

To: House Committee on General, Housing and Military Affairs
From: Nicole L. Mace, General Counsel, VSBA
Re: H.76 as amended by House Education
Date: March 20, 2015

I appreciate the opportunity to speak with the committee to discuss the VSBA's views on H.76 as amended by the House Education Committee. I am currently at a meeting for attorneys who practice education law around the country. Every time I meet with my colleagues from other regions I am reminded what a special place Vermont is. Public education in many states is under attack. I am grateful to be part of the Vermont community – a community that values public schools and the educators that make positive contributions to the development of our children.

In Vermont we are starting to see public support for schools erode in the context of rising property tax rates and continued inequity in outcomes and opportunities for our students. The House Education Committee has spent the last several months grappling with how best to make substantive changes to our public education governance and funding system in order to respond to the challenges we face.

School boards have been active partners in that effort, because they believe that making constructive changes to our system is necessary to preserve a strong and sustainable public education system. The future of Vermont depends on achieving that goal. In order to meet the needs of today's students, educators and communities, protecting the status quo is not an option.

One important element of the public education system is the collective bargaining process. As I stated in my testimony before this committee in January, I want to be very clear that the VSBA is supportive of collective bargaining as a means of getting to fair working conditions for teachers. Board members know that well-qualified teachers are the key to an excellent education. We firmly believe that a robust and balanced collective bargaining process helps us attract and retain great educators.

However, while we support the collective bargaining process, we believe that some modifications are necessary in order to improve our public

education system overall. When the collective bargaining process breaks down, and the parties resort to imposition of a contract or a strike, the impacts on the community are significant and are often felt for many years. For that reason, we can accept giving up the right to impose contracts in exchange for eliminating the right of teachers to strike.

Only 12 states in the country allow teacher strikes. All other New England states prohibit teacher strikes and imposition of contracts. It is time for Vermont to evolve to a different process for bringing negotiations to a conclusion, one that does not allow either party to resort to the use of drastic unilateral actions that are divisive to communities and unfair to students.

H.76 as amended by the House Education Committee creates a process that would eliminate the right to strike and impose contracts and call for the parties to use mediation and factfinding in order to arrive at an agreement. It does not include mandatory arbitration.

School boards across Vermont will not support an approach that includes binding arbitration because it would turn over important decisions that impact up to 80 percent of school budgets to out-of-state neutrals generally unfamiliar with community issues and Vermont's education finance system. This approach is undemocratic and strikes at the heart of local control. Mandatory arbitration is not the norm in the New England region and we have not seen any justification for adopting it here in Vermont – a state that values local decision making more than most any other.

Here are the elements of the bill that we support in particular:

1. Tighter timeframes for the whole process, mandatory mediation and fact-finding. With no “nuclear options,” the parties are expected to continue to bargain in good faith.
2. Six months after expiration, the Vermont Labor Relations Board (VLRB) reviews the situation and offers proposals for settlement, and the parties continue to negotiate. If there is no settlement a year after contract expiration, there is no retroactive pay for the employees and a 1 cent penalty on taxpayers. Both penalties are designed to make delay unpalatable for both sides. Testimony from a

number of other states indicated that most contracts settle through this type of process.

H.76 as amended is a very reasonable approach to a thorny problem. No one likes strikes or imposition of contracts. They do serious damage to relationships within communities and harm students and families. The House Education Committee's proposal avoids the significant downsides to binding arbitration and creates a pathway forward that is in line with the proven practice in place in many other states.

H.76 as amended is not an attack on organized labor unions. It is a fair approach that will serve to improve labor-management relations in this state.

The approach in H.76 as amended does not favor management. Both unions and school boards will have lost the right to undertake drastic unilateral action like striking or imposing a final settlement. That's fair. The Association can still negotiate as equals with school boards over their salaries, benefits and related terms of employment. Mediation and non-binding settlement recommendations remain. That's fair. Both school boards and unions will face penalties if they fail to reach a contract settlement in a timely manner. That's absolutely fair.

I've seen some media reports in which the VT-NEA compares this bill to the anti-union legislative efforts that have gone on in recent years in states like Wisconsin and Michigan. I'm here with folks from those states, and let me tell you, what you have before you is nothing like what has occurred in Wisconsin. In Wisconsin, teachers were stripped of their right to bargain collectively over important matters like salary schedules, supplemental compensation and reduction in force provisions. This bill does absolutely nothing to disturb the fundamental rights of educators to negotiate the terms and conditions of their employment with their employers.

What this bill does do is create an expectation that the adults in our school systems will do precisely what it is we expect our students to do. Work constructively through difficult problems. Don't walk away from them or take drastic unilateral action if you can't get the outcome you want. Work

it out. This bill isn't anti-union. It's pro-student, pro-educator and pro-community.

Thank You.