

To: House Committee on General, Housing & Military Affairs
From: Nicole Mace, General Counsel, Vermont School Boards
Association
Re: Education Labor Relations
Date: February 5, 2015

I appreciate the opportunity to come before the committee to discuss the VSBA's views on labor relations in education. The VSBA is very supportive of collective bargaining as a means of getting to fair working conditions for teachers. Board members know that great teachers are the key to an excellent education. Our collective goal in this and any endeavor should be to attract and retain the highest quality teachers and to free them to be able to practice their craft in the most effective way possible.

Vermont's collective bargaining law for teachers was enacted in the late 1960's and has significantly improved compensation and benefits for teachers and support staff over the years. This statutory framework, essentially unchanged in decades, has its roots in industrial unionism.

Industrial-style collective bargaining has served an important role for teachers, giving them voice and influence when they had none, and substantially improving their economic conditions. But this model of bargaining has also resulted in rigid contracts that fail to recognize teachers' expertise as professionals, their ability to exercise professional judgment in the performance of their duties, and the interests they legitimately share with management.

Collective bargaining in its current form takes a very conservative approach to change - incrementalism is the norm. But we are at a point in time when education systems change cannot happen on an incremental basis.

We need to be able to adapt quickly to the needs of our students in the digital information age. Technology has changed how our children learn, the tools available for teaching, and the skills they will need for the future. Teachers are no longer purveyors of information and knowledge, but are curators, guides and facilitators. In a world where information is available 24/7, education need no longer be confined to the walls of a classroom, between the hours of 7:30 and 3:00.

In addition to the need to ensure greater flexibility in the time, place and location of learning, school boards across Vermont are under tremendous pressure to contain and reduce spending while continuing to provide excellent educational opportunities for their students. 80% of school budgets are comprised of salary and benefits, which are established in collective bargaining agreements.

Starting in 2018, the federal “Cadillac” tax will begin to hit school district’s health insurance plans, causing property tax rates to increase further in order to make those payments to the federal government. It is critical that we begin to transition our employees to health plans that are designed to avoid this federal tax.

In order for locally-elected boards to have a chance at negotiating much-needed changes to their collective bargaining agreements – including changes to health benefits plans and working conditions that support flexibility in the time and location of learning – we need to have a process that supports creativity and innovation. I am going to spend the remainder of my testimony commenting on the two bills that have been presented to your committee this morning.

The first is bill **H. 76** - An act relating to the requirement of mandatory binding arbitration and to the elimination of strikes and imposed contracts:

Under our current collective bargaining framework, labor relations can be very contentious, with union and management vying for the upper hand in negotiations. This is particularly true in tough economic times. When the process breaks down, and the parties resort to imposition of a contract or a strike, the impacts on the community are significant.

We know that Vermont is one of the few states that allow teachers strikes. We also know that in those states that do not allow strikes, there are a multitude of approaches to the dispute resolution process, many of which do not include binding interest arbitration.

Mandatory binding interest arbitration will turn important decisions regarding wages/salaries, benefits and other contract issues over to neutral

third parties that have no fiscal responsibility nor accountability and are generally unfamiliar with community issues.

Binding interest arbitration tends to preserve the status quo, since arbitrators hesitate to recommend or mandate contractual changes, which will deter school districts from presenting innovative proposals. It will essentially perpetuate current contracts, many of which are dominated by provisions that were initially negotiated over 30 years ago. With so much pressure on school districts in the areas of cost containment, school boards do not need to have their options limited by a process that by design discourages creativity.

We support a thoughtful analysis of the alternatives to binding interest arbitration employed by other states in order to see if we can arrive at a process that eliminates the ability to strike and impose contract terms while addressing the concerns we have about binding interest arbitration.

The next bill I would like to address is **H. 102**, an act relating to labor relations for teachers and administrators:

Under VT's labor relations for teachers' act, fact finding occurs if the parties reach impasse and are unsuccessful in mediating their differences. Fact finding involves both sides presenting their positions to a neutral fact finder, who issues a fact finding report. Neither party has to abide by the resulting recommendation(s); it is intended to inform the parties of the reasonableness of their positions.

The guidelines that fact finders generally follow have a tendency to perpetuate the status quo. Fact finders rely heavily on a narrow concept of "comparables," namely the terms of other recently-settled contracts in like districts.

"Comparability patterns" are the single most important factor used by neutral fact-finders when making their recommendations to the negotiating parties. Fact-finders give much greater weight to regional teacher settlements than more meaningful economic factors, such as the condition of the local economy, the consumer price index (CPI), tax burdens, employment data, salaries or pay raises by community members, or measures of household and personal income.

Although they may recommend small variations in the salary increases, the bottom line for fact-finders will be to make recommendations that track average salary and health insurance settlements in the region. The same is true for other provisions of a contract.

The following quote from a fact finder's report in the Windsor Central Supervisory Union sums up the problem, "In making their recommendations, fact finders are interested in such concepts as prevailing standards, that is, what benefits and conditions of employment exist in other Vermont School Districts. Seldom will novel and untried solutions be part of a fact finder's recommendations."

Because the fact-finder's report carries such weight in public opinion as the bargaining process nears closure, it should be based on more substantive and credible criteria rather than a pattern of area salary and insurance benefits that purports to demonstrate financial wherewithal but in fact does not. For this reason, the VSBA is strongly supportive of H. 102, which would establish clear criteria for fact finders, including the financial ability of a community to pay for increased education costs, and which would prohibit fact finders from discounting a party's position based solely on its novelty or the other party's opposition to it.

Thank you for the opportunity to present the VSBA's views on this important issue.