

Sen. Baruth - Proposal for Public School Employee Health Benefits

1 Sec. 1. 16 V.S.A. chapter 61 is added to read:

2 CHAPTER 61. PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS

3 Subchapter 1. General Provisions

4 § 2101. DEFINITIONS

5 As used in this chapter:

6 (1) “Public school employee” means a teacher or administrator as defined in section 1981
7 of this title and a municipal school employee as defined in 21 V.S.A. § 1722 who are employed
8 by a supervisory union or a school district. “Public school employee” includes an employee of a
9 regional CTE center, as defined in section 1522 of this title.

10 (2) “Public school employer” means a supervisory union or school district, as those terms
11 are defined in section 11 of this title, and a regional CTE center, as defined in section 1522 of
12 this title.

13 Subchapter 2. Commission on Public School Employee Health Benefits

14 § 2111. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS

15 CREATED

16 (a) Commission created. There is created an independent commission to be called the
17 Commission on Public School Employee Health Benefits (Commission) to formulate and
18 administer a single health benefit plan for all public school employers and their participating
19 employees.

20 (b) Composition and appointment.

21 (1) The Commission shall have 10 members, of whom five shall be representatives of
22 public school employees and five shall be representatives of public school employers.

1 (2)(A) The Governor, with the advice and consent of the Senate, shall appoint the five
2 representatives of public school employers.

3 (B) The labor organization representing the majority of teachers, administrators, and
4 municipal school employees in this State shall appoint the five representatives of public school
5 employees, who shall be members of the labor organization or individuals employed by the labor
6 organization to represent the organization's interests.

7 (C) The Governor and the labor organization shall select appointees who have an
8 understanding of health care and employer-employee relations and who demonstrate a
9 willingness to work collaboratively.

10 (D) The term of each member of the Commission shall be six years, provided that of
11 the members first appointed, one appointee each of the Governor and of the labor organization
12 shall serve a term of two years and two appointees each shall serve a term of four years.

13 (3) In the event of a vacancy, the appointing authority of the member whose seat becomes
14 vacant shall appoint a successor to serve out the remainder of the member's term.

15 (c) Chairs. The Commission shall be chaired jointly by one member selected biennially by
16 the appointees of the Governor and one member selected biennially by the appointees of the
17 labor organization.

18 (d) Removal of Commission members.

19 (1) The appointees of the Governor may remove another member appointed by the
20 Governor in accordance with rules adopted by the Commission for the removal of a member
21 pursuant to 3 V.S.A. chapter 25.

22 (2) The appointees of the labor organization may remove another member appointed by
23 the labor organization in accordance with the organization's policies and bylaws.

1 (e) Decisions. All decisions of the Commission shall require the votes of a majority of the
2 members appointed by the Governor and a majority of the members appointed by the labor
3 organization.

4 (f) Compensation. Commission members shall be entitled to receive per diem compensation
5 and reimbursement of expenses pursuant to 32 V.S.A. § 1010. The cost of the compensation and
6 reimbursement shall be included in the premium rates for the health benefit plan.

7 (g) Staff and administrative costs.

8 (1) The Commission shall hire staff as needed to implement its decisions and to administer
9 the health benefit plan it designs for public school employers and their participating employees.

10 (2) The Commission's staffing and other administrative costs shall be included in the
11 premium rates for its health benefit plan.

12 § 2112. DUTIES OF THE COMMISSION

13 The Commission shall have the following duties:

14 (1) To establish, administer, and make available to all public school employers in
15 Vermont a single health benefit plan for participating employees. The plan shall include at least
16 the covered services in the plans offered to public school employees through the Vermont
17 Education Health Initiative on January 1, 2018.

18 (2) To set actuarially sound premium rates for individual, two-person, parent-child, and
19 family coverage under the health benefit plan that promote affordability and access to high-
20 quality health care services while supporting the Commission's staffing and other administrative
21 costs and protecting the Commission's solvency.

22 (3) To determine, in accordance with subsection 2113(a) of this chapter, the percentage of
23 the premium for individual, two-person, parent-child, and family coverage that shall be borne by

1 each public school employer and the percentage that shall be borne by participating public school
2 employees.

3 (4) To determine, in accordance with subsection 2113(b) of this chapter, the amount of
4 each public school employer's required contribution toward their participating public school
5 employees' out-of-pocket expenses for each plan tier.

6 (5) To administer health reimbursement arrangements on behalf of all public school
7 employers, either directly or through a contract with a qualified third party.

8 (6) To provide public school employers and participating public school employees with
9 timely notice of the next year's premium amounts and of the employer contribution amounts
10 toward out-of-pocket expenses.

11 § 2113. DISPUTE RESOLUTION

12 (a) If the Commission is unable to reach a decision in relation to provisions of a health
13 benefit plan for public school employees pursuant to subdivisions 2112(1)-(4) of this subchapter
14 in time to provide public school employers and participating public school employees with
15 timely notice as required pursuant to subdivision 2112(6) of this subchapter, the Commission
16 may, upon a vote of a majority of the members appointed by the Governor and a majority of the
17 members appointed by the labor organization, elect to proceed to either mediation or binding
18 arbitration.

19 (b)(1) If the Commission elects to proceed to mediation, the Co-Chairs shall jointly agree
20 upon a mediator for the purpose of assisting them in reconciling and resolving the undecided
21 issues on terms that are acceptable to a majority of the members appointed by the Governor and
22 a majority of the members appointed by the labor organization.

1 (2) If the Co-Chairs cannot agree on a mediator within five business days, they shall
2 request that mediation be conducted by the American Arbitration Association or its designee.

3 (3) The members of the Commission shall meet with the mediator and make any necessary
4 information available to him or her.

5 (c)(1) If the Commission elects to proceed to binding arbitration, the Co-Chairs shall jointly
6 agree upon an arbitrator. If the Co-Chairs cannot agree on an arbitrator within five business
7 days, they shall request that the American Arbitration Association appoint an arbitrator.

8 (2) The arbitrator shall be limited to selecting one of the proposals put forward by the
9 members of the Commission with respect to each undecided issue.

10 (3)(A) The arbitrator shall hold a hearing at which the Commission members shall submit
11 all relevant evidence, documents, and written material, and each member may argue on behalf of
12 his or her position on any undecided issue that is subject to arbitration.

13 (B) In reaching a decision, the arbitrator shall give weight to the evidence, documents,
14 and written material, and arguments presented, as well as the following factors:

15 (i) the interests and welfare of the public;

16 (ii) the financial ability of the Education Fund and school boards across the State to
17 pay for the costs of health care benefits and coverage;

18 (iii) comparisons of the health care benefits of school employees with the health
19 care benefits of similar employees in the public and private sectors in Vermont;

20 (iv) the average consumer prices for goods and services commonly known as the
21 cost of living; and

22 (v) prior and existing health care benefits and coverage for school employees.

1 (4) Upon the petition of a Commission member within not more than 30 days following
2 the arbitrator's decision, a Superior Court shall vacate the decision if:

3 (1) it was procured by corruption, fraud, or other undue means;

4 (2) there was evident partiality or prejudicial misconduct by the arbitrator;

5 (3) the arbitrator exceeded his or her power or rendered a decision requiring a person to
6 commit an act or engage in conduct prohibited by law; or

7 (4) there is an absence of substantial evidence on the record as a whole to support the
8 decision.

9 (5) At any time prior to the issuance of a decision by the arbitrator, the Commission may
10 notify the arbitrator of any additional issues on which a majority of the members appointed by
11 the Governor and a majority of the members appointed by the labor organization have reached
12 agreement.

13 (6) If any provision of this subsection is inconsistent with any other provision of law
14 governing arbitration, this subsection shall govern.

15 (d) Any fees and costs incurred in relation to mediation or arbitration under this section shall
16 be included in the premium rates for the Commission's health benefit plan.

17 Subchapter 3. Health Benefit Plan Design

18 § 2121. COVERED SERVICES

19 The Commission shall determine the covered services to be included in the health benefit plan
20 for public school employers and their participating employees.

21 § 2122. PRESCRIPTION DRUG BENEFITS

1 (a)(1) The prescription drug benefits in the health benefit plan established by the Commission
2 shall impose cost-sharing in the form of tiered co-payments. Prescription drug coverage under
3 the plan shall not be subject to any deductibles or apply any coinsurance requirements.

4 (2) The Commission shall determine the co-payment amounts, which shall be affordable,
5 encourage medication adherence, and be structured to encourage the use of generic and preferred
6 brand-name drugs instead of nonpreferred brand-name drugs whenever possible.

7 (b) Wellness and preventive medications, including those for hypertension, diabetes, asthma,
8 chronic obstructive pulmonary disease, osteoporosis, cholesterol, blood clots, and prenatal care,
9 shall be available without cost-sharing.

10 (c) Diabetic equipment and pump supplies, including pumps, continuous glucose monitors,
11 infusion sets, and reservoirs, shall be available without cost-sharing.

12 Subchapter 4. Public School Employer Responsibilities

13 § 2131. FINANCIAL RESPONSIBILITY FOR HEALTH CARE COSTS

14 (a)(1) The Commission shall determine annually the percentage of the premium cost of the
15 plan that shall be paid by public school employers and the percentage to be paid by public school
16 employees. Each public school employer shall be responsible for paying the percentage of the
17 premium cost determined by the Commission on behalf of all of its participating public school
18 employees.

19 (2) The premium responsibility percentages shall remain in effect for the entire plan year.

20 (b) The Commission shall determine the amount of public school employees' out-of-pocket
21 expenses for which the public school employer and the public school employees shall be
22 responsible. The Commission also shall determine the extent to which the employer or

1 employee shall bear first dollar responsibility for out-of-pocket expenses if using a health
2 reimbursement arrangement.

3 § 2132. DUTIES OF PUBLIC SCHOOL EMPLOYER

4 A public school employer shall:

5 (1) provide access to its public school employees to the health care plan established by the
6 Commission pursuant to this chapter;

7 (2) deduct from the gross wages of each public school employee electing coverage a sum
8 equal to the percentage of the premium determined by the Commission to be the employee's
9 responsibility for the applicable tier of coverage;

10 (3) remit to the Commission the amount determined by the Commission to be the
11 employers' premium responsibility for each employee electing coverage, along with the amount
12 deducted from the employee's wages for the employee's premium share;

13 (4) contribute toward the out-of-pocket expenses of each public school employee electing
14 coverage in the amounts and manner determined by the Commission to be the employer's
15 responsibility; and

16 (5) either participate in the health reimbursement arrangement established by the
17 Commission or otherwise arrange for and maintain a health reimbursement arrangement for its
18 employees.

19 Sec. 2. 16 V.S.A. § 2004 is amended to read:

20 § 2004. AGENDA

21 (a) The school board, through its negotiations council, shall, upon request, negotiate with
22 representatives of the teachers' or administrators' organization negotiations council on matters of
23 salary, related economic conditions of employment, the manner in which it will enforce an

1 employee's obligation to pay the agency fee, procedures for processing complaints and
2 grievances relating to employment, and any mutually agreed-upon matters not in conflict with
3 the statutes and laws of the State of Vermont.

4 (b) As used in this section, the terms "salary" and "related economic conditions of
5 employment" shall not include health care benefits or coverage. Health care benefits and health
6 coverage, including health reimbursement and health savings accounts, shall not be subject to
7 collective bargaining pursuant to this chapter, but shall be determined by the Commission on
8 Public School Employee Health Benefits pursuant to chapter 61 of this title.

9 Sec. 3. 21 V.S.A. § 1722 is amended to read:

10 § 1722. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (12) "Municipal employee" means any employee of a municipal employer, including a
14 municipal school employee or a professional employee as defined in subdivision 1502(11) of this
15 title, except:

16 * * *

17 (17) "Wages, hours, and other conditions of employment" means any condition of
18 employment directly affecting the economic circumstances, health, safety, or convenience of
19 employees but excluding matters of managerial prerogative as defined in this section. For
20 collective bargaining related to municipal school employees, "wages, hours, and other conditions
21 of employment" shall not include health care benefits or coverage.

22 * * *

1 (1) for bargaining units that have a collective bargaining agreement in effect for fiscal year
2 2018 or beyond as of the date of passage of this act, the public school employer shall continue to
3 provide the health care benefits and coverage specified in that agreement; and

4 (2) public school employers shall continue to provide to employees not covered by a
5 collective bargaining agreement the same health care benefits and coverage that public school
6 employer is obligated to provide by contract as of the date of passage of this act, or, in the
7 absence of a contractual requirement, that the employer provides as of the date of passage of this
8 act.

9 (b)(1) Notwithstanding any provision of 16 V.S.A. § 2131(a) to the contrary, for the period
10 from January 1, 2020 until July 1, 2021, all public school employers shall pay 80 percent of the
11 premium cost for each tier of coverage, with the public school employees responsible for the
12 remaining 20 percent of the premium.

13 (2) Notwithstanding the provisions of subdivision (1) of this subsection, employees who
14 were responsible for less than 20 percent of their premium on December 31, 2019 shall pay an
15 increased amount of their premium as follows:

16 (A) employees with an annual salary or wages less than \$40,000.00 shall be responsible
17 for an additional 0.5 percent more of the premium each year, with the employer responsible for
18 the balance, until their premium responsibility matches the amount determined by the
19 Commission under 16 V.S.A. § 2131(a);

20 (B) employees with an annual salary or wages of at least \$40,000.00 but less than
21 \$100,000.00 shall be responsible for an additional one percent more of the premium each year,
22 with the employer responsible for the balance, until their premium responsibility matches the
23 amount determined by the Commission under 16 V.S.A. § 2131(a); and

1 (C) employees with an annual salary or wages of \$100,000.00 or more shall be
2 responsible for an additional two percent more of the premium each year, with the employer
3 responsible for the balance, until their premium responsibility matches the amount determined by
4 the Commission under 16 V.S.A. § 2131(a).

5 (c)(1) The Commission shall establish and administer, directly or through a contract with a
6 qualified third party, health reimbursement arrangements for the benefit of public school
7 employers and their employees.

8 (2) Notwithstanding any provision of 16 V.S.A. § 2131(b) to the contrary, for the period
9 from January 1, 2020 until July 1, 2021, the employee's out-of-pocket cost exposure shall be
10 limited as follows:

11 (A) for an individual plan, the lesser of \$400.00 or one percent of the employee's salary
12 or wages; and

13 (B) for a two-person, parent-child, or family plan, the lesser of \$800.00 or two percent
14 of the employee's salary or wages.

15 (d) For the period from January 1, 2020 until July 1, 2021, for each medical claim incurred
16 by a public school employee, the employer shall pay one-half of the claim and the employee
17 shall pay one-half of the claim, until the employee incurs total expenses in the amount specified
18 in subdivision (c)(2) of this section.

19 Sec. 6. 24 V.S.A. § 4947 is amended to read:

20 § 4947. INDEPENDENT SCHOOLS; ELIGIBLE TO PARTICIPATE NO ASSOCIATION
21 HEALTH PLANS OFFERED TO ENTITIES PROVIDING EDUCATIONAL
22 SERVICES

1 ~~An association that offers hospital, surgical, and medical benefits insurance to entities that are~~
2 ~~providing educational services under this subchapter, may make such insurance available to~~
3 ~~approved or recognized independent schools operating in Vermont. Participation shall be on the~~
4 ~~same terms and conditions that apply to municipalities and shall not create joint and several~~
5 ~~liability as a result of any act or omission of any other school, municipality or association.~~
6 ~~Schools that participate under this section shall be provided with copies of the annual audit. The~~
7 ~~provisions of section 166 of Title 16 shall apply for purposes of determining whether a school~~
8 ~~qualifies as an “approved or recognized independent school.”~~ An association shall not offer
9 hospital, surgical, or medical benefits under this subchapter to any entity that provides
10 educational services.

11 Sec. 7. WITHDRAWAL FROM VERMONT EDUCATION HEALTH INITIATIVE, INC.

12 The Commission on Public School Employee Health Benefits created under 16 V.S.A. § 2111
13 shall notify each public school employer, as defined in 16 V.S.A. § 2101, and the Vermont
14 Education Health Initiative, Inc. (VEHI) of the date upon which it expects to make available a
15 single health benefit plan for public school employees, as defined in 16 V.S.A. § 2101. Each
16 public school employer shall coordinate with the Commission and VEHI to transition from the
17 health benefit plans offered by VEHI to the single health benefit plan offered by the
18 Commission. This transitional process shall provide that health benefit contracts between public
19 school employers and VEHI entered into after the date of passage of this act terminate on the
20 date upon which public school employees obtain health benefits from the health benefit plan
21 offered by the Commission or on such other date determined by the Commission in order to
22 ensure that there is no gap in health care coverage for public school employees. Each public

1 school employer shall terminate its membership with VEHI on the date that it obtains health
2 benefits from the Commission.

3 Sec. 8. EFFECTIVE DATES

4 (a) Sec. 6 (24 V.S.A. § 4947) shall take effect on January 1, 2020.

5 (b) The remaining sections shall take effect on passage.