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HOUSE JOINT RESOLUTION NO. 497
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on February 2, 1995)

(Patron Prior to Substitute—Delegate Morgan)

Requesting the Bureau of Insurance of the State Corporation Commission to study means to protect Virginians' pensions funded by guaranteed investment contracts sold by insurance companies.

WHEREAS, many working Virginians participate in employer-sponsored pension plans, expecting such pensions to furnish a substantial portion of their annual income after retirement; and

WHEREAS, many employers are establishing "defined contribution" plans, such as 401-K plans, through which employers or employees contribute specified sums to such plans; and

WHEREAS, in many 401-K plans employees rather than employers are responsible for directing the money into investment options; and

WHEREAS, pension benefits derived from defined contribution plans are a function of (i) contributions made by the employee on his own behalf, (ii) contributions made by the employer on the employee's behalf, and (iii) the investment income earned on the funds in employee's account; and

WHEREAS, many employees investing in 401-K plans and other defined contribution plans have invested in or directed plan trustees to invest money in guaranteed investment contracts (GICs) issued by insurance companies; and

WHEREAS, a report of the Congressional Research Service estimates that at the end of 1989 nearly 70 percent of all 401-K investments nationwide—over \$90 billion—were invested in GICs and their banking industry equivalent, banking investment contracts (BICs); and

WHEREAS, GICs and BICs are financial contracts guaranteeing their purchasers fixed rates of return over the lives of the contracts; and

WHEREAS, the Federal Deposit Insurance Corporation (FDIC) has declared that the BICs offered by banks meet the FDIC's statutory definition of deposits and therefore are eligible for FDIC coverage up to \$100,000 in the event of an insolvency; and

WHEREAS, GIC contract holders enjoy no FDIC or other governmental protection, nor will the federal Pension Benefit Guaranty Corporation (PBGC), or the insurance guaranty funds or associations of most states, including Virginia, provide any similar protection for GIC contract holders in the event of insurer insolvency; and

WHEREAS, the recent failures of the Executive Life and Mutual Benefit Life insurance companies have resulted in heavy GIC-related losses sustained by employees—including many Virginia employees—whose defined contribution pension plans had invested in GICs sold by these now-insolvent insurers; and

WHEREAS, massive sums of employee pension moneys continue to flow into GICs; and

WHEREAS, the protection and preservation of employee pension funds are vital to the financial security of working Virginians and to the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Bureau of Insurance of the State Corporation Commission be requested to study means to protect Virginians' pensions funded by guaranteed investment contracts sold by insurance companies. The Bureau is requested to (i) review actions taken or recommended in other states to protect the pension funds of their citizens invested in GICs, (ii) determine whether GICs should be brought within the Virginia Life, Accident and Sickness Insurance Guaranty Association's coverage obligations, and (iii) decide whether mandatory, presale disclosures about GICs' uninsured nature should be required in connection with the sale of GICs to Virginia's citizens and companies.

The Bureau shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.