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Phyllis A. Errico, Esq., CAE

VIA ELECTRONIC MAIL

May 27, 2021

The Honorable Ralph Northam
Governor of Virginia
P.O. Box 1475
Richmond, VA 23218

The Honorable Janet D. Howell
Chairwoman
Senate Committee on Finance and Appropriations
Pocahontas Building, Room E509
900 East Main Street
Richmond, VA 23219

The Honorable Luke E. Trian
Chairman
House Committee on Appropriations
Pocahontas Building, Room W1304
900 East Main Street
Richmond, VA 23219

Dear Governor Northam, Chairwoman Howell, and Chairman Torian:

I write to you on behalf of the Virginia Association of Counties (VACo) to express appreciation for your intention to allocate State Coronavirus Fiscal Recovery Funds from the American Rescue Plan Act (ARPA) towards specific needs shared by local governments when the General Assembly meets later this year for a special session, such as broadband expansion and school infrastructure. We understand that additional details regarding the allocation of state funds and the special session will be forthcoming, and that the statement of intent was not meant to be a comprehensive overview. In light of this information, we are respectfully submitting comments on an additional suggested use of ARPA funds which relates to recent changes in the Workers' Compensation Act.

As you are aware, legislation (SB1375 / HB2207) enacted during the 2021 General Assembly Special Session establishes COVID-19 as a presumptive illness compensable under the Workers' Compensation Act for firefighters, EMS personnel, law enforcement and corrections and regional jail officers. This presumption applies retroactively to July 1, 2020 and extends to December 31, 2021. During the debate over these bills VACo expressed concern over the potential fiscal impact to local governments, which according to actuarial analysis from VACORP, could amount to \$15 million. For the state, this is at least a fiscal impact of \$2 million. We also noted that the reinsurance contract provisions for risk insurance providers would force risk insurers to automatically contest eligible retroactive claims from impacted employees, which would lead to lengthy and potentially multi-year processing of claims for impacted workers.

We suggest that the state set aside a portion of ARPA allocations, not to exceed \$15 million, to create a special fund to reimburse costs to risk insurance providers brought on by passage of SB1375 / HB2207. Use of State Coronavirus Fiscal Recovery Funds for costs related to workers' compensation is an eligible expense under the Public Health Section, Public Health and Safety Staff subsection of the U.S. Treasury's Interim Final Rule for ARPA (page 20) and would have several immediate benefits to the state, local governments, and first responders. First, the state would recoup \$2 million in state General Funds which were allocated to offset the fiscal impact to the state of that legislation. Doing this would allow

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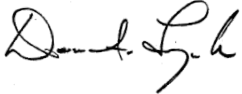
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those funds to now be used for other purposes. Second, by providing a means of immediate reimbursement to risk insurers and bypassing the constrictions of reinsurance contracts, risk insurers would not be forced to automatically contest retroactive workers' compensation claims. This would lead to much more timely payment of benefits to firefighters, law-enforcement, and other eligible employees. Finally, the creation of this fund would eliminate any negative fiscal impact to local governments from claim costs incurred during the retroactive time period as a result of this presumption coverage expansion and free up funds needed to address other pressing pandemic-related needs.

Thank you for your consideration of these comments. We look forward to continuing to work with you on this issue and other ways in which to improve the ability of local governments to effectively respond to COVID-19.

Respectfully,

A handwritten signature in black ink, appearing to read "Dean A. Lynch". The signature is fluid and cursive, with the first name "Dean" and last name "Lynch" clearly distinguishable.

Dean A. Lynch, CAE
Executive Director
Virginia Association of Counties

cc: Courtney Dozier, Policy Director, Office of the Governor
April Kees, Director, Senate Finance and Appropriations Committee
Anne E. Oman, Staff Director, House Appropriations Committee
Adam Rosatelli, Legislative Analyst, Senate Finance and Appropriations Committee
Michael R. Jay, Legislative Analyst, House Appropriations Committee
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