

**FINAL REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

**THE FUNDING  
REQUIREMENTS OF THE  
VIRGINIA UNEMPLOYMENT  
COMPENSATION ACT**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 32**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1995**

## **MEMBERS OF THE JOINT SUBCOMMITTEE**

**Senator Elliot S. Schewel, Chairman**  
**Senator Joseph B. Benedetti.**  
**Senator John H. Chichester**  
**Senator Richard J. Holland**  
**Senator Jackson E. Reasor, Jr.**  
**Delegate Glenn R. Croshaw**  
**Delegate Dwight C. Jones**  
**Delegate Jerrauld C. Jones**  
**Delegate Robert E. Nelms**  
**Delegate Stephen D. Newman**

## **STAFF**

### **DIVISION OF LEGISLATIVE SERVICES - Legal and Research**

**Arlen K. Bolstad, Senior Attorney**  
**Mark C. Pratt, Research Associate**  
**Cynthia G. Liddy, Executive Secretary**

### **VIRGINIA SENATE - Administrative and Clerical**

**Thomas C. Gilman, Chief Committee Clerk**  
**Brian Taylor, Committee Clerk**

## Table of Contents

	Page
I. Introduction.....	1
II. Overview of the Unemployment Compensation Program.....	2
III. Adequacy of the Unemployment Insurance Trust Fund.....	4
IV. House Bill 765.....	4
V. Waiving Repayment of Overpayments Resulting From VEC Administrative Error.....	5
VI. Subcommittee Request For Additional Information .....	5
VII. Subcommittee Recommendations.....	6
VIII. Appendices.....	7
A. VEC briefing charts.....	A-1
B. House Bill 765.....	B-1
C. VEC Letter Dated 12/21/94.....	C-1

**Report of the Joint Subcommittee  
Studying the Funding Requirements of the  
Virginia Unemployment Compensation Act  
To  
The Governor and the  
General Assembly of Virginia  
Richmond, Virginia  
1995**

TO: The Honorable George Allen, Governor,  
and  
the General Assembly of Virginia

**I. INTRODUCTION**

The Chairmen of the Senate Committee on Commerce and Labor and the House Labor and Commerce Committee appointed a joint subcommittee from their committees to examine the funding needs of the Virginia unemployment compensation system. This joint subcommittee continues a tradition of many years standing in which members of these standing committees have met annually to receive a Virginia Employment Commission (VEC) briefing on the unemployment insurance trust fund's current and projected adequacy. This year, the joint subcommittee also reviewed a bill carried over in the House Labor and Commerce Committee, and considered a proposal to waive repayment of benefit overpayments resulting from VEC administrative error.

The following General Assembly members were appointed to the joint subcommittee: Senators Schewel from Lynchburg, Benedetti from Richmond, Chichester from Fredericksburg, R.J. Holland from Windsor, and Reasor from Bluefield, together with Delegates Croshaw from Virginia Beach, D.C. Jones from Richmond, J.C. Jones from Norfolk, Nelms from Suffolk, and Newman from Lynchburg. Senator Schewel served as Chairman.

The joint subcommittee met on October 17, 1994, at the General Assembly Building in Richmond. It received the VEC's trust fund briefing, presented by VEC Commissioner Kenneth A. Bolles. Additionally, the VEC presented its analysis of House Bill 765, a bill carried over from the 1994 General Assembly Session. HB

765 proposed to change the employer responsible for paying benefits from the last 30-day employer to the last 60-day employer. The VEC also provided a trust fund impact assessment concerning a proposal to waive repayment of unemployment compensation benefit overpayments resulting from VEC administrative error.

The joint subcommittee was advised that as of June 30, 1994, the unemployment insurance trust fund was at 68 percent of adequacy (in comparison to 64 percent, one year ago), and that the VEC projects this figure will rise to approximately 81 percent by 1997 (assuming no significant changes in tax or benefit levels and a constant statewide unemployment rate of five percent or lower). Commissioner Bolles noted that an adequacy level of 50 percent or more is indicative of a relatively strong trust fund balance. The subcommittee received no recommendations from the VEC or any members of the labor or business communities for changes in compensation levels or employer tax rates, nor were any suggested by the joint subcommittee.

The joint subcommittee made no recommendations concerning unemployment compensation benefits or taxation levels. It voted to recommend to the House Labor and Commerce Committee that HB 765 be passed by indefinitely. Finally, the joint subcommittee voted to make no recommendation on the overpayment waiver proposal, noting the VEC's assessment that the proposal's adoption would have a negligible impact on the trust fund.

The joint subcommittee concluded its study, directing that a report of its actions be transmitted to the Governor and the 1995 Session of the General Assembly.

## II. OVERVIEW OF THE UNEMPLOYMENT COMPENSATION PROGRAM

The Federal-State Unemployment Insurance System. The Federal Unemployment Insurance Tax Act (FUTA) was a core component of federal New Deal legislation passed during the 1930s. FUTA established a federally mandated, state-administered program providing temporary financial relief to working Americans involuntarily unemployed.

In Virginia, qualifying employees who become unemployed through no fault of their own are entitled to weekly benefits prescribed by state law. To qualify, Virginia employees must have earned at least \$ 3,250 in total wages in two of the last four calendar quarters immediately preceding the quarter in which they became unemployed. At this minimum-qualifying level, such employees would receive a weekly benefit amount of \$65 for up to 12 weeks of unemployment. The maximum weekly benefit is currently \$208. According to the VEC, the current benefit table provides a wage-replacement level of approximately 50 percent.

Virginia Program Administration. The Virginia Employment Commission (VEC) administers the Commonwealth's unemployment insurance program. Title 60.2 of the Virginia Code prescribes the VEC's duties, which include (i) collecting taxes to fund the program, (ii) processing and paying benefit claims, (iii) providing administrative adjudication of contested claims, and (iv) ensuring that the unemployment insurance trust fund is adequately funded. The VEC has additional duties which include operating a job service program, providing employment and unemployment statistics, and implementing the federal Job Training Partnership Act.

The VEC's administrative costs are paid from FUTA payroll taxes collected from Virginia employers by the Internal Revenue Service. These moneys are deposited in the Employment Security Administrative Account (ESAA) for appropriation by Congress and allocation by the U.S. Department of Labor (DOL). The VEC administrative funding level is based upon DOL's estimate of VEC's administrative expenses.

Trust fund taxes and benefit payments. Unemployment compensation benefits are paid from a trust fund comprised of taxes collected by the VEC from Virginia employers. It is used solely for paying unemployment compensation benefits to unemployed Virginians. Virginia employers with one or more employees pay trust fund taxes on employee wages up to \$8,000. The taxes are "experience rated," i.e., those employers with higher levels of qualifying claims will pay higher tax rates. The minimum tax rate for Virginia's employers is 0.1 percent; the maximum is 6.2 percent. New employers, i.e., those without experience rating, are charged a minimum tax rate of 2.5 percent for the first three years. The VEC noted that in 1993 Virginia employers paid an average \$100 per employee in unemployment compensation taxes. That figure is expected to peak at approximately \$120 in 1994 and decrease to approximately \$80 in 1998.

Employers are also charged a "pool tax" to cover benefits paid out of the trust fund that cannot be charged to specific employers. Pool costs include (i) benefit payments made to employees of employers no longer in business and (ii) coverage of benefit payment costs that cannot be recovered from maximum-rated employers to whom they are attributable because of the 6.2 percent cap. In recent years, pool costs constituted 20 to 50 percent of total benefits. If the trust fund adequacy level is at 50 percent or more, however, pool taxes are offset by interest earned on the trust fund. The trust fund is also supplemented by a 0.2 percent "fund-building" tax whenever the fund's adequacy level drops below 50 percent.

### III. ADEQUACY OF THE UNEMPLOYMENT INSURANCE TRUST FUND

The VEC is required by Virginia Code § 60.2-533 to make a trust fund adequacy calculation each July 1. The statutory formula is used to calculate how much money the trust fund would need to pay unemployment compensation benefits for an 18-month period if (i) benefit payments were at the highest levels recorded during the past 25 years and (ii) the trust fund received no income during this interval. According to the VEC, Virginia's highest level of unemployment (eight percent) was reached in the 1980s; its lowest was two percent in the 1970s.

The VEC reported a June 30, 1994, trust fund adequacy level of approximately 68 percent. This compares with 64 percent one year earlier. VEC Commissioner Kenneth A. Bolles told the joint subcommittee that the trust fund adequacy level will improve in the near term, culminating in a projected 81 percent adequacy level by 1997. This projection assumes (i) a constant unemployment rate of approximately five percent and (ii) no changes in unemployment compensation benefits or taxes. Commissioner Bolles stated that these projections factored in the likelihood of additional layoffs by Virginia-based defense contractors. VEC charts summarizing unemployment trends and trust fund data (together with its assessment of the other issues before the joint subcommittee) are attached as Appendix A.

### IV. HOUSE BILL 765

The VEC also presented its analysis of House Bill 765 (Attached as Appendix B), a bill proposing to change the method for determining the employer responsible for paying unemployment compensation benefits. Under current law, the VEC examines a benefit claimant's employment history. It reviews the claimant's separation from the last employer employing him for more than 30 days as per Virginia Code § 60.2-528, together with separations from all subsequent employers. HB 765 proposed to change this requirement to begin this review with the last employer employing the claimant for more than 60 days.

Committee members familiar with the bill suggested that its likely purpose was to encourage new employment by providing an employer a 60-day "free look," i.e., a trial employment period of about two months without the risk of being charged for unemployment compensation benefits if the employer terminated the employment. The VEC noted that an employee otherwise eligible for benefits (one unemployed through no fault of his own) will receive benefits, regardless of whether the employer chargeable for the benefits is the last 30-day employer or last 60-day employer.

Such a change (from 30 to 60 days) would, however, shift benefit responsibility among employers and would also increase the number of employers involved in a claim's administration as more distant employers would be required to

file separation reports. The VEC also noted that pool costs would increase where chargeable employers could not be located, but was unable to estimate increased pool costs if HB 765 became law.

The joint subcommittee discussed and considered HB 765 following the VEC's presentation. Its members voted to recommend to the House Labor and Commerce Committee that HB 765 be passed by indefinitely.

#### V. WAIVING REPAYMENT OF OVERPAYMENTS RESULTING FROM VEC ADMINISTRATIVE ERROR

At the request of Senator Madison E. Marye, the joint subcommittee examined a suggestion that the VEC waive repayment of benefit overpayments resulting from administrative error. Under current law (Va. Code § 60.2-633) persons receiving overpayments for any reason are required to repay them. The VEC estimated that in fiscal year 1993-1994, total overpayments resulting from VEC administrative error totaled \$88,000. In making this calculation, the VEC assumed that "administrative error" meant a benefit miscalculation wholly internal to the VEC and not related in any way to a claimant's failure to provide timely, accurate and adequate information about his claim.

In terms of the waiver proposal's likely impact on the trust fund, the VEC estimated that if the cost of waiving repayment of such overpayments were assigned to "pool costs" (costs that cannot be assigned to any employer), the cost would have to average at least \$0.8 million for three years before requiring any increase in employer pool taxes. The VEC concluded that the effect of the proposal on the trust fund would be negligible.

The joint subcommittee discussed and considered the VEC's report on the overpayment waiver report. However, it made no recommendation for or against the proposal, noting for the record its receipt of the VEC report on the matter without further joint subcommittee action.

#### VI. SUBCOMMITTEE REQUEST FOR ADDITIONAL INFORMATION

Member of the joint subcommittee asked the VEC to provide information on the percentage of wage replacement provided by Virginia's current schedule of unemployment compensation benefits. In subsequent correspondence to the subcommittee, the VEC reported that Virginia's current average weekly wage is \$473 and that the \$208 maximum benefit amount replaces 44% of that figure. The \$65 minimum benefit replaces 14%. VEC correspondence detailing this information is attached as Appendix C.

The subcommittee members also asked the VEC for information concerning Virginia's ranking as second to last among jurisdictions in the percentage of



unemployed receiving unemployment benefits. A report prepared by the VEC and submitted to the subcommittee as part of Appendix C explained that Virginia's qualification requirements, disqualification standard for voluntarily quitting work, work search standards, industry mix, federal workforce, and requalification standards are the major factors which influence its ranking among the other states.

## VII. SUBCOMMITTEE RECOMMENDATIONS

- The joint subcommittee made no recommendations concerning levels of unemployment compensation benefits or employer taxes, noting that both were modified in 1992.
- The joint subcommittee recommended to the House Labor and Commerce Committee that House Bill 765 (proposing to change the chargeable employer from the last 30-day employer to last 60-day employer) be passed by indefinitely.
- The joint subcommittee heard and considered the proposal to waive repayment of benefit overpayments, where such overpayments resulted from VEC error. However, it elected to note for the record its receipt of the VEC's analysis showing a negligible impact on the trust fund if adopted, while making no recommendation for or against its adoption.

Respectfully submitted,

Elliot S. Schewel, Chairman

Joseph B. Benedetti

John H. Chichester

Richard J. Holland

Jackson E. Reasor, Jr.

Glenn R. Croshaw

Dwight C. Jones

Jerrauld C. Jones

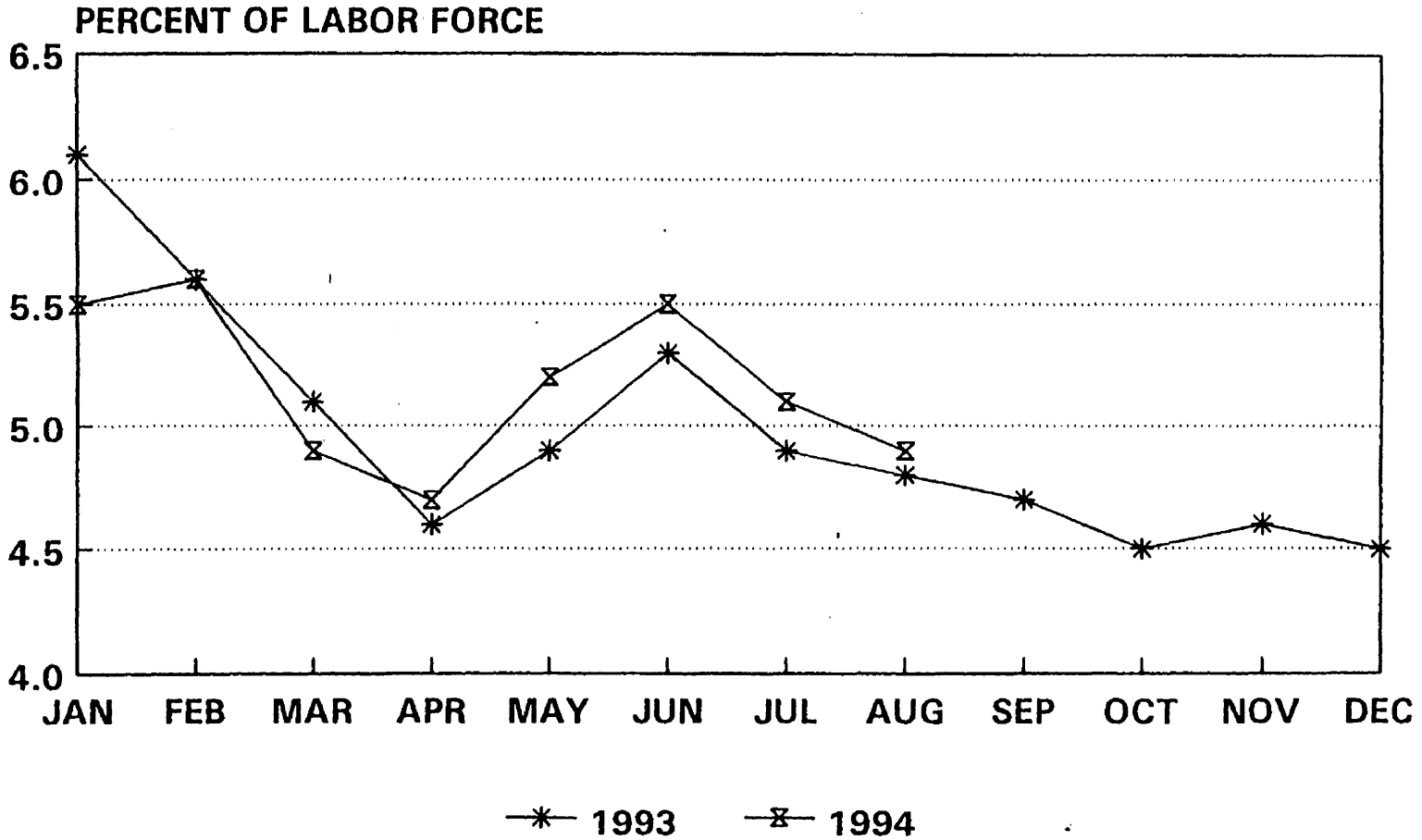
Robert E. Nelms

Stephen D. Newman

## VIII. APPENDICES

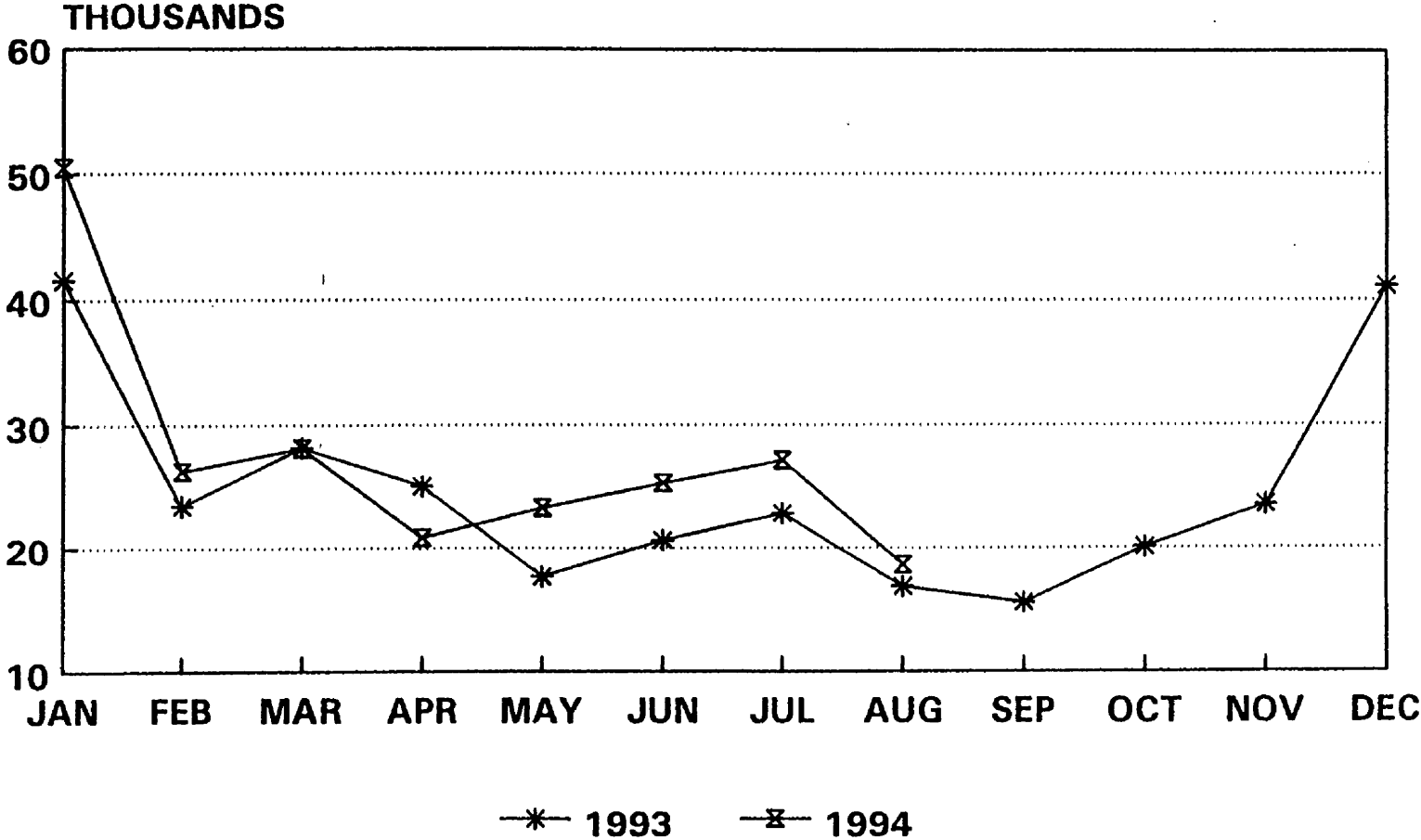
- A. VEC briefing charts.
- B. House Bill 765.
- C. VEC Letter Dated 12/21/94

# VIRGINIA'S UNEMPLOYMENT RATE 1993 - 1994

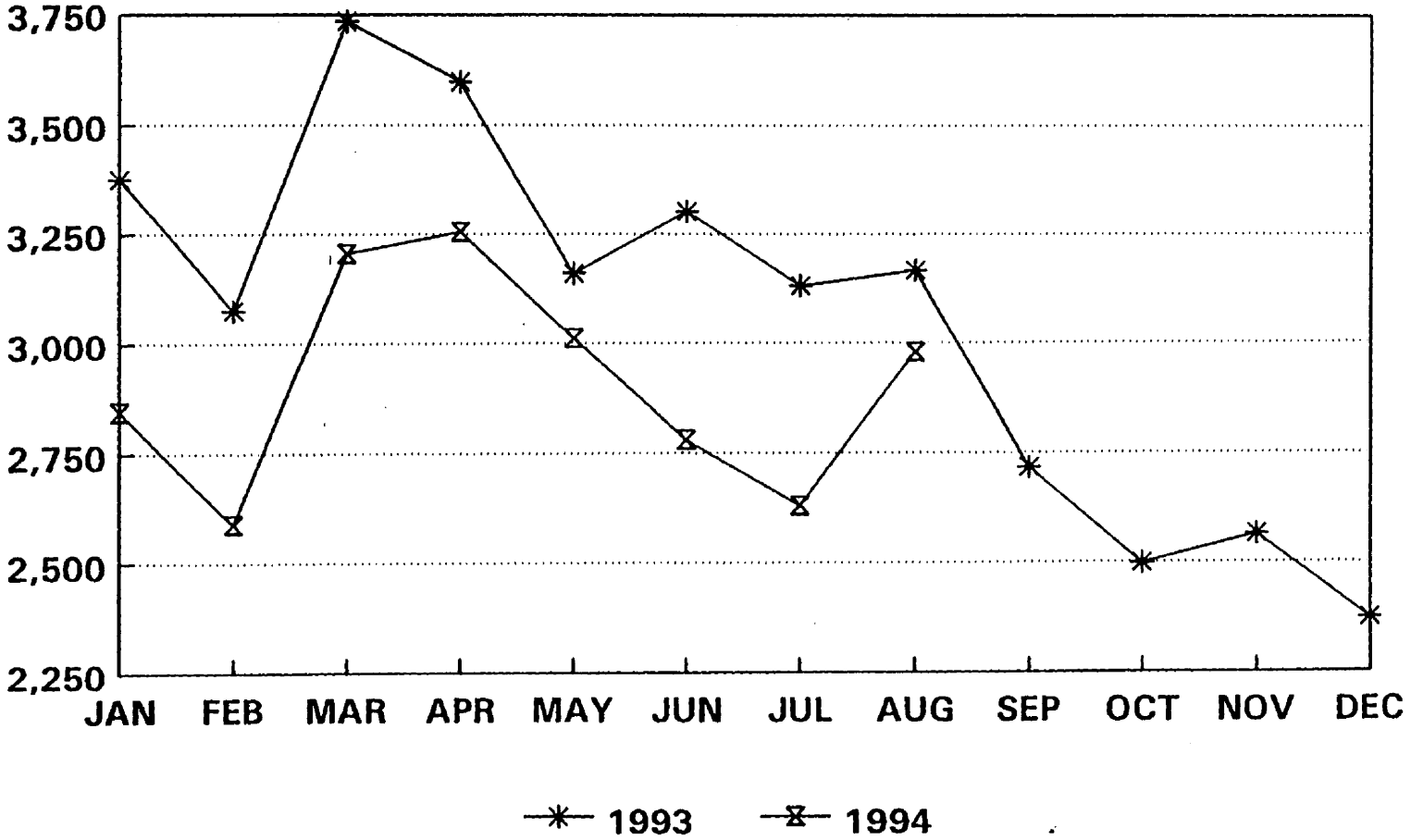


NOT SEASONALLY ADJUSTED

# U.I. INITIAL CLAIMS 1993 VS. 1994



# U.I. FINAL PAYMENTS 1993 VS. 1994



# **UNEMPLOYMENT INSURANCE TRUST FUND**

- **BENEFITS PAID TO WORKERS UNEMPLOYED THROUGH NO FAULT OF THEIR OWN**
- **BENEFIT LEVELS SET BY GENERAL ASSEMBLY**
  - MINIMUM WEEKLY BENEFIT \$65**
  - MAXIMUM WEEKLY BENEFIT \$208**
- **BENEFITS DETERMINED BY EARNINGS IN FIRST 4 OF LAST 5 COMPLETED CALENDAR QUARTERS (CALLED THE BASE PERIOD)**
- **OTHERWISE ELIGIBLE CLAIMANTS NOT PAID FOR FIRST WEEK OF UNEMPLOYMENT. THIS IS CALLED THE WAITING WEEK.**

# UNEMPLOYMENT INSURANCE TRUST FUND

- TAXES ARE PAID BY EMPLOYERS ON FIRST \$8,000 OF EACH EMPLOYEE'S WAGES
- TAX RATES ARE SET BY GENERAL ASSEMBLY
  - MINIMUM TAX 0.1% OR \$8 PER EMPLOYEE
  - MAXIMUM TAX 6.2% OR \$496 PER EMPLOYEE
- INDIVIDUAL EMPLOYER'S TAX RATE DETERMINED BY
  - TRUST FUND SOLVENCY LEVEL
  - EMPLOYER'S EXPERIENCE OVER LAST 4 YEARS
- 2 SURTAXES CAN ALSO BE LEVIED
  - POOL TAX USED TO RECOVER BENEFITS THAT CAN'T BE CHARGED TO A SPECIFIC EMPLOYER
  - FUND BUILDING TAX USED TO PUSH SOLVENCY OVER 50%

## **VEC ADMINISTRATIVE FUNDING**

- **EMPLOYERS ALSO PAY A FUTA TAX  
FUTA - FEDERAL UNEMPLOYMENT TAX ACT**
- **FUTA IS A FLAT TAX OF 0.8% ON FIRST \$7,000  
OF EACH EMPLOYEE'S WAGES  
THIS TAX COSTS \$56 PER EMPLOYEE PER YEAR**
- **REVENUE FROM THE FUTA TAX IS USED TO PAY  
FOR SESA ADMINISTRATION AT BOTH THE STATE  
AND NATIONAL LEVELS**
- **VIRGINIA'S EMPLOYERS WILL PAY OVER  
\$150 MILLION IN FUTA TAXES IN 1994  
-\$114 MILLION IS AVAILABLE FOR ADMINISTRATION  
-VEC RECEIVES ABOUT \$60 MILLION FROM U.S. DOL**

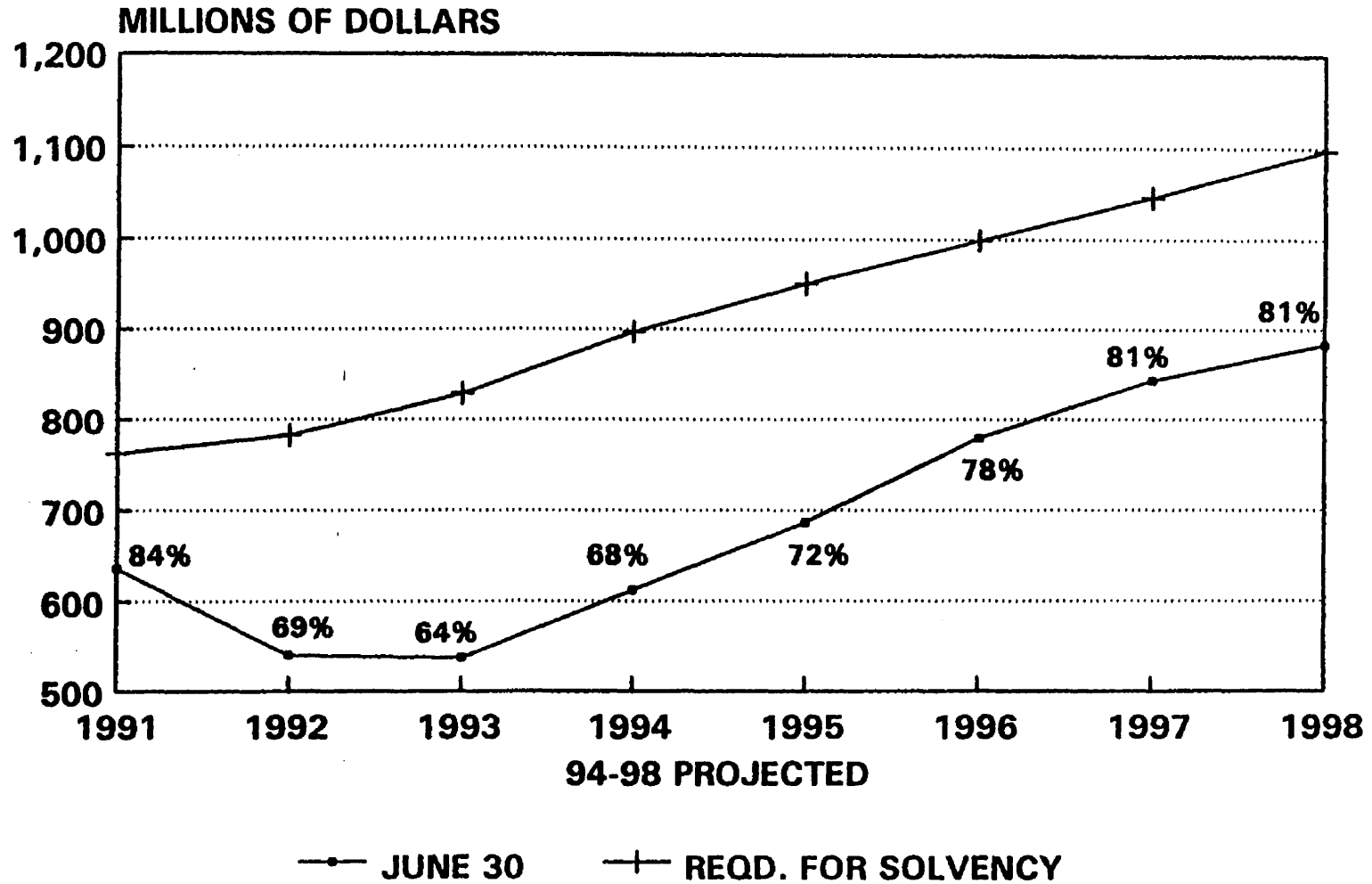


**TRUST FUND DATA  
(MILLIONS OF DOLLARS)**

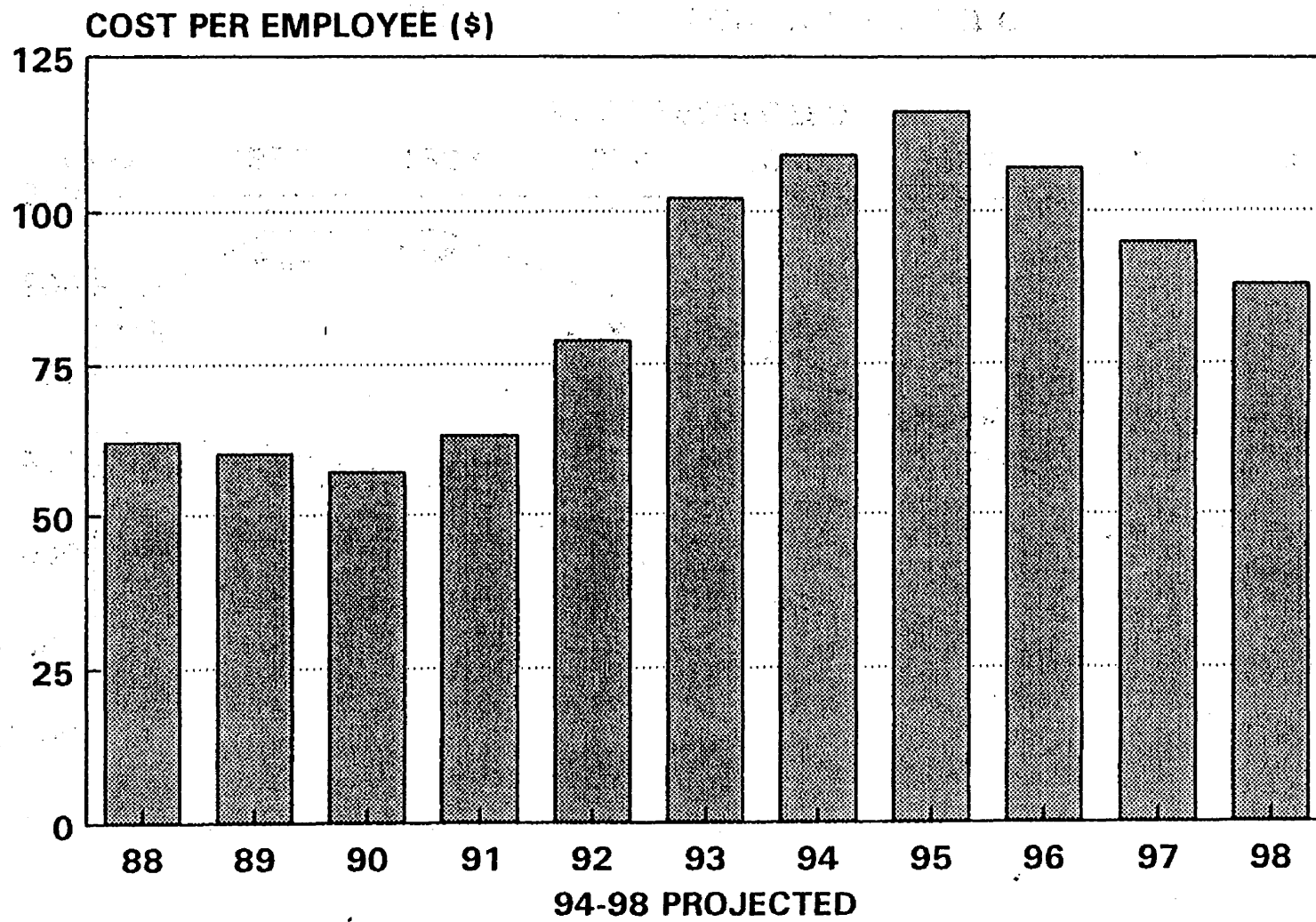
	<b>1993</b>	<b>1994</b>
<b>JANUARY 1 BALANCE</b>	<b>\$498.2</b>	<b>\$544.7</b>
<b>TAX REVENUE</b>	<b>\$236.5</b>	<b>\$271.2</b>
<b>INTEREST REVENUE</b>	<b>\$37.9</b>	<b>\$39.1</b>
<b>BENEFITS</b>	<b>\$227.9</b>	<b>\$217.3</b>
<b>DECEMBER 31 BALANCE</b>	<b>\$544.7</b>	<b>\$637.7</b>
<b>SOLVENCY LEVEL (6/30)</b>	<b>64.8%</b>	<b>68.3%</b>
<b>EXTENDED BENEFITS</b>	<b>\$141.7</b>	<b>\$19.8*</b>

\*PROGRAM EXPIRED APRIL 30, 1994

# TRUST FUND BALANCES



# AVERAGE TAX



# AVERAGE TAX RATES BY INDUSTRY

## EXPERIENCE-RATED ONLY

INDUSTRY	1993*	1994**
AG., FOR., FISH.	0.92%	0.93%
MINING	3.26%	3.12%
CONSTRUCTION	1.85%	1.94%
MANUFACTURING	1.42%	1.51%
TRANS., COMM., UTIL.	1.17%	1.21%
WHOLESALE TRADE	0.90%	0.97%
RETAIL TRADE	0.57%	0.62%
FIN., INS., R.E.	0.63%	0.71%
SERVICES	0.57%	0.64%
	*EXCLUDES POOL TAX OF 0.07%	**EXCLUDES POOL TAX OF 0.10%

AVERAGE BASED ON NUMBER OF EMPLOYERS

# **HB-765**

## **PATRONED BY DELEGATE NEWMAN**

- **CLAIMANT'S SEPARATION FROM LAST 30-DAY EMPLOYER & SUBSEQUENT EMPLOYERS REVIEWED FOR ELIGIBILITY. EACH EMPLOYER PROVIDES SEPARATION REPORTS AND HAS APPEALS RIGHTS.**
- **CHANGE TO LAST 60-DAY EMPLOYER INCREASES NUMBER OF EMPLOYERS IN PROCESS.**
- **MORE DISTANT EMPLOYERS WILL BE HELD LIABLE AND SUFFER BENEFIT CHARGES.**
- **POOL COSTS WILL INCREASE WHERE CHARGEABLE EMPLOYER CANNOT BE LOCATED.**

# **HB-765**

## **PATRONED BY DELEGATE NEWMAN**

- **ROUGH ESTIMATE OF IMPACT OF BILL RANGES FROM 9,313 CLAIMS & \$3.5 MILLION IN BENEFITS TO 20,422 CLAIMS & \$7.5 MILLION IN BENEFITS.**
- **ONLY TRUST FUND IMPACT IS BENEFIT CHARGES NOT ASSIGNABLE TO ANY EMPLOYER. THOSE GO TO POOL COSTS & POTENTIALLY AFFECT THE POOL TAX. AMOUNT OF THESE BENEFIT CHARGES ASSIGNABLE TO POOL COST CANNOT BE ESTIMATED.**
- **FOR 1993, ROUGHLY 35% OF ALL INITIAL CLAIMS RESULTED IN NONMONETARY DETERMINATION.**
- **FOR 1993, APPROXIMATELY 1 OF 18 CLAIMS RESULTED IN ADMINISTRATIVE APPEAL, & NEARLY 1 OF 6 OF THOSE WERE APPEALED TO THE NEXT LEVEL.**

## **WAIVING OVERPAYMENTS FOR VEC ADMINISTRATIVE ERROR**

- **SECTION 60.2-633 OF *CODE OF VIRGINIA* PROVIDES THAT PERSON RECEIVING BENEFIT OVERPAYMENT IS LIABLE TO REPAY.**
- **IN FY 93-94, TOTAL OVERPAYMENTS FROM VEC ERROR ESTIMATED AT \$88,074.**
- **IF THE COST OF WAIVING OVERPAYMENTS IS ASSIGNED TO POOL COSTS, THE COST WOULD HAVE TO AVERAGE \$0.8 MILLION FOR 3 YEARS BEFORE IMPACTING EMPLOYERS' POOL TAXES.**
- **THE EFFECT ON THE TRUST FUND OF OVERPAYMENTS DUE TO VEC ERROR IS NEGLIGIBLE.**

LD1148382

## HOUSE BILL NO. 765

Offered January 25, 1994

A BILL to amend and reenact §§ 60.2-528, 60.2-618, and 60.2-619 of the Code of Virginia, relating to unemployment compensation: obligations of last sixty-day employer.

Patrons—Newman, Forbes, Griffith and Ingram; Senator: Bell

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-528, 60.2-618, and 60.2-619 of the Code of Virginia are amended and reenacted as follows:

§ 60.2-528. Individual benefit charges.

A. An individual's "benefit charges" shall be computed in the following manner:

1. For each week benefits are received, a claimant's "benefit charges" shall be equal to his benefits received for such week.

2. For each week extended benefits are received, pursuant to § 60.2-610 or § 60.2-611, a claimant's "benefit charges" shall be equal to one-half his benefits received for such week. However, a claimant's "benefit charges" for extended benefits attributable to service in the employ of a governmental entity referred to in subdivisions 1 through 3 of subsection A of § 60.2-213 shall be equal to the full amount of such extended benefit.

3. For each week partial benefits are received, the claimant's "benefit charges" shall be computed (i) in the case of regular benefits as in subdivision 1 of this subsection, or (ii) in the case of extended benefits as in subdivision 2 of this subsection.

B. 1. The employing unit from whom such individual was separated, resulting in the current period of unemployment, shall be the most recent employing unit for whom such individual has performed services for remuneration during ~~thirty~~ sixty days, whether or not such days are consecutive. If such individual's unemployment is caused by separation from an employer, such individual's "benefit charges" for such period of unemployment shall be deemed the responsibility of the last ~~thirty-sixty~~ day employer prior to such period of unemployment.

2. Any employer charged with benefits paid shall be notified of the charges quarterly by the Commission. The amount specified shall be conclusive on the employer unless, not later than thirty days after the notice of benefit charges was mailed to its last known address or otherwise delivered to it, the employer files an appeal with the Commission, setting forth the grounds for such an appeal. Proceedings on appeal to the Commission regarding the amount of benefit charges under this subsection or a redetermination of such amount shall be in accordance with the provisions of § 60.2-500. The decision of the Commission shall be subject to the provisions of § 60.2-500. Any appeal perfected pursuant to the provisions of this section shall not address any issue involving the merits or conditions of a claimant's separation from employment.

C. No "benefit charges" shall be deemed the responsibility of an employer of:

1. An individual whose separation from the work of such employer arose as a result of a violation of the law by such individual, which violation led to confinement in any jail or prison;

2. An individual who voluntarily left employment in order to accept other employment, genuinely believing such employment to be permanent;

3. An individual with respect to any weeks in which benefits are claimed and received after such date as that individual refused to accept an offer of rehire by the employer because such individual was in training with approval of the Commission pursuant to § 60.2-613;

4. An individual who voluntarily left employment to enter training approved under § 236 of the Trade Act of 1974 (19 U.S.C. § 2296 et seq.);

5. An individual hired to replace a member of the Reserve of the United States Armed



1 Forces or the National Guard called into active duty as a result of Operation Desert Shield  
2 or Operation Desert Storm and whose employment is terminated concurrent with and  
3 because of that member's return from active duty; or

4 6. An individual who left employment voluntarily with good cause due to a personal  
5 bona fide medical reason caused by a non-job-related injury or medical condition.

6 § 60.2-618. Disqualification for benefits.

7 An individual shall be disqualified for benefits upon separation from the last employing  
8 unit for whom he has worked ~~thirty~~ sixty days or from any subsequent employing unit

9 1. For any week benefits are claimed until he has performed services for an employer  
10 during ~~thirty~~ sixty days, whether or not such days are consecutive, and subsequently  
11 becomes totally or partially separated from such employment, if the Commission finds such  
12 individual is unemployed because he left work voluntarily without good cause. As used in  
13 this chapter "good cause" shall not include (i) voluntarily leaving work with an employer  
14 to become self-employed, or (ii) voluntarily leaving work with an employer to accompany  
15 or to join his or her spouse in a new locality. An individual shall not be deemed to have  
16 voluntarily left work solely because the separation was in accordance with a seniority-based  
17 policy.

18 2. For any week benefits are claimed until he has performed services for an employer  
19 during ~~thirty~~ sixty days, whether or not such days are consecutive, and subsequently  
20 becomes totally or partially separated from such employment, if the Commission finds such  
21 individual is unemployed because he has been discharged for misconduct connected with  
22 his work.

23 3. a. If it is determined by the Commission that such individual has failed, without good  
24 cause, either to apply for available, suitable work when so directed by the employment  
25 office or the Commission or to accept suitable work when offered him. The disqualification  
26 shall commence with the week in which such failure occurred, and shall continue for the  
27 period of unemployment next ensuing until he has performed services for an employer  
28 during thirty days, whether or not such days are consecutive, and subsequently becomes  
29 totally or partially separated from such employment.

30 b. In determining whether or not any work is suitable for an individual, the Commission  
31 shall consider the degree of risk involved to his health, safety and morals, his physical  
32 fitness and prior training, his experience, his length of unemployment and the accessibility  
33 of the available work from his residence.

34 c. No work shall be deemed suitable and benefits shall not be denied under this title to  
35 any otherwise eligible individual for refusing to accept new work under any of the  
36 following conditions:

37 (1) If the position offered is vacant due directly to a strike, lockout, or other labor  
38 dispute;

39 (2) If the wages, hours, or other conditions of the work offered are substantially less  
40 favorable to the individual than those prevailing for similar work in the locality; or

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

43 4. For fifty-two weeks, beginning with the date of the determination or decision, if the  
44 Commission finds that such individual, within thirty-six calendar months immediately  
45 preceding such determination or decision, has made a false statement or representation  
46 knowing it to be false, or has knowingly failed to disclose a material fact, to obtain or  
47 increase any benefit or payment under this title, the unemployment compensation of any  
48 other state, or any other program of the federal government which is administered in any  
49 way under this title, either for himself or any other person. Additionally, such individual  
50 shall be ineligible for benefits until he has repaid the Commission the sum which has been  
51 fraudulently obtained.

52 5. If such separation arose as a result of an unlawful act which resulted in a conviction  
53 and after his release from prison or jail until he has performed services for an employer  
54 for thirty days, whether or not such days are consecutive, and subsequently becomes totally

1 or partially separated from such employment.

2 § 60.2-619. Determinations and decisions by deputy; appeals therefrom.

3 A. 1. A representative designated by the Commission as a deputy, shall promptly  
4 examine the claim. On the basis of the facts found by him, the deputy shall either:

5 a. Determine whether or not such claim is valid, and if valid, the week with respect to  
6 which benefits shall commence, the weekly benefit amount payable and the maximum  
7 duration thereof; or

8 b. Refer such claim or any question involved therein to any appeal tribunal or to the  
9 Commission, which tribunal or Commission shall make its determination in accordance with  
10 the procedure described in § 60.2-620.

11 2. When the payment or denial of benefits will be determined by the provision of  
12 subdivision 2 of § 60.2-612 the deputy shall promptly transmit his full finding of fact with  
13 respect to that subsection to any appeal tribunal, which shall make its determination in  
14 accordance with the procedure described in § 60.2-620.

15 B. Upon the filing of an initial claim for benefits, the Commission shall cause an  
16 informatory notice of such filing to be mailed to the most recent ~~thirty~~ ~~sixty~~-day employing  
17 unit of the claimant and all subsequent employing units, and any reimbursable employing  
18 units which may be liable for reimbursement to the Commission for any benefits paid.  
19 However, the failure to furnish such notice shall not have any effect upon the claim for  
20 benefits.

21 C. Notice of determination upon a claim shall be promptly given to the claimant by  
22 delivering or by mailing such notice to the claimant's last known address. In addition,  
23 notice of any determination which involves the application of the provisions of § 60.2-618,  
24 together with the reasons therefor, shall be promptly given in the same manner to the  
25 most recent ~~thirty~~ ~~sixty~~-day employing unit by whom the claimant was last employed and  
26 any subsequent employing unit which is a party. The Commission may dispense with the  
27 giving of notice of any determination to any employing unit and such employing unit shall  
28 not be entitled to such notice if it has failed to indicate prior to the determination, as  
29 required by regulation promulgated by the Commission, that the claimant may be ineligible  
30 or disqualified under any provision of this title. The deputy shall promptly notify the  
31 claimant of any decision made by him at any time which in any manner denies benefits to  
32 the claimant for one or more weeks.

33 D. Such determination or decision shall be final unless the claimant or any such  
34 employing unit files an appeal from such determination or decision (i) within twenty-one  
35 calendar days after the delivery of such notification, (ii) within twenty-one calendar days  
36 after such notification was mailed to his last known address, or (iii) within twenty-one days  
37 after such notification was mailed to the last known address of an interstate claimant. For  
38 good cause shown the twenty-one-day period may be extended.

39 E. Benefits shall be paid promptly in accordance with a determination or  
40 redetermination under this chapter, or decision of an appeal tribunal, the Commission, the  
41 Board of Review or a reviewing court under §§ 60.2-625 and 60.2-631 upon the issuance of  
42 such determination, redetermination or decision, regardless of the pendency of the period  
43 to file an appeal or petition for judicial review that is provided in this chapter, or the  
44 pendency of any such appeal or review. Such benefits shall be paid unless or until such  
45 determination, redetermination or decision has been modified or reversed by a subsequent  
46 redetermination or decision, in which event benefits shall be paid or denied for weeks of  
47 unemployment thereafter in accordance with such modifying or reversing redetermination  
48 or decision. If a decision of an appeal tribunal allowing benefits is affirmed in any amount  
49 by the Commission, benefits shall continue to be paid until such time as a court decision  
50 has become final so that no further appeal can be taken. If the Commission's decision is  
51 finally modified or reversed to deny benefits, the modification or reversal shall apply to  
52 any weeks of unemployment that begin after the final decision. If an appeal is taken from  
53 the Commission's decision, benefits paid shall result in a benefit charge to the account of  
54 the employer under § 60.2-530 only when, and as of the date on which, as the result of an

1 appeal, the courts finally determine that the Commission should have awarded benefits to  
2 the claimant or claimants involved in such appeal.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

Official Use By Clerks	
Passed By	
The House of Delegates	Passed By The Senate
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
substitute w/amdt <input type="checkbox"/>	substitute w/amdt <input type="checkbox"/>
Date: _____	Date: _____
_____	_____
Clerk of the House of Delegates	Clerk of the Senate



DEC 22 1994

**COMMONWEALTH of VIRGINIA***Virginia Employment Commission*

703 East Main Street

Kenneth A. Bolles  
CommissionerP. O. Box 1358  
Richmond, Virginia 23211-1358

December 21, 1994

The Honorable Elliot S. Schewel, Chairman  
Select Committee Studying the Funding Requirements of  
the Unemployment Compensation Act  
P.O. Box 6800  
Lynchburg, Virginia 24505

Dear Senator Schewel:

I am pleased to provide you information in response to several items which you requested during my appearance before the Select Committee at its October 1994 meeting.

Replacement Ratio

Concerning the replacement ratio of unemployment benefits to wages, I have enclosed a comprehensive list of national data as of the end of calendar year 1993, the most recent period for which data is available. (Appendix A). Virginia's average weekly wage was \$473. The maximum benefit amount of \$208 replaces 44% of that, just under the national average of 46%. Furthermore, Virginia is tied with four other states for the highest minimum weekly benefit amount replacement ratio. The Commonwealth's minimum weekly benefit amount of \$65 replaces 14% of the average weekly wage, above the national average of 10%.

Virginia Ranking

You also asked for information as to why the Commonwealth ranks second to last among jurisdictions in the percentage of unemployed who receive unemployment benefits. The enclosed paper entitled, "Payment of Benefits to Unemployed Virginians," gives several possible reasons. (Appendix B).

*The Virginia Employment Commission is an equal opportunity employer/program.  
Auxiliary aids and services are available upon request to individuals with disabilities.*

*Telecommunications Device for the Deaf (804) 371-8050*

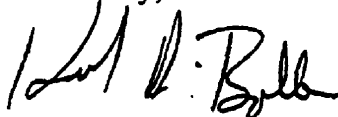
The Honorable Elliot S. Schewel  
Page 2  
December 21, 1994

Initial Claims Filed

During calendar year 1993, individuals filed 292,684 initial claims for benefits with the Virginia Employment Commission (VEC).

I hope this is fully responsive to your requests. Please telephone me at (804) 786-3001 should you have any questions or desire additional information. I look forward to working with you in the future.

Sincerely,



Kenneth A. Bolles

Enclosures

c: Members of the Select Committee Studying the Funding Requirements of the  
Unemployment Compensation Act  
✓ Arlen Bolstad, Senior Staff Attorney  
Danny LeBlanc, President, Virginia AFL-CIO

im

## APPENDIX B

### VIRGINIA EMPLOYMENT COMMISSION INFORMATION PAPER

#### PAYMENT OF BENEFITS TO UNEMPLOYED VIRGINIANS

##### INTRODUCTION

According to second quarter 1994 data, the most recent available from the U.S. Department of Labor, Virginia ranks second from last in the percentage of its unemployed receiving unemployment insurance (UI) benefits, currently 17.1 percent. Nationally, 33.1 percent of the unemployed receive benefits. Vermont ranks number one, with 64.5 percent; South Dakota is last with 17.0 percent.

Because eligibility criteria for unemployment compensation are established pursuant to state law, there is significant variation among the state UI systems<sup>1</sup> in the percentage of unemployed persons qualifying for benefits. This is but one of the reasons for the contrast in the percentage of the unemployed population receiving benefits from one state to the next. A state's demographics and economic condition also play direct roles.

##### FACTORS INFLUENCING VIRGINIA'S RANKING

###### **Wages and Length of Employment**

- **The level of income a claimant must earn in the base period to qualify for benefits in Virginia is \$3,250, the second highest in the nation.**

The base period consists of the first four of the last five completed calendar quarters before a claim is filed. Only Oklahoma, at \$4,280, has a higher base period requirement. Hawaii, with a threshold of only \$130, maintains the lowest such requirement.

- **Virginia requires earnings be made in two quarters, but does not specify a**

---

<sup>1</sup> State UI systems include Puerto Rico, the District of Columbia, and the U.S. Virgin Islands.

**minimum amount for any given quarter.**

Thirty-four states require that the income be earned in at least two separate quarters.

### **Voluntarily Leaving Work**

- **In Virginia, individuals who voluntarily quit their jobs without good cause are disqualified for benefits.**

All states have laws restricting eligibility in cases of voluntary departure from employment. To receive benefits in the Commonwealth, individuals must have compelling reasons to leave work, such that there was no other reasonable alternative.

Unlike most states, Virginia has a statutory requirement disqualifying those who quit work to accompany a spouse to another location. This requirement, which applies to all claimants, has a particularly significant impact in Virginia with its large, transient military population. (Virginia, at 5.2 percent, ranks third among all states in military personnel as a percentage of nonagricultural employment.)

### **Work Search Requirements**

- **Continuing eligibility criteria also limit payment of claims.**

Virginia requires claimants to report their job search efforts by providing a list of prospective employers contacted. While all states require that claimants be available for possible employment, this stricter requirement prohibits payment on some claims and may act as a disincentive to file for benefits.

### **Changing Industry Mix**

- **Employment in Virginia has continued to shift from manufacturing to services and retail trade, a trend reflecting a lower rate of qualified claims.**

From 1980 to 1993 manufacturing's share of nonagricultural employment in Virginia fell from 19.2 percent to 13.9 percent. The national manufacturing average in 1993 was 16.2 percent; southeastern states varied from 2.1 percent in the District of Columbia to 26.1 percent in North Carolina. Manufacturing workers traditionally

enjoy stable employment and high wages, and have been found much more likely than other laid-off workers to file for unemployment benefits.<sup>2</sup>

Employment in retail trade in Virginia has increased from 16.0 percent to 17.7 percent between 1980 and 1993, while employment in service industries increased from 18.9 percent to 27.3 percent. Retail trade and some service workers are more likely to be transitory and to receive lower pay, making them less likely to qualify.

### Unemployment Rate

- For second quarter 1994, the most recent period for which comparative data is available, Virginia had the twenty-first lowest unemployment rate in the nation at 5.1 percent. (The October 1994 Virginia unemployment rate was 4.5%.)

There is a significant positive correlation between the unemployment rate and payment of benefits.<sup>3</sup> A reduced filing rate for unemployment benefits is expected in better job markets since those who anticipate getting jobs file for benefits less frequently. Unemployment rates for southeastern states are listed in Table 1.

### Federal Civilian And Military Employment

- Virginia's high percentage of military and federal workers tends to reduce the apparent percentage of total unemployed receiving benefits.

Virginia ranks fourth among all states in federal civilian employees as a percentage of nonagricultural employment (6.0 percent). These workers are counted in the unemployment rate but receive federal rather than state UI benefits.

As noted, Virginia ranks third among all states in military personnel as a percentage of nonagricultural employment (5.2 percent). The national average is 1.1 percent. Military personnel, like federal employees, receive federal, rather than state, UI benefits.

---

<sup>2</sup> Walter Corson and Walter Nicholson, *An Examination of Declining U.I. Claims During the 1980's*, Unemployment Insurance Occasional Paper 88-3., Employment and Training Administration, U.S. Department of Labor, (1988), p. 111.

<sup>3</sup> *Ibid.*, p.121.



## **Requalification For Benefits**

- **Virginia maintains a requirement that claimants who fail to exhaust their benefit eligibility during the benefit year must requalify before collecting future benefits.**

**Requalification in Virginia entails becoming reemployed for at least 30 working days plus base period wage qualification. Nebraska, which requires claimants to work an additional four weeks, is the only other state mandating days of employment to requalify for benefits. Other states have wage requirements.**

## **CONCLUSION**

**Varying reasons explain the differences among states in the percentage of unemployed receiving UI benefits. Virginia's qualification requirements, disqualification standard for voluntarily quitting work, work search standards, industry mix, federal workforce, and requalification requirements are the major factors which influence its ranking among other states. The degree to which the percentage of benefit eligible unemployed may be adjusted by modifying factors within the control of the General Assembly cannot be reliably forecast.**

**Table 1**

**KEY SECOND QUARTER 1994 U.I. STATISTICS  
SOUTHEASTERN STATES AND UNITED STATES**

	<u>Percent of Unemployed Receiving Benefits</u>	<u>Unemploy- ment Rate</u>	<u>Exhaustion Rate*</u>	<u>Average Weeks Duration*</u>
D.C.	37.1%	7.8%	59.6%	20.8
Florida	21.2%	6.8%	51.0%	14.5
Georgia	19.1%	5.4%	31.4%	10.1
Maryland	31.2%	5.4%	35.1%	15.9
N. Carolina	29.9%	4.0%	25.2%	10.1
S. Carolina	24.1%	6.3%	28.8%	11.8
Tennessee	30.2%	4.6%	33.0%	11.5
Virginia	17.1%	5.1%	34.6%	12.1
U.S. Avg.	33.1%	6.1%	39.6%	15.4

Source: U.S. Department of Labor

\*Year ending 6/30/94