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MEMORANDUM

TO: House Committee on Commerce and Economic Development
FROM: Lindsay Kurrle, Commissioner & J. Stephen Monahan, Director, Workers' Compensation and Safety Division
DATE: March 18, 2019
SUBJECT: History of the Workers' Compensation Administrative Fund & Fee

Dear Chairman Marcotte and Committee Members,

Testimony was given last week to your Committee regarding the history of the workers' compensation administrative fund and fee, and the Department of Labor feels it is important to clarify some of the misconceptions and inaccuracies.

The Workers' Compensation Assessment was first proposed as a funding source for the administration of the Workers' Compensation Program, and Project WorkSAFE in 1990. The proposal was developed by then Labor and Industry Commissioner Jeanne Van Vlandren during the Kunin Administration. At the time of the proposal, the Workers' Compensation program had even fewer staff, was receiving approximately 30,000 first reports of injury a year, and the backlog of dealing with disputed claims was quite large. The goal of the proposed assessment was to provide a dedicated source of funding that would allow the Department of Labor and Industry to hire the additional 5 positions that were authorized in 1989. This dedicated funding source was created to also provide the required state match for the federally required "Consultation Program" (now called Project WorkSAFE), and to eventually modernize the Workers' Compensation Division. During this time, "modernizing" meant using funds collected from the assessment to purchase word processors, as staff were still using *IBM Selectric* typewriters, and other outdated and obsolete technologies.

The aforementioned 5 positions authorized in 1989 included 2 Workers' Compensation Specialists, a Vocational Rehabilitation Specialist, and 2 word processing specialists. All of the new positions were deemed necessary for the Department improve and adequately administer the Workers' Compensation program. It was the goal of the Kunin Administration to bolster the Department with these positions and dedicated funding source, so the Department was able to also assist small employers in reducing work injuries, thus lowering workers' compensation claims and costs.

The Workers' Compensation Assessment and Fund proposal was included in the appropriations bill (Act 210 §69 of 1990) and was the subject of vigorous debate, and it did not pass until the final day of the session. In 1991, the concept was again part of the appropriations bill and again was subject of vigorous debate. It passed on June 12, 1991 (*see Act 50 §277 of 1991*) continuing the special fund created in 1990.



In 1992 through the appropriations bill, the Legislature specifically authorized continuation of the Workers' Compensation Administration Fund through June 30, 1994 (*see Act No. 245 §282 of 1992*) which was passed on May 28, 1992.

In 1994, a *Workers' Compensation Reform Act* was passed. The reforms were in large part based on recommendations of a "Blue Ribbon Taskforce" chaired by Steve Terry and Fred Hackett. One of the reforms made the Workers' Compensation Special Fund permanent (*see Act No. 225 §22 of 1994*) codifying the fund at 21 VSA §711. The Task Force and the Legislature recognized the need for a reliable dedicated fund if the program was to be properly administered and timely operated. This legislation was approved June 20, 1994.

The Department of Labor & Industry never proposed or intended the assessment and fund as a "temporary funding measure". From the first proposal, the goal was the creation of a permanent, stable funding source, because the general fund appropriations had proved to be insufficient to permit hiring staff and modernizing the program. It should be noted that while some groups opposed the creation of the fund, those groups did not propose providing additional general fund appropriations, nor did they suggest a revenue source for additional general fund appropriations. The Department's testimony during the time of the fund and assessment creation provided examples of state's that were running successful Workers' Compensation programs using an assessment on premiums, and demonstrated that proper staffing and modernization could ultimately lower workers' compensation costs. Finally, it made sense to the majority that businesses with more claims, and thus higher premiums, should bear more of the costs, rather than the general citizenry.

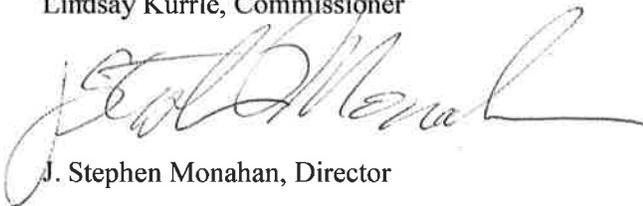
I appreciate the opportunity to clarify the history and importance of this dedicated funding source to both the Department of Labor, and the health and safety of Vermont's workers. It is the Department of Labor's highest priority to ensure that employees are returning home at the end of the day safely to their families, and that we are able to do everything we can to administer effective health and safety programs that ultimately reduce the overall costs of workers' compensation for businesses in Vermont.

Thank you.

Sincerely,



Lindsay Kurrle, Commissioner



J. Stephen Monahan, Director