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*The Vision of the Department of Labor is to Protect, Improve and Employ every person in the Virgin Islands Workforce.*

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**GARY MOLLOY**  
COMMISSIONER  
FEBRUARY 6, 2024

**Virgin Islands Department of Labor Testimony**  
**Committee on Budget, Appropriations, and Finance Hearing**

**February 6, 2024**

Good Morning, Senator Frett Gregory, Chairperson of the Committee on Budget, Appropriations, and Finance, distinguished Senators, and the viewing and listening audiences. I am Gary Molloy, Commissioner of the Department of Labor. With me today I have Assistant Commissioner and Legal Counsel Nesha Christian-Hendrickson, Assistant Commissioner Jean Forde, and Gary Halyard Director of Unemployment Insurance/Director of the Bureau of Labor Statistics.

Thank you for inviting the Virgin Islands Department of Labor (VIDOL) to provide crucial testimony on Bill No. 35-0218 - An Act proposed to amend Title 24 Virgin Islands Code, Chapter 12, related to unemployment benefits. Specifically, sections 303, 305, 309, and 315b. Please allow me to briefly explain the reason behind the proposed bill.

**Reduction of Unemployment Benefit Weeks from 26 to 16.**

This portion of Bill No. 35-0218 proposes amending Section 303 to decrease the duration of unemployment benefits from 26 weeks to 16 weeks. It's important to clarify that this reduction in weeks does not mean a decrease in the actual amount of unemployment benefits received by claimants.

While some may view this reduction as diminishing the safety net provided by unemployment compensation and limiting benefits, it actually has two main advantages. Firstly, it maintains the overall funding for unemployment compensation at a similar level, while encouraging individuals to rejoin the workforce within a short period of time. Secondly, extensive research indicates that many claimants seeking benefits can secure employment and cease relying on benefits within a 16-week timeframe.

In cases of disasters or emergencies leading to a 5% rise in the unemployment insurance rate, claimants can access the national Extended Benefits (EB) Program, providing an additional 13 weeks of benefits for eligible individuals. This proposal aims to strike a balance that positively impacts the unemployment insurance trust fund. Addressing the debt owed to the fund from various angles is crucial, as repaying the debt promptly will alleviate the burden of Federal Unemployment Taxes (FUTA) on the local employers. Despite being a challenging decision, it is a necessary step to ensure the long-term financial health of the Virgin Islands Community.

#### **Statute of Limitations for Overpayments and Liens:**

Bill 35-0218 proposes changes to Section 305, aiming to extend the statute of limitations for the collection of overpayments of unemployment benefits from claimants. Currently set at two years, this limit would be increased to five years. Additionally, the bill introduces a 10-year statute of limitations for the collection of liens on a claimant's property in cases of payment failure.

Historically, residents in the Virgin Islands who received excess benefits often evaded repayment of these undeserved funds. To clarify, an overpayment occurs when an individual receives unemployment insurance (UI) benefits to which they are not entitled. This situation may arise if a claimant fails to disclose employment while collecting UI benefits, constituting an attempt to commit fraud. Internal agency errors can also contribute to overpayments.

In alignment with our strategy to uphold the integrity of the UI Trust fund, VIDOL collaborated with a contractor to assess various aspects of Benefit Payment Control. The assessment revealed that VIDOL had one of the shortest periods for recovering overpayments, prompting the need for an extension, as outlined in the proposed bill. See the chart below for a visual representation of this issue.

### ***Statute of Limitations National Landscape***

<b>Statute of Limitations</b>	<b>States with Statute for Recovery of Nonfraud Overpayments</b>	<b>States with Statute for Recovery of Fraud Overpayments</b>
<b>2 years</b>	USVI & Hawaii	USVI & Hawaii
<b>3 – 4 years</b>	6 states	2 states
<b>5 years</b>	10 states	4 states
<b>6 – 10 years</b>	7 states	12 states
<b>No limit</b>	26 states	29 states

Recognizing the need to prioritize the retrieval or collection of overdue contributions, VIDOL has taken a significant stride to recommend the extension of the statute of limitations. This action is a vital step forward in enhancing efforts to safeguard the integrity and financial stability of the unemployment insurance trust fund.

## **Implementation of Payroll Variation Methodology:**

This bill extends Act 8209, which was initially signed into law on October 6, 2019. Despite facing challenges such as the COVID pandemic and its aftermath, VIDOL successfully fully implemented the bill on January 12th of this year. We extend our appreciation to former Senator Stedmann Hodge and this current legislative body for your patience throughout this process. With the completion of this implementation, we are now in alignment with the Federal Experience Rating System. Consequently, we are requesting a change in the implementation date from January 1, 2021, to January 1, 2024. This adjustment aims to ensure local law consistency with the extension granted by the USDOL, allowing VIDOL to achieve Federal compliance in January of 2024.

Section 308 of the bill enables the adoption of the payroll variation methodology. Employers have begun to receive their new tax rates based on this methodology. We are aware that some employers will see an increase in current tax rates. However, the implementation of the payroll variation stands as the most crucial change to stabilize the Unemployment Insurance System.

The payroll variation methodology establishes a system that recognizes and rewards both corporate citizens and small businesses for maintaining their payroll and fostering business growth. Additionally, VIDOL is set to launch the employer portal soon, allowing employers to conveniently file and pay UI contributions online. This initiative, along with the implementation of the Payroll Variation system, was extensively discussed in nine town halls last year, including a virtual one, held across St. Thomas, St. Croix, and St. John. These sessions provided in-depth

explanations of the payroll variation system. A video has been produced and is available for viewing on our VIDOL website and Facebook page. Additionally, it is scheduled to be broadcast on the Government's Access Channel. This ensures that all employers have the opportunity to watch and refresh their understanding of the information covered.

### **Extension of time to Collect delinquent and contested unemployment employer taxes (contributions)**

Section 309 of Bill 35-0218 proposes an extension of the timeframe for collecting employers' taxes related to state and federal unemployment insurance from delinquent employers in the Virgin Islands. The current collection period of five years would be increased to ten years under this bill.

Similar to claimants with overpayments, some employers in the Territory exploited a loophole, avoiding payment of their owed unemployment insurance contributions. VIDOL is addressing this issue through two legal measures. One of these is the extension of the collection period, which is considered necessary for the effective retrieval of contributions from delinquent employers. This extension provides VIDOL with more time to collect outstanding amounts, ensuring a fair contribution from all employers based on their system usage. Additionally, VIDOL has added to our administrative personnel, who will actively engage with businesses through calls and visits, facilitating the timely collection of contributions and contributing to the overall financial stability or solvency of the unemployment insurance system.

### **Employer Record Retention Regulation:**


In order to maintain consistency, it was crucial to amend Section 312, introducing a regulation mandating employers to retain records for a period of 10 years. This adjustment aims to strike a balance with the requirements outlined in Section 309 for the recovery period.

The establishment of a 10-year record retention period for employers is considered essential to ensure the availability of historical data for effective administration and auditing of the unemployment insurance system. While the payroll variation system utilizes 20 years of data, VIDOL acknowledges that this may pose an administrative burden. Therefore, the legal requirement is limited to a 10-year record retention period, balancing the need for historical data with practical considerations.

### **Employer Registration with State Information Data Exchange System (SIDES):**

Lastly, adding section 315b requires that all employers in the Virgin Islands must register with the Virgin Islands State Information Data Exchange System (SIDES). VIDOL ensures employer registration with SIDES is deemed essential for the efficiency of the Unemployment Insurance Program, allowing for electronic and timely communication with the Division of Unemployment Insurance. While SIDES is made up of several modules, the initial implementation will focus on separations. When a claimant or an employee separates from an employer VIDOL needs that information for several reasons (see the graphic below taken from

[http://www.itsc.org/pages/ui\\_sides\\_home.aspx](http://www.itsc.org/pages/ui_sides_home.aspx)).



One great solution to respond to unemployment insurance claims.  
Two ways to connect

**Online E-Response**

For employers with a limited number of UI claims, connection is easy through the SIDES E-Response website that can be used to enter the requested UI information.

- Easy to access website
- No programming needed
- No cost to users
- Electronic notification of claims from most states
- Download response forms

**System Integration UI SIDES**

For large and/or multi-state employers, connection through a computer-to-computer interface may be more appropriate as it allows employers to customize their system to interface with SIDES. This option requires employer programming.

- Integrate directly into current software
- Receive requests from all states daily in a single file
- Ability to create customized work flow
- Access to administrative reporting to track transaction progress

*Unemployment Insurance (UI) State Information Data Exchange System (SIDES) is a web based system that allows electronic transmission of information regarding UI claims between UI agencies and employers.*

By using SIDES, we reduce paper, minimize processing time, and mitigate the risk of human error.

I want to express my gratitude to the VIDOL Team and all my colleagues for providing background information and insights into our suggestions regarding this Bill. My Team and I are ready to address any questions you may have.