

**FINAL REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

**THE FUNDING
REQUIREMENTS OF THE
VIRGINIA UNEMPLOYMENT
TRUST FUND**

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



SENATE DOCUMENT NO. 27

**COMMONWEALTH OF VIRGINIA
RICHMOND
1999**

MEMBERS OF THE JOINT SUBCOMMITTEE

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DIVISION OF LEGISLATIVE SERVICES -- Legal and Research

Robert A. Omberg, Staff Attorney
Arlen K. Bolstad, Senior Attorney
Cynthia G. Liddy, Senior Operations Staff Assistant

SENATE -- Administrative and Clerical

Thomas C. Gilman, Coordinator, Committee Operations

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**Final Report of the Joint Subcommittee
Studying the Funding Requirements of the
Virginia Unemployment Trust Fund
to
The Governor and the
General Assembly of Virginia
Richmond, Virginia
1999**

TO: The Honorable James S. Gilmore, III, Governor,
and
the General Assembly of Virginia

I. INTRODUCTION

Originally established by SJR 133 in 1977 and regularly continued since then, the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act (the Act) was continued for another year in 1998 by SJR 77 (Appendix A). As an ongoing function, the subcommittee hears an annual briefing on the Unemployment Trust Fund's current and projected adequacy presented by the Virginia Employment Commission (VEC). In addition, the subcommittee reviews and recommends major revisions to the Act, as proposed from time to time by the VEC and by representatives of business and organized labor.

The following General Assembly members were appointed to the joint subcommittee: Senators Reasor from Bluefield, Chichester from Fredericksburg, R. J. Holland from Windsor, Y. B. Miller from Norfolk and Watkins from Chesterfield, together with Delegates Rust from Fairfax, Hull from Falls Church, D. C. Jones from Richmond, J. C. Jones from Norfolk, and Kilgore from Suffolk, Spruill from Chesapeake. Senator Reasor and Delegate Rust served as chairman and vice chairman, respectively.

The joint subcommittee met in Richmond on November 18, 1998, to receive the VEC's trust fund briefing, presented by VEC Commissioner Dr. Thomas J. Towberman. The subcommittee also considered the subject matter contained in SJR 380 (1997) and HB 776 (1998), and adopted legislative recommendations for the 1999 Session of the General Assembly.

II. OVERVIEW OF THE 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 \$3,000 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 \$60; the maximum weekly benefit is \$226.

Virginia Program Administration. The Virginia Employment Commission administers the Commonwealth's unemployment insurance program. Title 60.2 of the Code of Virginia 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; (iv) ensuring that the Unemployment Trust Fund is adequately funded; (v) operating a job service program; (vi) providing employment and unemployment statistics; and (vii) 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. Presently, the Commonwealth receives back from the federal government approximately 39 percent of the amount contributed to the account.

Unemployment 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 sufficient experience, are initially charged a tax rate of 2.5 percent.

Employers are also charged a "pool tax" to cover benefits paid out from 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. VEC BRIEFING

A presentation by Commissioner Towberman to the joint subcommittee on November 18, 1998, highlighted an overall improvement in the Commonwealth's key unemployment statistics from 1997 to 1998 (Appendix B).

Data comparing 1997 and 1998 revealed that:

- Unemployment rates in 1998 have been below the same-month 1997 rates.
- Total initial claims and first payments to claimants were about the same in 1998 as 1997.
- Final payments to claimants in the first eight months of 1998 have been below the 1997 levels.
- Projected overall benefit payouts will be slightly higher in 1998 than in 1997.

The VEC is required to make an Unemployment Trust Fund adequacy calculation each July 1, pursuant to § 60.2-533. A statutory formula is used to calculate how much money the Trust Fund would need to pay unemployment compensation benefits for a 16.5-month period if (i) benefit payments were at the highest levels recorded during the past 20 years and (ii) the Trust Fund received no income during this interval.

The VEC advised the joint subcommittee that the projected solvency level of the Unemployment Trust Fund for the year ending June 30, 1998, was 114.3 percent of adequacy. This figure represents an eight percentage point decrease over the final fiscal year 1997 solvency level of 122.9 percent of adequacy. The eight-percentage-point decline in the solvency level was attributed to employment and wages growing faster than tax revenues.

The balance of the Trust Fund as of January 1, 1998, was \$958.2 million, up from \$877.2 million on January 1, 1997. The VEC expects the Trust Fund balance to increase by about \$15 million by the end of 1998.

Data pertaining to the condition of the Trust Fund also revealed that:

- Tax revenue declined in 1998 due to reduced tax rates.
- Interest revenue increased due to higher trust fund balances and higher interest rates paid by the U. S. Treasury.

- Benefit payments showed little change, despite legislated benefit increases, due to a better economy.

Responding to a request from the joint subcommittee, the VEC also provided the panel with information regarding the wages and benefits available to unemployed individuals in Virginia and other states. This data lists the 1997 average weekly wage in each state (plus the District of Columbia and the national average), as well as minimum and maximum weekly benefit amounts, their percentage of the weekly wage, the average tax paid per employer, and a ranking in each category (Appendix C).

IV. LEGISLATIVE PROPOSALS

A. Senate Joint Resolution 380 (1997)

The joint subcommittee heard testimony concerning SJR 380, introduced during the 1997 Session, by the bill's patron, Senator Stephen Newman (Appendix D). This resolution directed the joint subcommittee to study the current criteria whereby an employer's experience rating is "charged" for unemployment benefits paid to a former employee. The Unemployment Compensation Act presently holds an employer responsible for benefit charges after an employee has worked for that employer for 30 days. SJR 380 directed the joint subcommittee to consider the implications of increasing the time period before an employer's experience rating is influenced by a former employee receiving unemployment benefits. The joint subcommittee requested that the VEC determine the impact of enacting such a provision on employers. The information developed by the VEC is included in Appendix E. At the request of the bill's patron, the joint subcommittee took no further action on this measure.

B. House Bill 776 (1998)

The joint subcommittee also discussed HB 776, a bill introduced by Delegate Creigh Deeds during the 1998 Session, carried over, and referred to joint subcommittee by the House Labor and Commerce committee for further investigation. A copy of HB 776 is attached as Appendix F. After hearing explanations and presentations by the patron and other interested parties, the joint subcommittee recommended that the bill be amended and reconsidered by the Labor and Commerce Committee. The Labor and Commerce Committee did not act favorably on the measure when the bill was reconsidered.

C. House Bill 2127/House Joint Resolution 589 (1999)

The joint subcommittee recommended unanimously to prepare and introduce legislation during the 1999 Session of the General Assembly to continue the ongoing study of the funding requirements of the Unemployment Trust Fund. The General Assembly approved Senate Joint Resolution 589 (Appendix G), continuing the study for another year. The General Assembly also approved House Bill 2127 (Appendix H), which would have created a permanent legislative commission to oversee the funding requirements of the Unemployment Trust Fund. House Bill

2127 was vetoed by the Governor. In his veto message, Governor Gilmore stated that he “remains unconvinced that the creation of the Unemployment Trust Fund Commission as a permanent legislative agency is the best course for the Commonwealth,” and noted that the passage of the SJR 589 “meets the needs of this legislation, without additional cost to the citizens of the Commonwealth that would result from the creation of another permanent agency.”

D. House Bill 2130 (1999)

The joint subcommittee also recommended unanimously to make permanent the new employer tax provisions of § 60.2-526, which otherwise would expire on January 1, 2000. Making these provisions permanent allows employers to become experience-rated as soon as possible. Failure to extend or make these provisions permanent would require employers to pay unemployment taxes at a rate of 2.5 percent for three years. House Bill 2130, patroned by Delegate Rust, repeals the January 1, 2000, expiration date of the applicable provision (Appendix I). Governor Gilmore has approved the bill, and the measure will become effective July 1, 1999.

V. CONCLUSION

While the 1999 Session of the General Assembly made permanent the current new employer tax provisions, the members did not pass any other significant legislation impacting the Unemployment Trust Fund balance. The joint subcommittee will consider and evaluate referred legislative measures and their impact on the Trust Fund balance as it continues its work in 1999.

Respectfully submitted,

Sen. Jackson E. Reasor, Jr., Chairman
Del. John H. Rust, Jr., Vice Chairman
Sen. John H. Chichester
Sen. Richard J. Holland
Sen. Yvonne B. Miller
Sen. John Watkins
Del. Robert D. Hull
Del. Dwight C. Jones
Del. Jerrauld C. Jones
Del. Terry G. Kilgore
Del. Lionell Spruill, Sr.

[summary](#) | [pdf](#)**SENATE JOINT RESOLUTION NO. 77**

Continuing the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Trust Fund.

Agreed to by the Senate, February 17, 1998

Agreed to by the House of Delegates, March 12, 1998

WHEREAS, each year since 1977 a joint subcommittee consisting of five members of the Senate Commerce and Labor Committee and five members of the House Labor and Commerce Committee has met to study the funding requirements of the Virginia Unemployment Trust Fund; and

WHEREAS, such joint subcommittee met in 1996 and 1997 pursuant to Senate Joint Resolution No. 29 (1996) to review the current status and long-term projections for the Unemployment Trust Fund; and

WHEREAS, the Unemployment Trust Fund is financed by Virginia's employers and drawn on by working Virginians who become unemployed and must rely on such Fund for unemployment compensation benefits; and

WHEREAS, continued legislative oversight of such Fund is warranted to ensure its adequacy to meet current and projected benefit payments; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Trust Fund be continued. The joint subcommittee's membership shall remain the same, with any vacancies to be filled by the Senate Committee on Privileges and Elections and the Speaker of the House, as appropriate.

The direct costs of this study shall not exceed \$3,000.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1999 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.



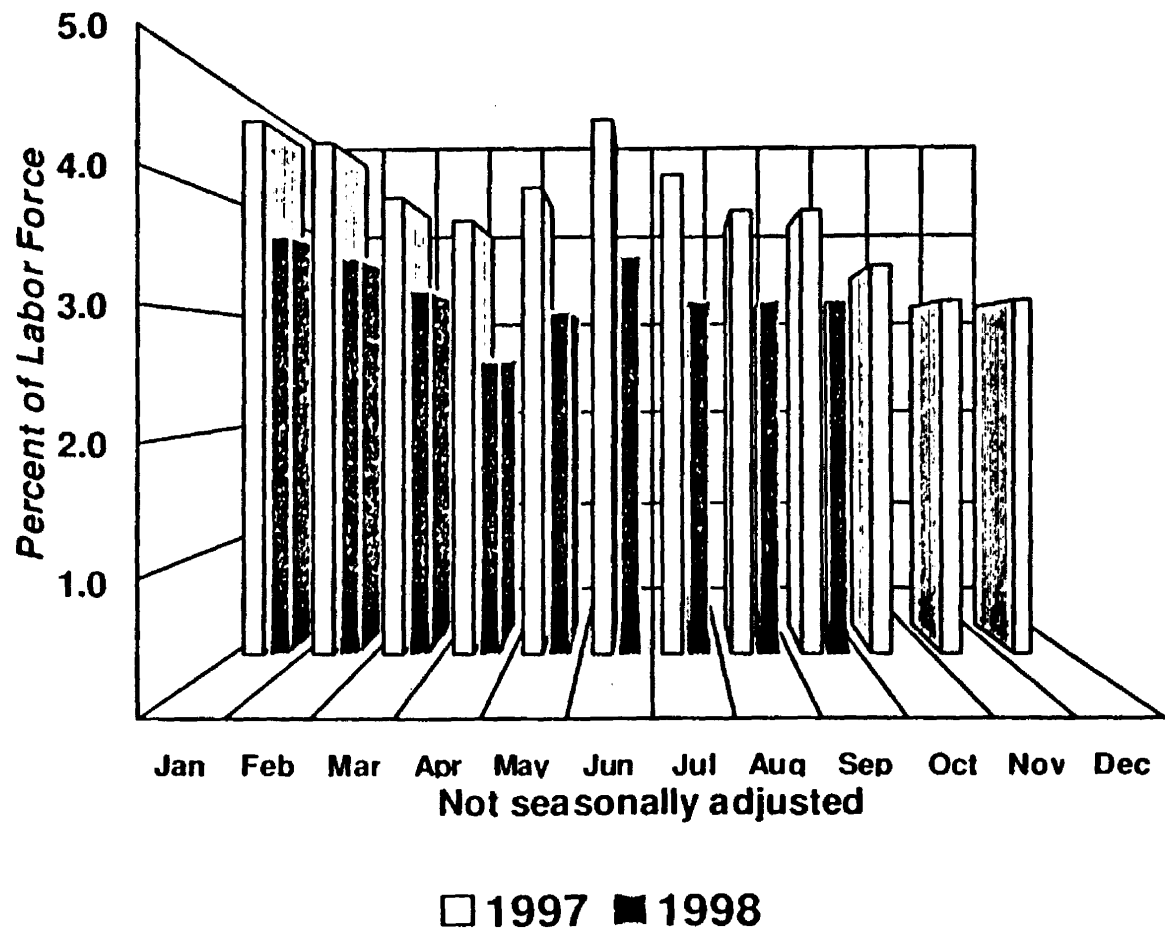
**Virginia Employment
Commission
Trust Fund
Overview**

*Dr. Thomas J. Towberman
Commissioner*

November 1998

Virginia's Unemployment Rate 1997 vs. 1998

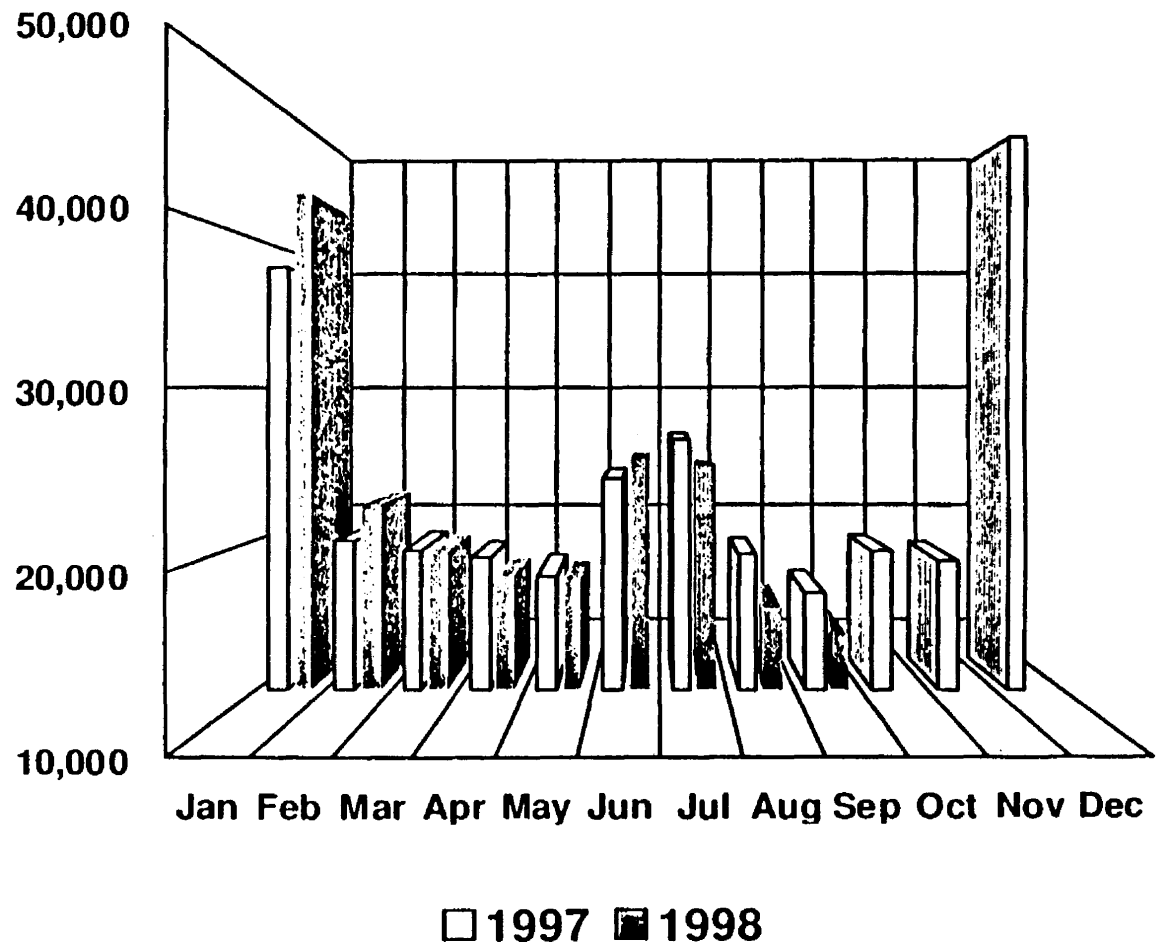
- Unemployment rates in 1998 have been below the same-month 1997 rates.
- Higher unemployment is present in Southwest, Southside, Northern Neck, Eastern Shore, and older urban areas.



U.I. Initial Claims

1997 vs. 1998

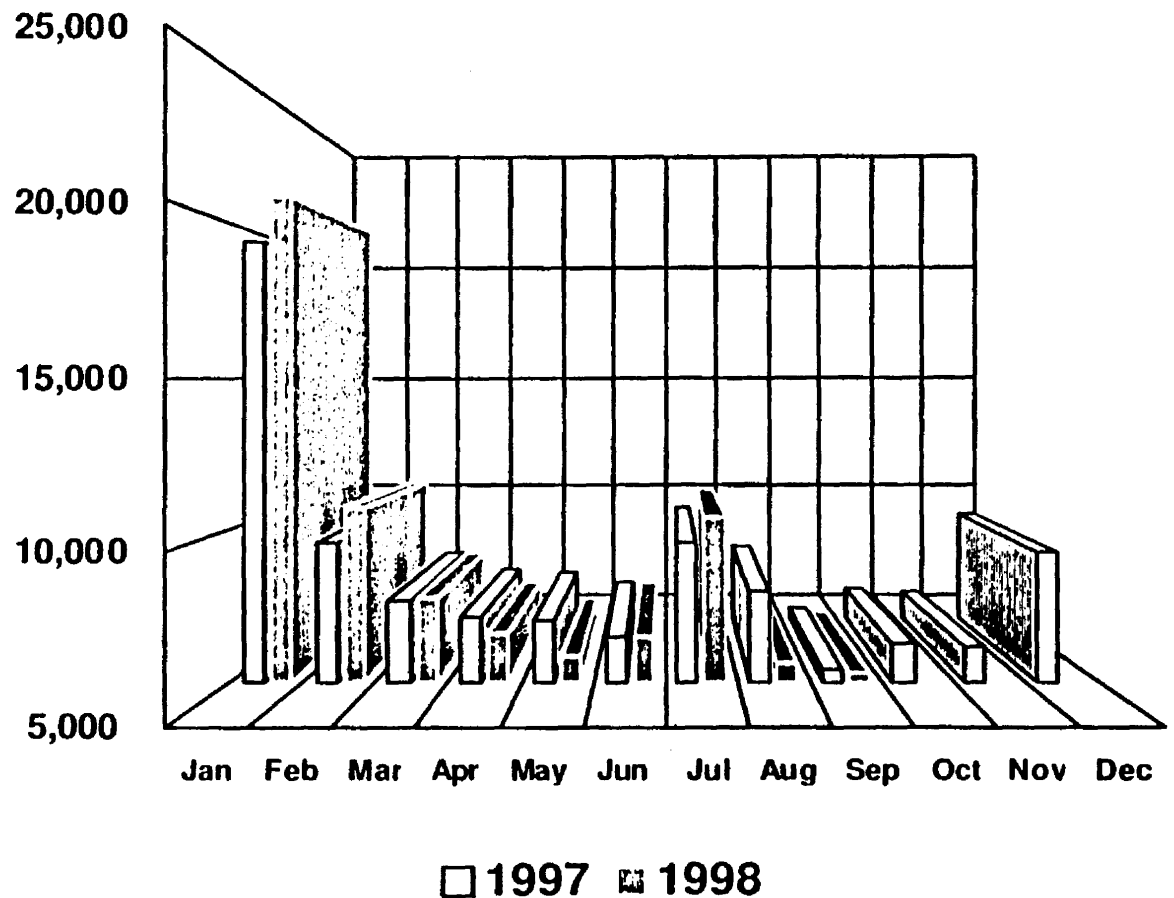
- Total initial claims this year are about the same as 1997 for two reasons:
 - increased labor force
 - return to normal winter weather
- Average duration of unemployment since January 1998 has been 10 weeks.



U.I. First Payments

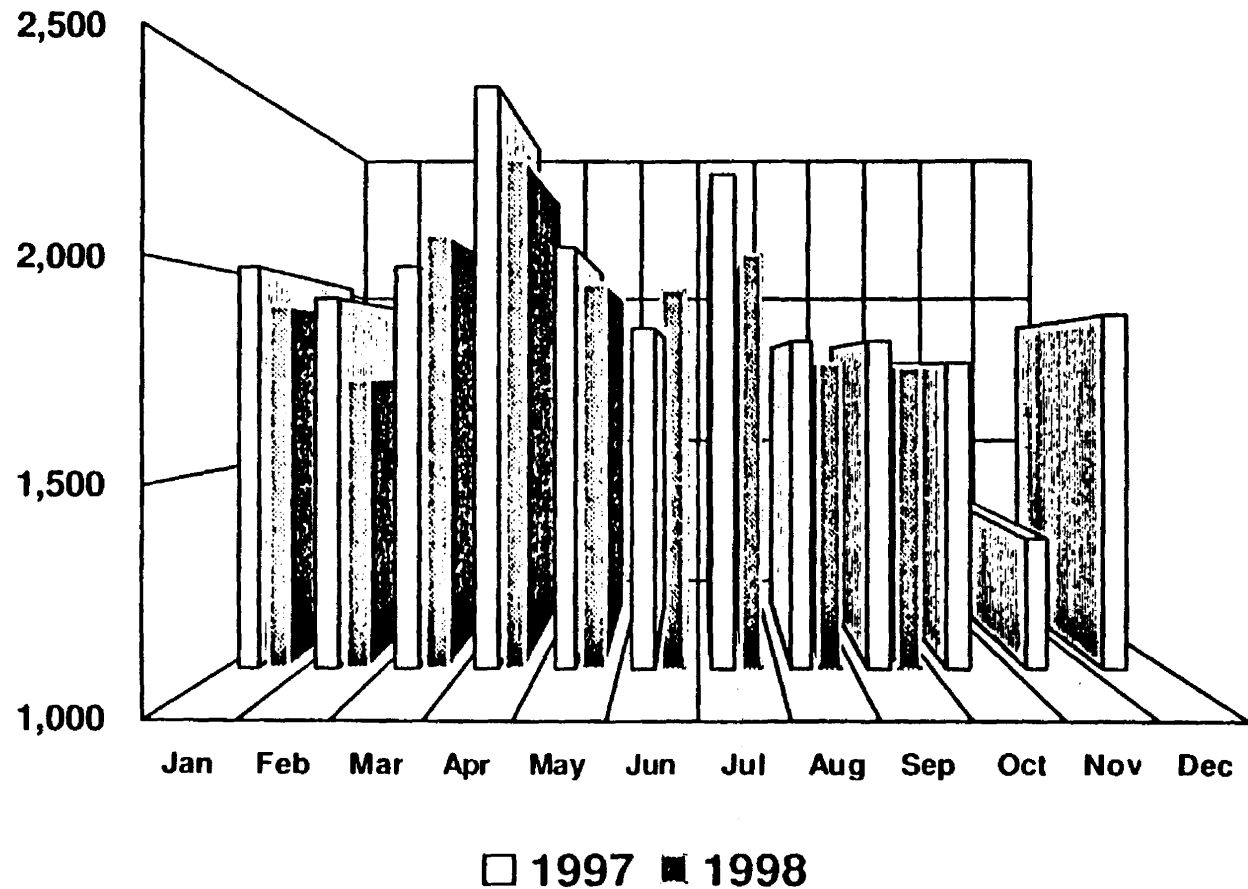
1997 vs. 1998

- A claimant can receive only one First Payment in his benefit year; so, First Payments are a good proxy for the number of claimants receiving unemployment benefits.
- First payments are about the same as last year.



U.I. Final Payments 1997 vs. 1998

- For the first nine months, Final Payments are down 3.9% from 1997 to 1998.
- The exhaustion rate this year has been about 22.3%.



U.I. Benefits

- Benefits are paid to workers unemployed through no fault of their own.
- Benefit levels set by the General Assembly:
 - minimum weekly benefit \$55 (July 1998)
 - maximum weekly benefit \$228 (July 1998)
- Benefits determined by earnings in first 4 of last 5 completed calendar quarters. This is called the Base Period.
- Otherwise eligible claimants are not paid for first week of unemployment. This is called the Waiting Week.

Legislative Recap: Weekly Benefits

<i>Year</i>	<i>Maximum</i>	<i>Minimum</i>	<i>Minimum Qualifying Earnings</i>
1996	\$224	\$65	\$3,250
1997	\$226	\$60	\$3,000
1998	\$228	\$55	\$2,750
1999	\$230	\$50	\$2,500
2000	\$232	\$50	\$2,500

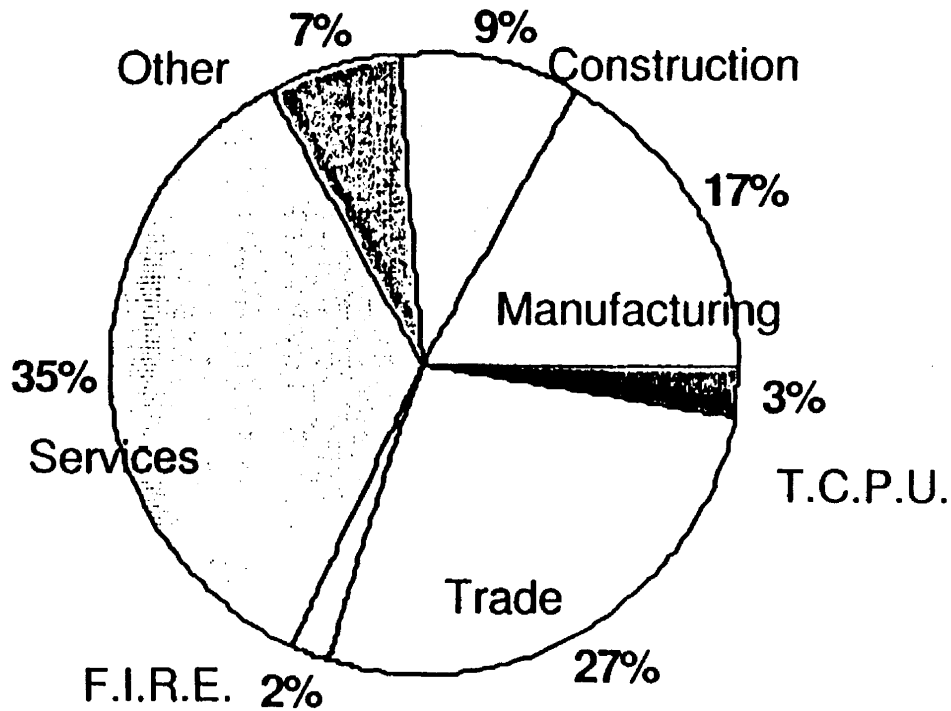
Legislative Recap: Weekly Benefits

- Approximately 2,525 new claimants were monetarily eligible since lower earnings requirement became effective on July 1, 1997.

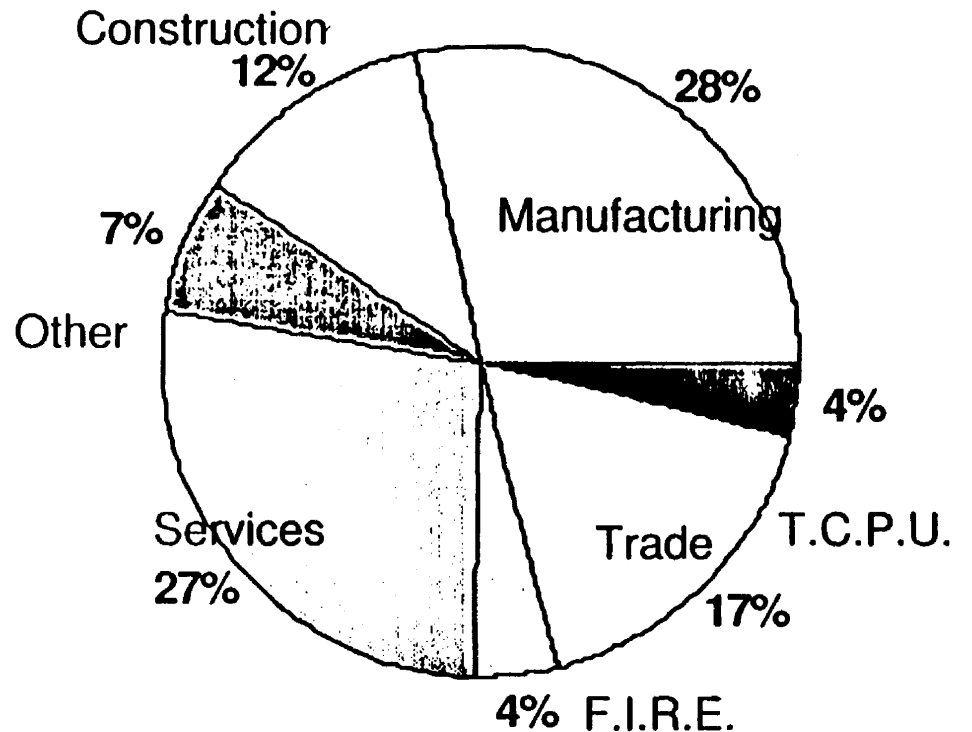
Claimant Profile by Industry and Weekly Benefit Amount

July-December 1997

WBA: \$60-\$64



WBA: \$65-\$226



Other = Ag., Mining, & Gov't.
 T.C.P.U. = Transportation, Communications, & Public Utilities
 F.I.R.E. = Finance, Insurance, & Real Estate

U.I. Taxes

- Taxes are paid by employers to the VEC on first \$8,000 of each employee's wages.
- Tax rates are set by General Assembly:
 - minimum tax 0.0% or \$0 per employee (July 1997)
 - maximum tax 5.4% or \$432 per employee (July 1997)
- Individual employer's tax rate determined by:
 - Trust Fund solvency level
 - employer's experience over last 4 years
- Two surtaxes can also be levied:
 - Pool Tax used to recover benefits that cannot be charged to a specific employer
 - Fund-Building Tax used to push solvency over 50%

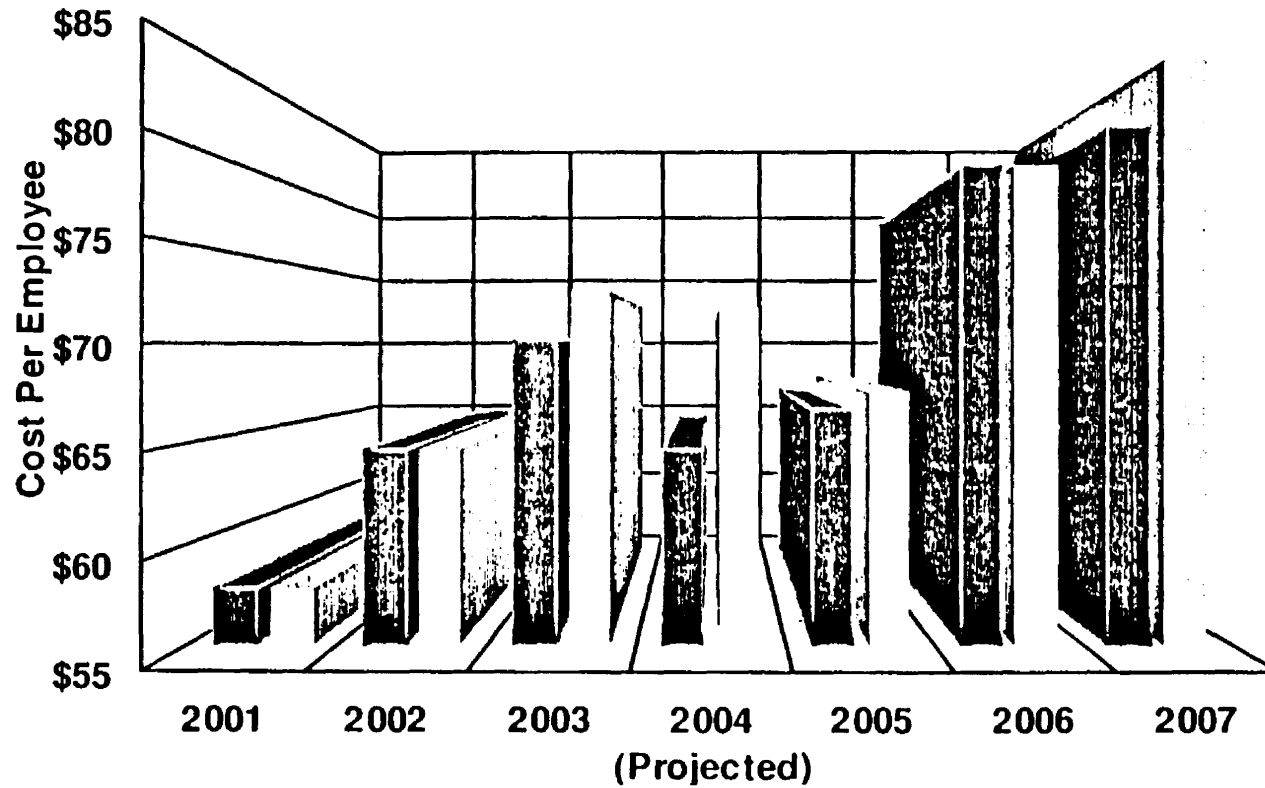
Legislative Recap: Taxes

- In 1997, the Solvency Computation changed:
 - **FROM** adequate reserves for 18 months based on highest 3 of last 25 years
 - **TO** adequate reserves for 16½ months based on highest 3 of last 20 years.
- About 93,000 employers will not pay state UI taxes for 4 years; 92,000 of these employers have less than 50 employees.

New Employer Tax Options

- **OPTION 1:** Current provision (§ 60.2-526) to experience-rate employers as soon as possible is allowed to expire on January 1, 2000. New employers would again pay 2.5 percent for three years.
- **OPTION 2:** Current provision is made permanent.

Average Tax New Employer Tax Options



■ Option 1 □ Option 2

VEC Administrative Funding

- Employers also pay a FUTA tax to the Internal Revenue Service (FUTA - Federal Unemployment Tax Act).
- FUTA is a flat tax of 0.8% on first \$7,000 of each employee's wages which costs \$56 per employee per year.

VEC Administrative Funding

- Revenue from the FUTA tax is used to pay for SESA (State Employment Security Agency) administration at both the state and national levels.
- Virginia's employers paid over \$161 million in FUTA taxes in FY 1997.
- VEC receives about \$56 million from U.S. DOL.

Trust Fund Data

(Millions of Dollars)

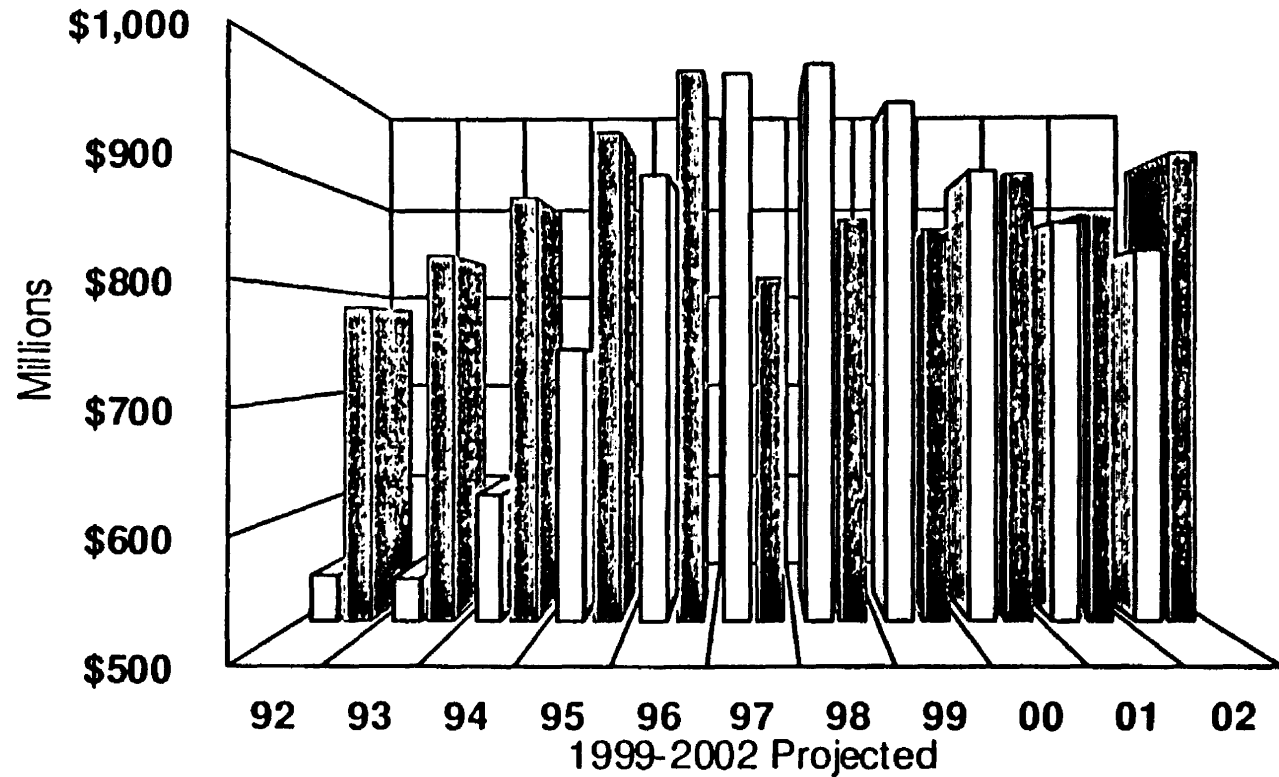
	<i>1997 (Actual)</i>	<i>1998 (Projected)</i>
January 1 Balance	\$877.2	\$958.2 <i>(Actual)</i>
Tax Revenue	\$205.6	\$139.0
Interest Revenue	\$62.4	\$66.4
Benefits	\$187.0	\$189.9
December 31 Balance	\$958.2	\$973.7
Solvency Level (6/30)	122.9%	114.3% <i>(Actual)</i>

Trust Fund Data

- Tax revenue will decline because of legislated tax cut and fewer benefit charges.
- Interest revenue should increase because of higher Trust Fund balances.
- Better economy means benefit payments show little change despite legislated benefit increases.
- The Fund should be up by about \$15 million by the end of the year.
- The solvency level decreased by 8 percentage points from 1997 due to employment and wages growing faster than tax revenues.

Trust Fund Balances

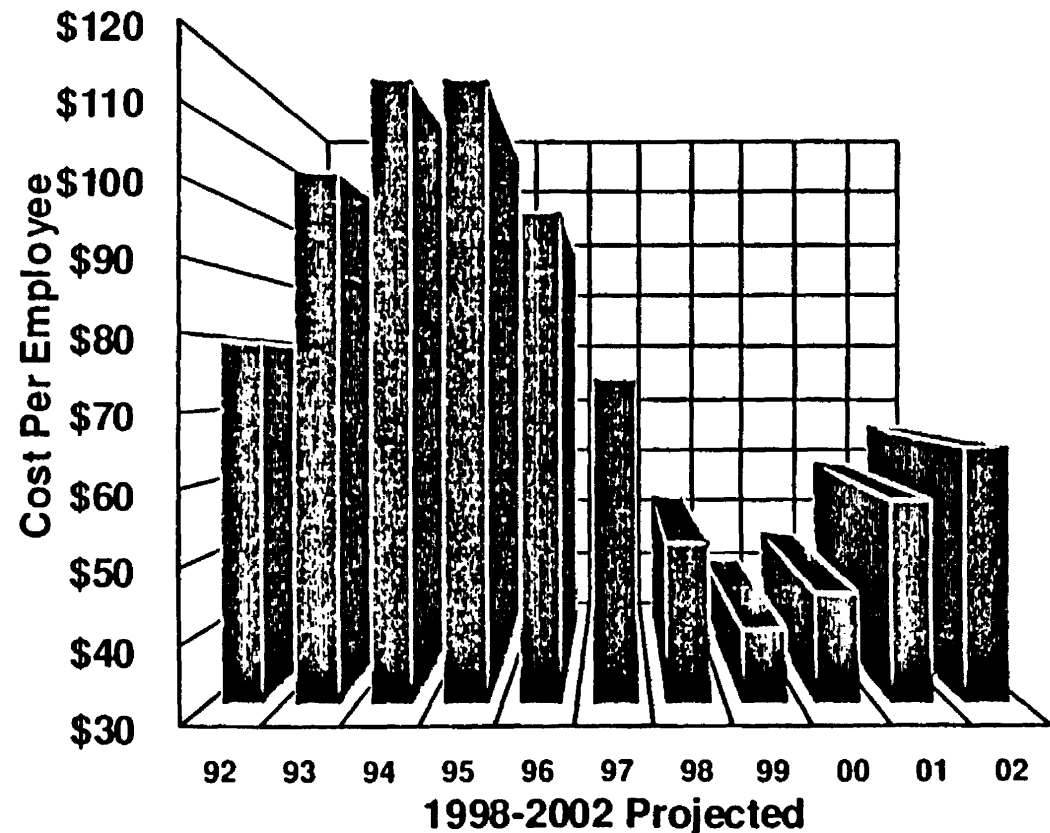
- Solvency will exceed 100% for 4 years.
- Projections assume no further legislated changes in benefits or taxes.



□ June 30 ■ Required for Solvency

Average Tax

- The average tax peaked at \$115 in 1995 and is expected to fall to \$52 in 1998 and \$42 in 1999.
- The 63% decrease in the average tax can be attributed to the good economy and the tax cut out-weighting the benefit increases.
- Projections assume no further legislated changes in benefits or taxes.



Average Tax Rate by Industry

Experience-Rated Only

	<i>1997 Jan-Jun Wages</i>	<i>1997 Jul-Dec Wages</i>	<i>1998 Wages</i>
Retail Trade	0.44%	0.26%	0.22%
Services	0.47%	0.29%	0.26%
Finance, Insurance, & Real Estate	0.54%	0.34%	0.30%
Agriculture, Forestry, & Fishing	0.66%	0.45%	0.41%
Wholesale Trade	0.68%	0.46%	0.41%
Transportation, Communications & Utilities	0.80%	0.55%	0.47%
Manufacturing	0.94%	0.65%	0.56%
Construction	1.04%	0.75%	0.59%
Mining	2.31%	1.79%	1.43%



COMMONWEALTH of VIRGINIA

Virginia Employment Commission

703 East Main Street

Dr. Thomas J. Towberman
Commissioner

Post Office Box 1358
Richmond, Virginia 23218-1358

December 7, 1998

The Honorable John H. Rust, Jr.
Vice-Chairman, Joint Subcommittee Studying the
Funding Requirements of the Virginia
Unemployment Compensation Act
Post Office Box 460
Fairfax, Virginia 22030

Dear Delegate Rust:

In response to the request made at the November 18 meeting of the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act, I am providing data on wages and the benefits available to unemployed individuals in Virginia and other states.

The enclosed table lists the 1997 average weekly wage in each state (plus the District of Columbia and the national average), as well as minimum and maximum weekly benefit amounts, their percentage of the weekly wage, the average tax paid per employee, and a ranking in each category.

I hope this information is helpful in answering the committee members' questions. While these figures were included in the past as a regular part of the Virginia Employment Commission's (VEC) annual presentation, they were dropped for lack of interest by previous committees. As discussed at the November meeting, I will be sure to include them again in my future presentations to the Joint Subcommittee.

If you need more information about the Virginia Unemployment Compensation Act or the VEC, please call me at (804) 786-3001.

Sincerely,

Thomas J. Towberman

Enclosure

cc: Members of the Joint Subcommittee Studying the Funding Requirements of the
Virginia Unemployment Compensation Act
Arlen Bolstad, Senior Staff Attorney, Division of Legislative Services
Rob Omberg, Staff Attorney, Division of Legislative Services

(804) 786-1485 • TDD (804) 371-8050 • FAX (804) 225-3923 • E-Mail VAEMPLOY@AOL.COM
Equal Opportunity Employer/Program

Selected Wage and Unemployment Benefit Data: 1997

1997 Data	Avg. Weekly Wage (\$)	Minimum Weekly Benefit Amount (\$)	% of Avg. Weekly Wage	Rank	Maximum Weekly Benefit Amount (\$)	% of Avg. Weekly Wage	Rank	Avg. Tax (Cost Per Employee) (\$)	Rank
US Avg.	574	37	6%	—	260	45%	—	211	—
Alabama	493	22	4%	37	180	37%	48	80	47
Alaska*	623	44	7%	21	248	40%	43	557	1
Arizona	526	40	8%	20	185	35%	50	105	40
Arkansas	442	49	11%	6	273	62%	6	171	26
California	635	40	6%	29	230	36%	49	245	14
Colorado	571	25	4%	38	257	45%	32	120	36
Connecticut*	744	15	2%	50	353	47%	24	456	6
Delaware	617	20	3%	46	300	49%	22	221	18
DC	813	50	6%	30	309	38%	47	250	13
Florida	493	32	6%	27	250	51%	20	98	41
Georgia	557	37	7%	23	211	39%	46	94	42
Hawaii	531	5	1%	51	351	66%	1	494	3
Idaho	456	44	10%	10	259	57%	10	294	11
Illinois*	632	51	8%	16	257	41%	41	234	16
Indiana	528	50	9%	12	217	41%	38	91	43
Iowa*	473	33	7%	22	223	47%	26	137	33
Kansas	478	67	14%	1	270	56%	11	88	44
Kentucky	487	22	5%	36	246	50%	21	160	29
Louisiana	490	10	2%	49	193	39%	44	131	35
Maine*	471	36	8%	19	210	45%	34	210	21
Maryland*	591	25	4%	40	250	42%	36	153	30
Massachusetts*	684	24	4%	44	362	53%	17	410	8
Michigan	630	60	10%	11	300	48%	23	314	9
Minnesota	579	38	7%	26	314	54%	15	212	19
Mississippi	431	30	7%	23	180	42%	37	84	46
Missouri	528	45	9%	14	175	33%	51	160	28
Montana	411	57	14%	2	230	56%	12	208	23
Nebraska	468	20	4%	39	184	39%	45	56	50
Nevada	548	16	3%	48	247	45%	31	241	15
New Hampshire	560	32	6%	33	228	41%	40	56	49
New Jersey	718	60	8%	15	374	52%	19	465	5
New Mexico	461	43	9%	13	218	47%	25	199	24
New York	742	40	5%	34	300	40%	42	287	12
N Carolina	510	15	3%	47	310	61%	7	85	45
N Dakota	417	43	10%	8	251	60%	8	114	37
Ohio*	555	71	13%	5	257	46%	29	189	25
Oklahoma	457	16	3%	45	251	55%	14	111	39
Oregon	541	73	13%	3	314	58%	9	420	6
Pennsylvania*	576	35	6%	31	362	63%	3	312	10
Rhode Island*	544	43	8%	17	336	62%	5	546	2
S Carolina	476	20	4%	41	221	46%	28	140	32
S Dakota	407	28	7%	24	187	46%	30	35	51
Tennessee	516	30	6%	32	220	43%	35	112	38
Texas	566	44	8%	18	266	47%	27	135	34
Utah	487	18	4%	43	272	56%	13	142	31
Vermont	485	31	6%	28	217	45%	33	208	22
Virginia	551	60	11%	7	226	41%	39	74	48
Washington	585	78	13%	4	365	62%	4	469	4
W Virginia	466	24	5%	35	296	64%	2	232	17
Wisconsin	523	53	10%	9	282	54%	16	210	20
Wyoming	450	17	4%	42	236	52%	18	171	27

*Excludes dependents' benefits.

[summary](#) | [pdf](#)**SENATE JOINT RESOLUTION NO. 380**

Directing the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act to study increasing the work time required for unemployment benefit eligibility.

Agreed to by the Senate, January 30, 1997

Agreed to by the House of Delegates, February 12, 1997

WHEREAS, Senate Joint Resolution No. 29 (1996) continued the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act and required it to report to the Governor and the 1998 Session of the General Assembly; and

WHEREAS, Title 60.2 of the Code of Virginia dictates the criteria for the payment of unemployment compensation; and

WHEREAS, under §60.2-528, an employee's unemployment benefits are charged to an employer after an employee has worked for that employer for 30 days; and

WHEREAS, the unemployment benefits charged to an employer determine the rate of unemployment tax paid by the employer; and

WHEREAS, reducing the tax rate that employers must pay for unemployment compensation increases the funds available for growth of the Commonwealth's economy; and

WHEREAS, the high technology involved in today's manufacturing jobs requires employers to adequately assess and evaluate potential employees prior to offering them permanent employment; and

WHEREAS, offering the right job to the right person increases productivity, diminishes unemployment, and reduces administrative costs associated with hiring permanent employees; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act be directed to study increasing the work time required for unemployment benefit eligibility.

Technical assistance shall be provided by the Virginia Employment Commission. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.



COMMONWEALTH of VIRGINIA

Virginia Employment Commission

703 East Main Street

December 9, 1998

Dr. Thomas J. Towberman
Commissioner

Post Office Box 1358
Richmond, Virginia 23218-1358

The Honorable Richard J. Holland
P.O. Box 285
Windsor, Virginia 23487

The Honorable John C. Watkins
P.O. Box 394
Midlothian, Virginia 23113

The Honorable Robert D. Hull
P.O. Box 2331
Falls Church, Virginia 22042

Dear Gentlemen:

This letter is in response to your request at the November 18 meeting of the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Compensation Act that the Virginia Employment Commission (VEC) provide information about issues arising from Senate Joint Resolution 380 (1997).

As you know, Senator Newman's resolution asked the Joint Subcommittee to study the possibility of extending beyond thirty (30) working days the period of time before which an employer is charged for the unemployment insurance benefits received by a former employee. While discussion has been generally geared towards changing this time period to ninety (90) working days, members have shown interest in the effect of a forty-five (45) or a sixty (60) day period as well.

Based on data from October 1, 1997, through September 30, 1998, approximately 32,000 employer charges (\$14 million in benefits) would have been placed against a previous employer (or the trust fund if no chargeable employer could be located) if the charging provision were changed from 30 to 90 days. A period of 60 days would have affected 16,500 benefit charges (\$8.4 million), and a 45-day charging requirement would have shifted 9,000 charges (\$4.7 million). Employers would remain chargeable for a longer period of time as claimants would have to become re-employed by one employer for 90, 60, or 45 days rather than 30 days to establish a new chargeable employer.

In the same twelve month period, there were 6,860 decisions made on subsequent employer separation issues. In other words, since the *Code of Virginia* requires that a claimant for unemployment insurance benefits have qualifying separations from his last 30-day employer **and** any subsequent employers, the VEC must adjudicate issues arising from recent non-chargeable employers. We estimate that changing to a 90-day charging provision would cause

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this number to double, since there would be an increase in the number of subsequent, non-chargeable employers. This increase would result in an additional administrative cost of approximately \$358,000. (It is very difficult to assign a rate of increase in these decisions to a 45-day or 60-day period.)

To preserve the consistency of the Virginia Unemployment Compensation Act if such a change were adopted, an increase in the time period that a claimant is required to become re-employed before purging a disqualification or requalifying for benefits in a new benefit year also would be necessary. In keeping with the 30-day charge provision, a claimant who is disqualified for benefits must work for one employer for at least 30 days and become subsequently unemployed through no fault of his own in order to again become eligible for unemployment insurance benefits. The same requirement is in place for claimants whose 52-week benefit year has expired – to establish a new benefit year, they must have been re-employed by one employer for 30 days. To ensure that an employer does not get charged twice for one separation, the time period for a claimant to requalify for benefits in these instances must be the same as the employer charge requirement.

As a point of comparison, we have compiled the following information on the six states which, like Virginia, charge the most recent employer for a claimant's unemployment insurance benefits:

Georgia – employer is not charged more than the wages he paid to claimant

Kentucky – charges the most recent 10-week employer

Maine – charges the most recent 5-week employer

New Hampshire – charges the most recent 4-week employer

Rhode Island – charges the most recent 4-week employer (unless the employer is not in base period)

South Carolina – employer is not charged if the wages paid were less than 8 times the claimant's weekly benefit amount

The other 43 states have systems which charge all employers who paid wages in the claimant's base period some proportion of the benefits paid.

I hope this information is helpful as you evaluate the charging requirement and related provisions of the Virginia Unemployment Compensation Act. Please call me at (804) 786-3001 if I can be of further assistance.

Sincerely,



Thomas J. Towberman

cc: The Honorable John H. Rust, Jr., Vice-Chairman, Joint Subcommittee Studying the
Funding Requirements of the Virginia Unemployment Compensation Act
The Honorable Stephen D. Newman, Patron, SJR 380
Arlen Bolstad, Senior Staff Attorney, Division of Legislative Services
Rob Omberg, Staff Attorney, Division of Legislative Services

1998 SESSION

985504202

HOUSE BILL NO. 776

Offered January 26, 1998

A *BILL to amend and reenact §§ 60.2-114, 60.2-116, 60.2-210, 60.2-218, 60.2-501, 60.2-502, 60.2-507, 60.2-509, 60.2-511, and 60.2-532 of the Code of Virginia, and to repeal §§ 60.2-212, 60.2-212.1, 60.2-213 through 60.2-217 and 60.2-219 of the Code of Virginia, relating to unemployment compensation; definition of employment.*

Patron—Deeds

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-114, 60.2-116, 60.2-210, 60.2-218, 60.1-501, 60.2-502, 60.2-507, 60.2-509, 60.2-511, and 60.2-532 of the Code of Virginia are amended and reenacted as follows:

§ 60.2-114. Records and reports.

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453 (i) of the Social Security Act.

C. Each employing unit shall report to the Commission the initial employment of any person, as defined in ~~§ 60.2-212~~, within thirty-five days of such employment, as defined in § 60.2-218. Information to be provided shall include (i) the employee's name, address and social security number and (ii) the employer's name, address, and federal or Virginia Employment Commission identification number. This information may be provided by mailing a copy of the employee's W-4 forms, transmitting magnetic tape in a format prescribed by the Commission, or by any other means determined by the Commission to result in timely reporting. Notwithstanding any other provisions of law, the Commission shall transmit this information to the Department of Social Services pursuant to Title 63.1 within twenty-one days of its receipt by the Commission. The Commission shall have the authority to promulgate regulations to administer this provision, including any exemptions which are needed to reduce unnecessary or burdensome reporting. The Department of Social Services shall reimburse the Commission for administrative costs incurred pursuant to this section.

Any member or employee of the Commission who violates any provision of this section shall be fined not less than \$20 nor more than \$200, or confined in jail for not longer than ninety days, or both.

§ 60.2-116. Reciprocal agreements.

A. Subject to the approval of the Governor, the Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby

1 individuals performing services in this and other states for a single employing unit under
 2 circumstances not specifically provided for in ~~§§ 60.2-212 through 60.2-219~~, § 60.2-218 or under
 3 similar provisions in the unemployment compensation laws of such other states, shall be deemed to be
 4 engaged in employment performed entirely within this Commonwealth or within one of such other
 5 states. Such arrangements may set forth terms whereby the potential right to benefits accumulated
 6 under the unemployment compensation laws of one or more states or under such a law of the federal
 7 government, or both, may constitute the basis for the payment of benefits through a single appropriate
 8 agency of any state under terms which the Commission finds will be fair and reasonable as to all
 9 affected interests and will not result in any substantial loss to the fund.

10 B. Subject to the approval of the Governor, the Commission is also authorized to enter into
 11 arrangements with the appropriate agencies of other states or of the federal government:

12 1. a. Whereby wages or services, upon the basis of which an individual may become entitled to
 13 benefits under the unemployment compensation law of another state or of the federal government,
 14 shall be deemed to be wages for employment by employers for the purposes of §§ 60.2-218, 60.2-602,
 15 60.2-606, 60.2-607, 60.2-609, 60.2-610, and 60.2-611, ~~subdivision 1 of § 60.2-612 and §§ 60.2-614~~
 16 ~~through 60.2-617~~, provided such other state agency or agency of the federal government has agreed to
 17 reimburse the fund for such portion of benefits paid under this title upon the basis of such wages or
 18 services as the Commission finds will be fair and reasonable as to all affected interests; and

19 b. Whereby the Commission will reimburse other state or federal agencies charged with the
 20 administration of unemployment compensation laws with such reasonable portion of benefits, paid
 21 under the law of any such other states or of the federal government upon the basis of employment or
 22 wages for employment by employers, as the Commission finds will be fair and reasonable as to all
 23 affected interests.

24 2. Reimbursements so payable under subdivision 1 b of this subsection shall be deemed to be
 25 benefits for the purposes of §§ 60.2-300 through 60.2-304, but no reimbursement so payable shall be
 26 charged against any employer's account for the purposes of §§ 60.2-526 through 60.2-531. The
 27 Commission is hereby authorized to make to other state or federal agencies and receive from such
 28 other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements
 29 pursuant to this section.

30 C. Subject to the approval of the Governor, the Commission is also authorized to enter into
 31 arrangements with the appropriate agencies of other states or of the federal government:

32 1. Whereby the Commission may deduct, in accordance with the provisions of § 60.2-633, from
 33 unemployment benefits otherwise payable to an individual an amount equal to any overpayment made
 34 to such individual under an unemployment benefit program of the United States or of any other state,
 35 and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose
 36 program such overpayment was made and in accordance with the arrangement between the
 37 Commission and the jurisdiction.

38 2. Whereby the United States agrees to allow the Commission to recover from unemployment
 39 benefits otherwise payable to an individual under an unemployment benefit program of the United
 40 States any overpayments made by the Commission to such individual under this title and not
 41 previously recovered, in accordance with the same procedures that apply under subdivision 1 of this
 42 subsection.

43 The amendments made by this subsection shall apply to recoveries made on or after July 1, 1987,
 44 and shall apply with respect to overpayments made before, on, or after such date.

45 § 60.2-210. Employer.

46 A. The term "employer" means any employing unit which:

47 1. In any calendar quarter in either the current or preceding calendar year paid for some service in
 48 employment wages of \$1,500 or more or such other amount as provided by federal law pursuant to 26
 49 U.S.C. § 3306; or

50 2. For some portion of a day in each of twenty different weeks, whether or not such weeks were
 51 consecutive, in either the current or the preceding calendar year, has or had in its employment at least
 52 one individual, irrespective of whether the same individual was in employment in each such day.

53 B. The term "employer" shall also mean:

54 1. Any employing unit which acquired the organization, trade, separate establishment or business

1 or substantially all the assets thereof, of another which at the time of such acquisition was an
2 employer subject to this title;

3 2. Any employing unit which acquired the organization, trade or business or substantially all the
4 assets thereof, of another employing unit and which, if treated as a single unit with such other
5 employing unit, would be an employer under subsection A of this section;

6 3. Any employing unit which together with one or more other employing units, is owned or
7 controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or
8 which owns or controls one or more other employing units, by legally enforceable means or
9 otherwise, and which if treated as a single unit with such other employing unit, would be an employer
10 under subsection A or B of this section;

11 4. Any employing unit which having become an employer under subsection A of this section or
12 ~~subdivisions~~ subdivision 1, 2, 3, or 6, 7 or 8 of this subsection has not, under § 60.2-509, ceased to be
13 an employer subject to this title;

14 5. For the effective period of its election pursuant to § 60.2-510, any other employing unit which
15 has elected to become fully subject to this title;

16 6. Any employing unit not an employer by reason of any other subdivision of this section (i) for
17 which, within either the current or preceding calendar year, service is or was performed with respect
18 to which such employing unit is liable for any federal tax against which credit may be taken for taxes
19 required to be paid into a state unemployment fund; or (ii) which, as a condition for approval of this
20 title for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required,
21 pursuant to such act, to be an "employer" under this title; or

22 ~~7. Any employing unit for which service in employment, as defined in subdivisions 1 through 3 of~~
23 ~~subsection A of § 60.2-213, is performed;~~

24 ~~8. Any employing unit, for which service in employment, as defined in subdivision 4 of subsection~~
25 ~~A of § 60.2-213, is performed;~~

26 ~~9. For the purposes of subdivision 2 of subsection A of this section and subdivisions 8 and 10 of~~
27 ~~this subsection if any week includes both December 31 and January 1, the days of that week up to~~
28 ~~January 1 shall be deemed one calendar week and the days beginning January 1 another such week.~~

29 ~~10. Any employing unit for which agricultural labor in employment as defined in § 60.2-214 is~~
30 ~~performed; or~~

31 ~~11. Any employing unit for which domestic service in employment as defined in § 60.2-215 is~~
32 ~~performed.~~

33 C. 1. In determining whether an employing unit for which service other than domestic service is
34 also performed is an employer under subsection A or ~~subdivision 10 of subsection B~~ of this section,
35 the wages earned or the employment of an employee performing domestic service shall not be taken
36 into account.

37 2. In determining whether an employing unit for which service other than agricultural labor is also
38 performed is an employer under subsection A or ~~subdivision 11 of subsection B~~ of this section, the
39 wages earned or the employment of an employee performing service in agricultural labor shall not be
40 taken into account. If an employing unit is determined an employer of agricultural labor, such
41 employing unit shall be determined an employer for the purpose of subsection A of this section.

42 § 60.2-218. Employment.

43 ~~Notwithstanding any other provision of §§ 60.2-212 through 60.2-217 and § 60.2-219, the~~ The term
44 "employment" shall mean service with respect to which a tax is required to be paid under any federal
45 law imposing a tax against which credit may be taken for taxes required to be paid into a state
46 unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal
47 Unemployment Tax Act is required to be covered under this title.

48 § 60.2-501. Financing of benefits to employees of nonprofit organizations.

49 A. Benefits paid to employees of nonprofit organizations shall be financed in accordance with the
50 provisions of this section. For the purpose of this section, a nonprofit organization is an organization,
51 or group of organizations, described in § 501 (c) (3) of the United States Internal Revenue Code
52 which is exempt from income tax under § 501 (a) of that Code.

53 B. Any nonprofit organization which, pursuant to ~~subdivision 8 of subsection B of § 60.2-210~~
54 § 60.2-218, is or becomes subject to this title shall pay taxes under the provisions of § 60.2-511,

1 unless it elects, in accordance with this subsection, to pay to the Commission for the unemployment
2 fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid,
3 that is attributable to service in the employ of such nonprofit organization, and that is for weeks of
4 unemployment which begin during the effective period of such election.

5 1. Any nonprofit organization which is or becomes subject to this title may elect to become liable
6 for payments in lieu of taxes for a period of not less than one taxable year beginning with January 1
7 of each year, provided it files with the Commission a written notice of its election within the
8 thirty-day period immediately following such date.

9 2. Any nonprofit organization which becomes subject to this title may elect to become liable for
10 payments in lieu of taxes for a period of not less than twelve months beginning with the date on
11 which such subjectivity begins by filing a written notice of its election with the Commission not later
12 than thirty days immediately following the date of the determination of such subjectivity.

13 3. Any nonprofit organization which makes an election in accordance with subdivision 1 or 2 of
14 this subsection shall continue to be liable for payments in lieu of taxes until it files with the
15 Commission a written notice terminating its election not later than thirty days prior to the beginning
16 of the taxable year for which such termination shall first be effective.

17 4. Any nonprofit organization which has been paying taxes under this title may change to a
18 reimbursable basis by filing with the Commission, not later than thirty days prior to the beginning of
19 any taxable year, a written notice of election to become liable for payments in lieu of taxes. Such
20 election shall not be terminable by the organization for that and the next year.

21 5. The Commission may for good cause extend the period within which a notice of election, or a
22 notice of termination, shall be filed and may permit an election to be retroactive but not any earlier
23 than January 1 of the current calendar year.

24 6. The Commission, in accordance with such regulations as it may prescribe, shall notify each
25 nonprofit organization of any determination which it may make of its status as an employer and of
26 the effective date of any election which it makes and of any termination of such election. Such
27 determinations shall be subject to reconsideration, appeal and review in accordance with the
28 provisions of § 60.2-500.

29 C. Payments in lieu of taxes shall be made in accordance with the provisions of this subsection,
30 including either subdivision 1 or 2.

31 1. a. At the end of each calendar quarter, or at the end of any other period as determined by the
32 Commission, the Commission shall bill each nonprofit organization, or group of such organizations,
33 which has elected to make payments in lieu of taxes for an amount equal to the full amount of
34 regular benefits plus one-half of the amount of extended benefits paid during such quarter or other
35 prescribed period that is attributable to service in the employ of such organization.

36 b. If the final adjudication of a disputed claim finds the claimant totally or partially ineligible for
37 benefits, the nonprofit organization shall be liable for any bill resulting from payments made to the
38 claimant during or prior to the appeal process, whether made by erroneous statutory interpretation,
39 administrative error, or incorrect wage reporting.

40 2. a. Each nonprofit organization that has elected payments in lieu of taxes may request permission
41 to make such payments as provided in this paragraph. Such method of payment shall become effective
42 upon approval by the Commission.

43 b. At the end of each calendar quarter, or at the end of such other period as determined by the
44 Commission, the Commission shall bill each nonprofit organization for an amount representing one of
45 the following:

46 (1) One-tenth of one percent of its total payroll for the preceding calendar year.

47 (2) Such percentage of its total payroll for the immediately preceding calendar year as the
48 Commission shall determine. Such determination shall be based each year on the average benefit costs
49 attributable to service in the employ of nonprofit organizations during the preceding calendar year.

50 (3) For any organization which did not pay wages throughout the four calendar quarters of the
51 preceding calendar year, such percentage of its payroll during such year as the Commission shall
52 determine.

53 c. At the end of each taxable year, the Commission may modify the quarterly percentage of
54 payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient

1 payments.

2 d. At the end of each taxable year, the Commission shall determine whether the total of payments
3 for such year made by a nonprofit organization is more or less than the total amount of regular
4 benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year
5 based on wages attributable to service in the employ of such organization. Each nonprofit organization
6 whose total payments for such year are less than the amount so determined shall be liable for
7 payment of the unpaid balance to the fund in accordance with subdivision 3 of this subsection. If the
8 total payments exceed the amount so determined for the taxable year, all or a part of the excess may,
9 at the discretion of the Commission, be refunded from the fund or retained in the fund as part of the
10 payments which may be required for the next taxable year.

11 3. Payment of any bill rendered under subdivision 1 or 2 of this subsection shall be made not later
12 than thirty days after such bill was mailed to the last known address of the nonprofit organization or
13 was otherwise delivered to it, unless there has been an application for review and redetermination in
14 accordance with subdivision 5 of this subsection.

15 4. Payments made by any nonprofit organization under the provisions of this subsection shall not
16 be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of
17 the organization.

18 5. The amount due specified in any bill from the Commission shall be conclusive on the
19 organization unless, not later than thirty days after the bill was mailed to its last known address or
20 otherwise delivered to it, the organization files an appeal with the Commission, setting forth the
21 grounds for such appeal. Proceedings on appeal to the Commission from the amount of a bill
22 rendered under this subsection or a redetermination of such amount shall be in accordance with the
23 provisions of § 60.2-500. The decision of the Commission shall be subject to the provisions of
24 § 60.2-500.

25 6. Past-due payments of amounts in lieu of taxes shall be subject to the same interest and penalties
26 that, pursuant to § 60.2-519, apply to past-due taxes.

27 § 60.2-502. Bonding of nonprofit organizations.

28 A. In the discretion of the Commission, any nonprofit organization that elects to become liable for
29 payments in lieu of taxes shall be required within thirty days after the effective date of its election (i)
30 to execute and file with the Commission a surety bond approved by the Commission or (ii) to deposit
31 with the Commission money or securities. The amount of such bond or deposit shall be determined in
32 accordance with the provisions of this section.

33 B. The amount of the bond or deposit required by this section shall be a percentage, determined
34 by the Commission, of the organization's taxable wages paid for employment as defined in
35 ~~subdivision 4 of subsection A of § 60.2-213~~ § 60.2-218 for the four calendar quarters immediately
36 preceding the effective date of the election, the renewal date in the case of a bond, or the biennial
37 anniversary of the effective date of election in the case of a deposit of money or securities, whichever
38 date is most recent and applicable. If the nonprofit organization did not pay wages in each of such
39 four calendar quarters, the amount of the bond or deposit shall be as determined by the Commission.

40 C. Any bond deposited under this section shall be in force for a period of not less than two
41 taxable years and shall be renewed with the approval of the Commission, at such time as the
42 Commission may prescribe, but not less frequently than at two-year intervals as long as the
43 organization continues to be liable for payments in lieu of taxes. The Commission shall require
44 adjustments to be made in a previously filed bond as it deems appropriate. If the bond is to be
45 increased, the adjusted bond shall be filed by the organization within thirty days of the date notice of
46 the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered
47 by such bond to pay the full amount of payments in lieu of taxes when due, together with any
48 applicable interest and penalties provided for in subdivision 6 of subsection C of § 60.2-501, shall
49 render the surety liable on such bond to the extent of the bond, as though the surety was such
50 organization.

51 D. Any deposit of money or securities made in accordance with this section shall be retained by
52 the Commission in an escrow account until liability under the election is terminated, at which time it
53 shall be returned to the organization, less any deductions as hereinafter provided. The Commission
54 may deduct from the money deposited under this section by a nonprofit organization or sell the

1 securities it has so deposited to the extent necessary to satisfy any due and unpaid payments in lieu of
 2 taxes and any applicable interest and penalties provided for in subdivision 6 of subsection C of
 3 § 60.2-501. The Commission shall require the organization within thirty days following any deduction
 4 from a money deposit or sale of deposited securities under the provisions of this subsection to deposit
 5 sufficient additional money or securities to make whole the organization's deposit at the prior level.
 6 Any cash remaining from the sale of such securities shall be a part of the organization's escrow
 7 account. The Commission may review the adequacy of the deposit made by any organization. If, as a
 8 result of such review, it determines that an adjustment is necessary, the organization shall be required
 9 to make additional deposit within thirty days of written notice of the determination or the Commission
 10 shall return to it such portion of the deposit as it no longer considers necessary, whichever action is
 11 appropriate. Disposition of income from securities held in escrow shall be governed by the applicable
 12 provisions of the state law.

13 E. If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an
 14 increased amount or to increase or make whole the amount of a previously made deposit, as provided
 15 under this subsection, the Commission may terminate such organization's election to make payments
 16 in lieu of taxes and such termination shall continue for not less than the four consecutive calendar
 17 quarter period beginning with the quarter in which such termination becomes effective; however, the
 18 Commission may extend for good cause the applicable filing, deposit or adjustment period by not
 19 more than thirty days.

20 § 60.2-507. Financing of benefits to employees of governmental entities.

21 A. Any governmental entity which is an employer by virtue of ~~subdivision 7 of subsection B of~~
 22 ~~§ 60.2-210~~ § 60.2-218 shall be permitted to join with one or more other governmental entities to form
 23 a joint account in accordance with regulations prescribed by the Commission.

24 B. Each governmental entity which is an employer by virtue of ~~subdivision 7 of subsection B of~~
 25 ~~§ 60.2-210~~ § 60.2-218 and each joint account formed pursuant to subsection A of this section may
 26 elect to finance benefits to its employees by either taxes as set forth in §§ 60.2-526 through 60.2-533,
 27 or payments in lieu of taxes. Any such election to make payments in lieu of taxes shall be made in
 28 accordance with the provisions of subdivisions 1, 2 and 4 of subsection B of § 60.2-501. Termination
 29 of such election to make payments in lieu of taxes shall be made in accordance with subdivision 3 of
 30 subsection B of § 60.2-501.

31 C. If the election to make payments in lieu of taxes is exercised, payments shall be in an amount
 32 equivalent to the full amount of regular and extended benefits paid that is attributable to service in the
 33 employ of such governmental entity. If benefits paid to an individual are based on wages paid by
 34 more than one employer and one or more employers are liable for payments in lieu of taxes, the
 35 amount payable to the fund by each employer that is liable for such payments shall be determined in
 36 accordance with the provisions of § 60.2-504. Notwithstanding the provisions of this subsection, if the
 37 final adjudication of a disputed claim finds the claimant totally or partially ineligible for benefits, the
 38 governmental entity shall be liable for any payment made to the claimant during or prior to the appeal
 39 process, whether made by erroneous statutory interpretation, administrative error, or incorrect wage
 40 reporting.

41 D. Payments in lieu of taxes by governmental entities as set forth in this section shall be made at
 42 such times and in such manner as the Commission may determine and prescribe by regulation.

43 § 60.2-509. Termination of coverage.

44 A. Except as otherwise provided in this section and § 60.2-510, an employing unit shall cease to
 45 be an employer subject to this title as of January 1 of any year subsequent to December 31, 1972,
 46 only if:

- 47 1. The employer files with the Commission a written application for termination of coverage;
- 48 2. The Commission finds that (i) there were no twenty different days, each day being in a different
 49 week within the preceding calendar year, or (ii) there were no twenty different days, each day being
 50 in a different week within the current calendar year, within which such employing unit employed one
 51 or more individuals in employment subject to this title; and
- 52 3. The Commission finds that such employing unit did not pay in any calendar quarter in the
 53 preceding or current calendar year for service in employment wages of \$1,500 or more.

54 B. ~~Except as otherwise provided in this section and § 60.2-510, an employing unit as defined in~~

1 subdivisions 1 through 4 of subsection A of ~~§ 60.2-213 or § 60.2-214 or § 60.2-215~~, shall cease to be
2 an employer subject to this title as of January 1 of any year, only if it files with the Commission a
3 written application for termination of coverage and the Commission finds that no services performed
4 for such employing unit constitute employment as defined in subdivisions 1 through 4 of subsection A
5 of ~~§ 60.2-213 or § 60.2-214 or § 60.2-215~~.

6 **CB.** Any employing unit which is an employer at the end of any calendar year solely by
7 acquisition during such year as provided in subdivision 1 of subsection B of § 60.2-210, shall cease to
8 be an employer subject to this title as of January 1 of the succeeding calendar year without the filing
9 of the written application required of all other employers, if the Commission finds that there were no
10 twenty different days, each day being in a different week within the preceding or current calendar
11 year that such employing unit and its predecessors in title, treated as a single employing unit:

12 1. Employed one or more individuals subject to this title; and

13 2. Did not pay in any calendar quarter in the preceding or current calendar year for service in
14 employment wages of \$1,500 or more.

15 Whenever any employer, during any completed calendar year, fails to be subject to the payment of
16 taxes solely because no individual has earned wages from such employer during such calendar year,
17 the Commission may, after not less than thirty days' notice in writing mailed to such employer at his
18 last known address, cause such employer to cease to be an employer subject to this title as of January
19 1 of the calendar year in which such notice is given.

20 § 60.2-511. How and when taxes payable.

21 Taxes, as set forth in this and the succeeding article, shall accrue and become payable by each
22 employer for each calendar year in which he is subject to this title. Such taxes shall be based upon
23 wages payable for employment, as defined in ~~§§ 60.2-212 through 60.2-219~~ § 60.2-218, occurring in
24 such calendar year. Such taxes shall become due and be paid by each employer to the Commission
25 for the fund in accordance with such regulations as the Commission may prescribe. Payment of such
26 taxes and the filing of related returns shall be deemed to have been made as of the date of the
27 postmark affixed to such payment and returns by the United States Postal Service, or by receipt given
28 by such representative of the Commission if physical delivery of such payment and related returns is
29 made to an office of the Commission.

30 § 60.2-532. Pool cost charges.

31 A. As of January 1 of each year, to all experience rating tax rates established pursuant to
32 § 60.2-531, to all assigned tax rates established pursuant to §§ 60.2-515, 60.2-526, 60.2-527 and
33 60.2-538, there shall be added the pool cost charges as determined in subsection B of this section.

34 B. The pool cost charge rate rounded to the nearest one-hundredth of a percent shall be determined
35 as follows:

36 1. Pool costs for a given calendar year shall be those costs defined in subdivision 2 of this
37 subsection for the thirty-six consecutive calendar month period ending on June 30 immediately
38 preceding that calendar year. The pool cost charge rate shall be pool costs divided by payrolls for
39 such period.

40 2. Pool costs shall consist of (i) benefit charges which cannot be assigned to an individual
41 employer pursuant to §§ 60.2-210, ~~60.2-212 through 60.2-219~~ and 60.2-218, or subsection C of
42 § 60.2-528, or cannot be charged to an individual employer due to his becoming an inactive account
43 pursuant to § 60.2-210 or § 60.2-509, (ii) the difference in the amount the Commission pays pursuant
44 to subdivision 2 of subsection A of § 60.2-609 and the amount the Commission receives pursuant to
45 subdivision 3 of subsection A of § 60.2-609, and (iii) the difference between the benefit charges of all
46 employers with a maximum experience rating tax rate and the amount of the taxes resulting from
47 applying the maximum experience rating tax rate against the payrolls of the same employers. The
48 term "payrolls" as used in this section shall mean the taxable payroll on which taxes have been paid
49 on or before September 30 immediately following such June 30.

50 3. When the fund balance factor for the most recent twelve-month period ending on June 30 of the
51 immediately preceding calendar year is greater than fifty percent, interest earned on the balance which
52 shall stand to the credit of the account of the Commonwealth of Virginia in the Unemployment Trust
53 Fund in the treasury of the United States shall be subtracted from pool costs, except that in no
54 instance shall pool costs be less than zero.

1 2. That §§ 60.2-212 and 60.2-212.1, 60.2-213 through 60.2-217, and 60.2-219 of the Code of
2 Virginia are repealed.

[summary](#) | [pdf](#)**HOUSE JOINT RESOLUTION NO. 589***Continuing the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Trust Fund.*

Agreed to by the House of Delegates, February 25, 1999

Agreed to by the Senate, February 23, 1999

WHEREAS, each year since 1977 a joint subcommittee consisting of members of the Senate Commerce and Labor Committee and members of the House Labor and Commerce Committee has met to study the funding requirements of the Virginia Unemployment Trust Fund; and

WHEREAS, such joint subcommittee met in 1998 pursuant to Senate Joint Resolution No. 77 (1998) to review the current status and long-term projections for the Unemployment Trust Fund; and

WHEREAS, the Unemployment Trust Fund is financed by Virginia's employers and drawn on by working Virginians who become unemployed and must rely on such fund for unemployment compensation benefits; and

WHEREAS, continued legislative oversight of such fund is warranted to ensure its adequacy to meet current and projected benefit payments; now, therefore, be it


RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying the Funding Requirements of the Virginia Unemployment Trust Fund be continued. The joint subcommittee's membership shall remain the same, with any vacancies to be filled by the Speaker of the House in accordance with the principles of Rule 16 of the Rules of the House of Delegates and the Senate Committee on Privileges and Elections, as appropriate.

The direct costs of this study shall not exceed \$3,000.

The Division of Legislative Services shall provide staff support for the study. All agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

 [Go to \(General Assembly Home\)](#)

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Title 9 a chapter numbered 50, consisting of*
3 *sections numbered 9-379 through 9-382, establishing the Unemployment Compensation and Trust*
4 *Fund Commission.*

5 [H 2127]

6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding in Title 9 a chapter numbered 50, consisting
9 of sections numbered 9-379 through 9-382, as follows:

10 CHAPTER 50.

11 UNEMPLOYMENT COMPENSATION AND TRUST FUND COMMISSION.

12 § 9-379. *Unemployment Compensation and Trust Fund Commission established; purpose.*

13 *The Unemployment Compensation and Trust Fund Commission (the Commission) is established as*
14 *a legislative agency of the Commonwealth. The Commission shall study, report and make*
15 *recommendations on issues of unemployment compensation and Virginia's Unemployment Trust Fund.*

16 § 9-380. *Membership; terms; vacancies; chairman and vice-chairman; compensation.*

17 A. *The Commission shall consist of ten members as follows: five members from the House of*
18 *Delegates, to be appointed by the Speaker of the House in accordance with Rule 16(a) of the House*
19 *of Delegates from the members of the House Committee on Labor and Commerce, and five members*
20 *from the Senate, to be appointed by the Senate Committee on Privileges and Elections from the*
21 *members of the Senate Committee on Commerce and Labor.*

22 B. *All appointments to the Commission shall be for terms of four years. Vacancies occurring other*
23 *than by expiration of term shall be filled for the unexpired term. Whenever any legislative member*
24 *fails to retain his membership in the committee of the house from which he was appointed, he shall*
25 *relinquish his membership on the Commission, and the authority that appointed such member shall*
26 *make an appointment from the appropriate house to complete the term. Any member may be*
27 *reappointed for successive terms.*

28 C. *The members of the Commission shall elect a chairman and a vice-chairman annually.*

29 D. *The members of the Commission shall receive such compensation as is set forth in § 30-19.12*
30 *and shall be reimbursed for their actual expenses incurred in the performance of their duties in the*
31 *work of the Commission.*

32 § 9-381. *Powers and duties of the Commission.*

33 *The Commission shall:*

34 1. *Evaluate the impact of existing statutes and proposed legislation on unemployment*
35 *compensation and Virginia's Unemployment Trust Fund.*

36 2. *Assess the Commonwealth's unemployment compensation programs and examine ways to*
37 *enhance effectiveness.*

38 3. *Monitor the current status and long-term projections for Virginia's Unemployment Trust Fund.*

39 4. *Report annually its findings and recommendations to the Governor and the General Assembly.*

40 § 9-382. *Staff; cooperation from other state agencies.*

41 *The Division of Legislative Services shall serve as staff to the Commission. All agencies of the*
42 *Commonwealth shall assist the Commission upon request.*

APPENDIX I
1999 SESSION

ENROLLED

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to repeal the third enactment of Chapter 323 of the 1995 Acts of Assembly, as amended by*
3 *Chapter 298 of the 1997 Acts of Assembly, relating to unemployment compensation; tax rates for*
4 *new employers.*

5 [H 2130]
6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That the third enactment of Chapter 323 of the 1995 Acts of Assembly, as amended by
9 Chapter 298 of the 1997 Acts of Assembly, is repealed.

