with the department a written notice of its election within the thirty-day period immediately following such date, or within a like period immediately following the date of enactment of this subparagraph, whichever occurs later.
- (B) Any nonprofit organization which becomes subject to this chapter after January 1, 1972 may elect to become liable for payment in lieu of contributions for a period beginning with the date on which such subjectivity begins and continuing for not less than two calendar years thereafter by filing a written notice of its election with the department not later than thirty days immediately following the date of the determination of such subjectivity.
- (C) Any nonprofit organization which makes an election in accordance with subparagraphs (A) or (B) of this paragraph will continue to be liable for payments in lieu of contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall be effective.
- (D) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the department not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.
- (E) The department may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.
- (F) The department, in accordance, with such regulations as the director of labor and industrial relations may prescribe, shall notify each nonprofit organization of any determination which it may make of such organization's status as an employer and of the effective date of any election which such organization makes and of any

termination of such election. Such determination shall be conclusive upon such organization unless, within fifteen days after the notice thereof was mailed to its last known address or otherwise delivered to it, such organization files with the department an application for review and redetermination, setting forth the reasons thereof. The department shall promptly review and reconsider its determination and shall thereafter issue a redetermination in any case in which such application has been filed. Any such redetermination shall be conclusive upon the organization unless, within fifteen days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files written notice of appeal with the department, setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.

- (2) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of subparagraph (A).
 - (A) As determined by the director of labor and industrial relations, and department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during the week, or other prescribed period, that is attributable to service in the employ of such organization other than previously uncovered services as defined in section 383-22(b).
 - (B) Payment of any bill rendered under subparagraph (A) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (D).
 - (C) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.
 - (D) The amount due specified in any bill from the department shall be conclusive and binding upon a nonprofit organization unless, within fifteen days after the notice thereof was mailed to its last known address or otherwise delivered to it, such organization files with the department an application for review and redetermination, setting forth the reasons therefor. The department shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in which such application has been filed. Any such redetermination shall be conclusive on the organization unless, within fifteen days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization filed written notice of appeal with

the department, setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.

- (3) Provision of security. Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required, within thirty days after the effective date of its election, to deposit with the department an amount of money as security.

- (A) The amount of the deposit required by this paragraph shall be equal to .2 per cent of the organization's total wages paid for employment during the calendar year immediately preceding the effective date of the election. If the nonprofit organization did not pay wages in each of the four calendar quarters of such calendar year, the amount of the deposit shall be as determined by the department.

- (B) Any deposit of money in accordance with this paragraph shall be retained by the department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under this paragraph by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions. The department shall require the organization within thirty days following any deduction from a money deposit under the provisions of this subparagraph to deposit sufficient additional money to make whole the organization's deposit at the prior level. The department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, the department determines that an adjustment is necessary, it shall require the organization to make additional deposit within thirty days of written notice of its determination or shall return to the organization such portion of the deposit as it no longer considers necessary, whichever action is appropriate. Disposition of income from moneys held in escrow shall be governed by the applicable provisions of the state law.

- (C) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this paragraph, the department may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective; provided that the department may extend for good cause the applicable deposit or adjustment period by not more than thirty days.

- (e) Each employer, other than government employers, that is liable for payments in lieu of contributions under this section shall pay to the director of labor and industrial relations for the fund the amount of regular benefits plus the

amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of paragraph (1) or paragraph (2).

- (1) Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers that are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.
- (2) Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(f) Two or more employers, including governmental employers, that have become liable for payments in lieu of contributions, may file a joint application to the department of labor and industrial relations for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the department receives the application, and it shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the department or upon application by the group. The director of labor and industrial relations shall prescribe such regulations as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this paragraph, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this paragraph by members of the group and the time and manner of such payments.

(g) When a nonprofit organization terminates its self-financing status and elects to pay contributions under this chapter, any remaining amount of positive reserve balance in its self-financing account will be transferred to its contributory reserve account. The department shall determine the contribution rate of such

employer in accordance with provisions of section 383-66(2)."

SECTION 7. Section 383-65, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 383-65 Charges and noncharges for benefits. (a) Except as otherwise provided in this section, benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by the employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid in benefit years beginning after June 30, 1963 shall be charged to employer's accounts in the calendar year in which the benefits are paid.

(b) Benefits paid to an individual, who, during his base period, earned wages for part-time employment with an employer, shall not be charged to the account of the employer if he continues to give the individual employment to the same extent while he is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the director of labor and industrial relations.

(c) Benefits paid to an individual for the period he is enrolled in and is in regular attendance at a vocational training or retraining course approved by the director pursuant to section 383-29 shall not be charged to any of his base period employers.

(d) For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, "base period" as used in this section shall mean the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws.

(e) Benefits paid to an individual under the provisions of the extended benefits program, sections 383-168 to 383-174, of this chapter, shall not be charged to the account of any of his base period employers on a contributory plan except that one-half of the amount of such benefits which are based on services performed for a governmental employer on a contributory plan and which are paid for weeks of unemployment beginning after December 31, 1978 shall be charged to the account of such employer. Provisions of section 383-62(b) and 383-62(d) (2) (A) will apply in the reimbursement of benefits which are paid to an individual who, during his base period, was employed by a governmental employer making payments in lieu of contributions or a nonprofit organization electing payment in lieu of contributions.

(f) Benefits paid to an individual who qualifies to receive benefits by meeting the minimum earnings and employment requirements only by combining his employment and wages earned in two or more states shall not be charged to the reserve account of any base period employer on a contributory plan within this State.

(g) Any benefit overpaid to a claimant as a result of ineligibility or disqualification under sections 383-29 and 383-30 shall not be charged to the reserve account of a base period employer on a contributory plan unless such

overpayment resulted from the employer's failure to furnish information as required by this chapter or the rules and regulations of the department.

(h) Benefits paid to an individual with respect to wages paid for previously uncovered services as defined in section 383-22(b) or for services for which an exclusion was granted pursuant to section 383-78 shall not be charged to the account of any of such individual's base period employers, but only to the extent that the fund is reimbursed for such benefits by the federal government pursuant to section 121 of Public Law 94-566."

SECTION 8. Section 383-78, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 383-78 Exclusion of agricultural labor, election. (a) An employer may apply to the director of labor and industrial relations for the exclusion from employment within the meaning of this chapter of all services performed for him which constitute agricultural labor as defined in section 383-9. The director shall grant the exclusion if the applicant:

- (1) Files with the director a written election that the benefits payable with respect to all services performed for such employer which constitute agricultural labor as defined in section 383-9 shall be governed by and determined under chapter 384. The written election shall be in a form prescribed by the director.
- (2) Also furnishes proof satisfactory to the director of his solvency and financial ability to pay to the director the amount of all benefits paid by the director pursuant to chapter 384 for his account or furnishes a bond or other security acceptable to the director conditioned upon the making of such payments.

(b) Any exclusion granted pursuant to this section shall be retroactive to the beginning of the calendar quarter preceding the calendar quarter in which the written election was filed with the director. The exclusion shall remain in effect for a period of not less than four consecutive calendar quarters and thereafter until the employer gives written notice to the director of his election to terminate the exclusion; provided that the director may terminate the exclusion if he finds that the employer fails to continue to meet the requirements of subsection (a)(2). Termination of the exclusion under this section shall not become effective until the end of the quarter in which notice is given.

(c) During the effective period of the exclusion granted to the employer pursuant to this section, no agricultural labor performed for the employer shall be deemed to be employment within the meaning of this chapter. The benefits payable to any individual with respect to agricultural labor performed for the employer during such period shall be governed by and determined under chapter 384.

(d) If the services performed during more than one-half of any pay period by an individual for the person employing him constitute agricultural labor, all the services of the individual for such period shall be deemed, for the purposes of this section, to be agricultural labor; but if the services performed during one-half or more of any such pay period by an individual for the person employing him do not constitute agricultural labor, then none of the services of

the individual for such period shall be deemed, for the purposes of this section, to be agricultural labor. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment or remuneration is ordinarily made to the individual by the person employing him.

(e) Notwithstanding any other provision of this section to the contrary, no exclusion shall be granted pursuant to this section after December 31, 1977, and any exclusion granted pursuant to this section and still in effect on December 31, 1977 shall terminate on January 1, 1978."

SECTION 9. Section 383-168, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 383-168 Definitions. As used in this part, unless the context clearly requires otherwise:

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

(A) Begins with the third week after whichever of the following weeks occurs first:

(i) A week for which there is a national "on" indicator, or

(ii) A week for which there is a state "on" indicator; and

(B) End with either of the following weeks, whichever occurs later:

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

(ii) The thirteenth consecutive week of such period; provided that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State; and provided further that within the period beginning on July 1, 1971 and ending on December 31, 1971, an extended benefit period may become effective and be terminated in this State solely by reason of a state "on" and a state "off" indicator, respectively.

(2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that, for period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceed 4.5 per cent.

(3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that, for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 per cent.

(4) There is a "state 'on' indicator" for this State for a week if the director of labor and industrial relations determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

- (A) Equalled or exceeded 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
 - (B) Equalled or exceeded 4 per cent.
- (5) There is a "state 'off' indicator" for this State for a week if the director determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
 - (A) Was less than 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
 - (B) Was less than 4 per cent.
- (6) Effective with respect to compensation for weeks of unemployment beginning after December 31, 1977, the determination of whether there has been a state "on" or "off" indicator shall be made under subsections (4) and (5) of this section as if subsection (4) did not contain paragraph (A) thereof and the figure "4" contained in paragraph (B) thereof were "5", and as if subsection (5) did not contain paragraph (A) thereof and the figure "4" contained in paragraph (B) thereof were "5"; except that, notwithstanding the other provisions of this subsection to the contrary, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.
- (7) "Rate of insured unemployment," for purposes of paragraphs (4) and (5) of this section, means the percentage derived by dividing:
 - (A) The average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his reports to the United States Secretary of Labor, by
 - (B) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.
- (8) "Regular benefits" means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.
- (9) "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this part for weeks of unemployment in his eligibility period.
- (10) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law, including but not limited to chapter 385.
- (11) "Eligibility period" of an individual means the period consisting of the

weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any week thereafter which begins in such period.

(12) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

- (A) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided that for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
- (B) His benefit year having expired prior to such week has no, or has insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and
- (C) (i) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and
- (ii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee; provided that this provision shall not be applicable to benefits under the Virgin Islands law beginning on the day after the day on which the United States secretary of labor approves under section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted by the Virgin Islands for approval.

(13) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954."

SECTION 10. Section 384-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 384-4 Accounting for benefit paid. (a) Every agricultural employer shall pay to the director of labor and industrial relations the amount of all benefits paid by the director pursuant to this chapter for his account within thirty

days after mailing of the statement of charges of such benefits by the director, notwithstanding any termination of the exclusion from employment within the meaning of chapter 383 of services performed for him which constitute agricultural labor. If any employer succeeds to or acquires the organization, trade, or business of an agricultural employer, the successor in interest is hereby required to assume the liability of the predecessor employer with respect to payments by the director for the account of the predecessor employer.

(b) Benefits paid to an individual under this chapter shall be charged to the accounts of his base period agricultural employers and the amount of benefits so chargeable against each base period agricultural employer's account shall bear the same ratio to the total benefits paid to the individual under this chapter as the base period wages paid to the individual by such agricultural employer bear to the total amount of base period wages paid to the individual by all of his base period agricultural employers. For the purposes of this section, the base period of the individual shall be the period used in determining the amount of the benefits which would have been payable to the individual pursuant to chapter 383 had agricultural labor not been excluded from employment, and the base period wages paid to the individual shall include only the wages paid for agricultural labor by agricultural employers.

(c) Every agricultural employer shall deposit with the director an amount of money which shall be used for advancing of benefit payments required by this chapter. The amount shall be reimbursed to the employer upon termination of his exclusion pursuant to section 383-78, provided that he has discharged his liability under this chapter. The amount required to be paid shall be determined as follows:

- (1) If an agricultural employer is subject to this chapter on June 23, 1969 he shall pay a sum equal to .2 per cent of the wages paid by him for agricultural labor during the calendar year 1968. This amount shall be paid within thirty days after June 23, 1969.
- (2) If an agricultural employer is not subject to this chapter on June 23, 1969 but becomes so subject thereafter, he shall pay a sum equal to .2 per cent of the wages paid by him for agricultural labor during the calendar year immediately preceding the year in which he became subject to this chapter; provided that if the employer was not engaged as an agricultural employer for the full calendar year immediately prior to becoming subject to this chapter, the director shall assess and collect an amount on the basis of estimated wages which the employer would have paid had he been engaged in agricultural employment for the full calendar year. This amount shall be paid within thirty days after being granted the exclusion under section 383-78. "Wages", as used in this paragraph and the foregoing paragraph (1), shall have the same meaning as that given to the term in section 383-61.
- (d) When an employer's exclusion has terminated pursuant to section 383-78(e) and such employer is subject to chapter 383, any positive balance remaining in such employer's self-financing account after the reimbursement of the deposit made pursuant to subsection (c) of this section shall be transferred to the contributory reserve account of such employer established pursuant to section

383-64; and benefits paid for weeks of unemployment beginning on or after January 1, 1978 which would have been paid under this chapter, were it not for the operation of this subsection, shall be paid under chapter 383."

SECTION 11. Section 384-6, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 384-6 Administration fund.** (a) There is hereby established in the treasury of the State a special fund, to be known as the agricultural unemployment compensation fund, into which there shall be paid all payments specified in this section.

(b) Every agricultural employer subject to this chapter shall pay to the director of labor and industrial relations during the period that he is subject to this chapter, an assessment equal to 1/20 of 1 per cent of his annual payroll. If, on the basis of the cost of the administration of this chapter during the preceding two calendar quarters, the director determines that the fund is insufficient to defray the estimated cost of such administration for the next two calendar quarters, then the rate of the assessment shall be increased to 1/10 of 1 per cent, effective as of the beginning of the first of the next two calendar quarters, which increased rate shall remain in effect until the director determines, on the basis of the cost of administration of this chapter during the preceding two calendar quarters, that such fund is sufficient to defray the estimated cost of such administration for the next four calendar quarters in which case the rate of the assessment shall be reduced to 1/20 of 1 per cent, effective as of the beginning of the first of the next four calendar quarters. Assessments shall become due and be paid by each agricultural employer in accordance with such regulations as the director may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(c) For purposes of this section:

- (1) "Annual payroll" means the total amount of wages for agricultural labor paid by an agricultural employer during calendar year; and
- (2) "Wages" shall not include remuneration in excess of the amount fixed by section 383-61(b) paid with respect to employment (whether agricultural labor or not) to an individual by an agricultural employer during any calendar year.

(d) The balance remaining in the fund on July 1, 1978 which is not required for the administration of this chapter shall be transferred to the unemployment compensation fund established pursuant to section 383-121 and shall be used exclusively for the payment of benefits under chapter 383."

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 13. This Act shall take effect on January 1, 1978, except that the amendments to section 383-2(c), Hawaii Revised Statutes, shall take effect on January 1 of the year following the year in which the United States Secretary of

*Edited accordingly.

ACT 148

Labor first approves an unemployment insurance law for the Virgin Islands and the amendment to section 383-62(a), Hawaii Revised Statutes, shall take effect upon the approval of this Act.

(Approved June 1, 1977.)