

Senate Education - School employee health benefits draft for discussion

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

2 CHAPTER 61. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS

3 § 2101. DEFINITIONS

4 As used in this chapter:

5 (1) “Participating employee” means a school employee who is eligible for and has elected
6 to receive health benefit coverage through a school employer.

7 (2) “School employee” means:

8 (A) an individual employed by a supervisory union or school district as a teacher or
9 administrator as defined in section 1981 of this title; or

10 (B) a municipal school employee as defined in 21 V.S.A. § 1722.

11 (3) “School employer” means a supervisory union or school district as those terms are
12 defined in section 11 of this title.

13 § 2102. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS

14 CREATED

15 (a) Commission created. There is created an independent commission to be called the
16 Commission on Public School Employee Health Benefits (Commission) to determine, in
17 accordance with section 2103 of this chapter, the amounts of the premiums and out-of-pocket
18 expenses for school employee health benefits that shall be borne by school employers and by
19 participating employees.

20 (b) Composition and appointment.

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

1 (2)(A) The representatives of school employees shall be appointed as follows:

2 (i) four members appointed by the labor organization representing the greatest
3 number of teachers, administrators, and municipal school employees in this State; and

4 (ii) one member appointed by the labor organization representing the second-
5 greatest number of teachers, administrators, and municipal school employees in this State.

6 (B) The representatives of school employers shall be appointed as follows:

7 (i) three members appointed by the Vermont School Boards Association; and

8 (ii) two members appointed by the Governor, with the advice and consent of the
9 Senate.

10 (C) The appointing authorities shall select appointees who have an understanding of
11 health care and employer-employee relations and who demonstrate a willingness to work
12 collaboratively.

13 (D) The term of each member of the Commission shall be six years, provided that of
14 the members first appointed one appointee of the labor organization described in subdivision
15 (A)(i) of this subdivision (2) and one appointee of the Vermont School Boards Association shall
16 each serve a term of two years and one appointee of each appointing authority described in this
17 subdivision (2) shall serve a term of four years.

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

20 (c) Chairs. The Commission shall be chaired jointly by one member selected biennially by
21 the representatives of school employees and one member selected biennially by the
22 representatives of school employers.

1 (d) Removal of Commission members. Members of the Commission may be removed only
2 for cause. The Commission shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis
3 and process for removal.

4 (e) Decisions. All decisions of the Commission shall require the votes of a majority of the
5 representatives of school employees and a majority of the representatives of school employers.

6 (f) Compensation. Commission members shall be entitled to receive per diem compensation
7 and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

8 (g) Rulemaking. The Commission may adopt rules or procedures, or both, pursuant to
9 3 V.S.A. chapter 25 as needed to carry out its duties under this chapter.

10 § 2103. DUTIES OF THE COMMISSION

11 (a) The Commission shall determine the percentage of the premium for individual, two-
12 person, parent-child, and family coverage that shall be borne by each school employer and the
13 percentage that shall be borne by participating employees.

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

15 (2) Each school employer shall be responsible for paying the percentage of the premium
16 cost determined by the Commission on behalf of all of its participating school employees.

17 (b)(1) The Commission shall determine the amount of school employees' out-of-pocket
18 expenses for which the school employer and the school employees shall be responsible.

19 (2) The Commission also shall determine the extent to which the employer or employee
20 shall bear first dollar responsibility for out-of-pocket expenses if using a health reimbursement
21 arrangement.

1 (c) The Commission may make recommendations regarding health benefit plan design to any
2 intermunicipal insurance association that offers health benefit plans to entities providing
3 educational services pursuant to 24 V.S.A. chapter 121, subchapter 6.

4 § 2104. NEGOTIATION; TIME TO BEGIN; GOOD FAITH; WRITTEN AGREEMENT

5 (a)(1) The Commission shall commence negotiation of the matters set forth in subsections
6 2103(a) and (b) of this chapter not later than April 1 of the year before the existing agreement
7 pursuant to this section is set to expire.

8 (2) The Commission shall meet together at reasonable times at the call of the Chairs and
9 shall negotiate in good faith on all matters set forth in subsections 2103(a) and (b) of this chapter.

10 (3) The Commission shall, at the commencement of negotiations, select a person to serve
11 as a fact finder to assist them in resolving any matters remaining in dispute in the event that the
12 Commission is unable to reach an agreement by August 1. The fact finder shall be selected by a
13 vote of a majority of the representatives of school employees and of the representatives of school
14 employers. If the Commission cannot agree on a fact finder by April 5, the American Arbitration
15 Association shall be asked to appoint the fact finder.

16 (b)(1) The Commission shall enter into a written agreement incorporating all matters agreed
17 to in negotiation.

18 (2) The terms of the agreement shall be incorporated by reference into all collective
19 bargaining agreements for school employees.

20 (c) Each agreement shall be for a term of two years.

1 § 2105. DISPUTE RESOLUTION

2 (a)(1) If the Commission is unable to reach agreement by August 1, the Commission shall
3 meet with the fact finder selected pursuant to section 2104 of this chapter not later than
4 August 15.

5 (2) The fact finder may schedule and hold additional meetings with the Commission as
6 necessary. The Commission shall furnish the fact finder with all records, papers, and
7 information in its possession pertaining to any matter remaining in dispute.

8 (3) The fact finder may, at any time before issuing his or her decision, seek to mediate any
9 or all matters remaining in dispute.

10 (4) On or before September 15, the fact finder shall submit a written report to the
11 Commission recommending a reasonable basis for the settlement of the matters remaining in
12 dispute.

13 (b)(1) If the Commission is unable to resolve all matters remaining in dispute within 30 days
14 after receiving the fact finder's report, the Commission shall request that the American
15 Arbitration Association appoint an arbitrator to decide all matters remaining in dispute.

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

18 (3)(A) The arbitrator shall hold a hearing on or before November 15 at which the
19 Commission members shall submit all relevant evidence, documents, and written material, and
20 each member may argue on behalf of his or her position on any undecided issue that is subject to
21 arbitration.

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

- 1 (i) the interests and welfare of the public;
- 2 (ii) the financial ability of the Education Fund and school districts across the State to
3 pay for the costs of health care benefits and coverage;
- 4 (iii) comparisons of the health care benefits of school employees with the health
5 care benefits of similar employees in the public and private sectors in Vermont;
- 6 (iv) the average consumer prices for goods and services commonly known as the
7 cost of living; and
- 8 (v) prior and existing health care benefits and coverage for school employees.
- 9 (4) The arbitrator shall issue his or her decision within 30 days after the hearing. The
10 decision of the arbitrator shall be final and binding upon the Commission and all school
11 employees and school employers.
- 12 (5) Upon the petition of a Commission member within not more than 30 days following
13 the arbitrator's decision, a Superior Court shall vacate the decision if:
- 14 (A) it was procured by corruption, fraud, or other undue means;
- 15 (B) there was evident partiality or prejudicial misconduct by the arbitrator;
- 16 (C) the arbitrator exceeded his or her power or rendered a decision requiring a person
17 to commit an act or engage in conduct prohibited by law; or
- 18 (D) there is an absence of substantial evidence on the record as a whole to support the
19 decision.
- 20 (6) At any time prior to the issuance of a decision by the arbitrator, the Commission may
21 notify the arbitrator of any additional issues on which a majority of representatives of school
22 employees and of the representatives of school employers have reached agreement.

1 (7) If any provision of this subsection is inconsistent with any other provision of law
2 governing arbitration, this subsection shall govern.

3 (c) Any fees and costs incurred in relation to fact finding and arbitration under this section
4 shall be included in the premium rates for the Commission’s health benefit plan.

5 § 2106. RATIFICATION OF CONTRACT

6 **[PLACEHOLDER]**

7 § 2107. DUTIES OF SCHOOL EMPLOYERS

8 Each school employer shall:

9 (1) deduct from the gross wages of each participating employee a sum equal to the
10 percentage of the premium determined by the Commission to be the employee’s responsibility
11 for the applicable tier of coverage;

12 (2) remit to the administrator of the health benefit plan the amount determined by the
13 Commission to be the employers’ premium responsibility for each participating employee, along
14 with the amount deducted from the employee’s wages for the employee’s premium share;

15 (3) contribute toward the out-of-pocket expenses of each participating employee in the
16 amounts and manner determined by the Commission to be the employer’s responsibility; and

17 (4) participate in any health reimbursement arrangement or health savings account, or
18 both, in the amounts and to the extent determined by the Commission.

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 arrangements and health savings accounts, shall not be
7 subject to collective bargaining pursuant to this chapter, but shall be determined by the
8 Commission on Public School Employee Health Benefits pursuant to chapter 61 of this title.

9 Sec. 3. 16 V.S.A. § 2005 is amended to read:

10 § 2005. WRITTEN AGREEMENT

11 The negotiations councils for the school board and the teachers' or administrators'
12 organization shall enter into a written agreement or agreements incorporating therein matters
13 agreed to in negotiation. The written agreement shall incorporate by reference the terms of the
14 agreement entered into by the Commission on Public School Employee Health Benefits pursuant
15 to chapter 61 of this title.

16 Sec. 4. 21 V.S.A. § 1722 is amended to read:

17 § 1722. DEFINITIONS

18 As used in this chapter:

19 * * *

20 (12) “Municipal employee” means any employee of a municipal employer, including a
21 municipal school employee or a professional employee as defined in subdivision 1502(11) of this
22 title, except:

23 * * *

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

6 * * *

7 (21) “Municipal school employee” means an employee of a supervisory union or school
8 district that is not otherwise subject to 16 V.S.A. chapter 57 (labor relations for teachers and
9 administrators).

10 Sec. 5. 21 V.S.A. § 1725 is amended to read:

11 § 1725. COLLECTIVE BARGAINING PROCEDURE

12 (a)(1) For the purpose of collective bargaining, the representatives of the municipal employer
13 and the bargaining unit shall meet at any reasonable time and shall bargain in good faith with
14 respect to wages, hours, and conditions of employment; and shall execute a written contract
15 incorporating any agreement reached; provided, however, that neither party shall be compelled to
16 agree to a proposal nor to make a concession, nor to bargain over any issue of managerial
17 prerogative.

18 (2)(A) For the purpose of collective bargaining related to municipal school employees,
19 “wages, hours, and conditions of employment” shall not include health care benefits or coverage.
20 Health care benefits and coverage, including health reimbursement arrangements and health
21 savings accounts, shall not be subject to collective bargaining by municipal school employees
22 pursuant to this chapter, but shall be determined by the Commission on Public School Employee
23 Health Benefits pursuant to 16 V.S.A. chapter 61.

1 (c) A health benefit association shall solicit the input of the Commission on Public School
2 Employee Health Benefits established in 16 V.S.A. § 2102 regarding the design of the health
3 benefit plan to be offered to school employers for coverage of their school employees.

4 (d) The governing board of a health benefit association shall be composed of the following
5 six members:

6 (1) three members representing school employers, who shall be employees of school
7 employers and who shall be appointed by the Vermont School Boards' Association; provided
8 however, that at the discretion of the Vermont School Boards' Association, one of these
9 members may be a representative of the Vermont School Boards' Association; and

10 (2) three members appointed by the labor organization representing the greatest number of
11 school employees in the State.

12 (e) An A health benefit association that offers hospital, surgical and medical benefits
13 insurance to entities that are providing educational services under this subchapter, may make
14 such insurance its health benefit plan available to approved or recognized independent schools
15 operating in Vermont. Participation shall be on the same terms and conditions that apply to
16 municipalities and shall not create joint and several liability as a result of any act or omission of
17 any other school, municipality, or association. Schools Approved or recognized independent
18 schools that participate under this section shall be provided with copies of the annual audit. The
19 provisions of section 16 V.S.A. § 166 of Title 16 shall apply for purposes of determining
20 whether a school qualifies as an "approved or recognized independent school."

21 Sec. 8. VERMONT EDUCATION HEALTH INITIATIVE; BOARD TRANSITION;

22 DEPARTMENT OF FINANCIAL REGULATION; RULEMAKING

1 (a)(1) The composition of the board of a health benefit association, as defined in 24 V.S.A.
2 § 4947(a), that is in place on the date of passage of this act may continue in the same form until
3 July 1, 2018. On July 1, 2018, the terms of all board members then serving shall expire.

4 (2) Beginning on July 1, 2018, the board of a health benefit association shall conform to
5 the composition specified in 24 V.S.A. § 4947(d) and the terms of all new board members shall
6 begin on that date. Board members serving immediately prior to July 1, 2018 shall be eligible
7 for reappointment to the extent permitted by the board's bylaws.

8 (b) The Department of Financial Regulation shall amend its rules pursuant to 3 V.S.A.
9 chapter 25 as needed to conform to the provisions of 24 V.S.A. § 4947 as amended by this act.

10 Sec. 9. SCHEDULE FOR NEGOTIATIONS DURING 2018

11 Notwithstanding any provision of 16 V.S.A. chapter 61 to the contrary, the Commission on
12 Public School Employee Health Benefits shall negotiate the contract for school employee health
13 benefits to take effect on July 1, 2019 pursuant to the following schedule:

14 (1) Negotiations shall commence on or before August 1, 2018.

15 (2) If the Commission has not reached an agreement by October 1, 2018, the Commission
16 shall proceed to fact finding and the fact finder shall meet with the Commission on or before
17 October 15, 2018.

18 (3) The fact finder shall, on or before November 1, 2018, submit a written report to the
19 Commission recommending a reasonable basis for the settlement of the matters remaining in
20 dispute.

21 (4) If the Commission is unable to reach an agreement by November 30, 2018, it shall
22 submit all matters remaining in dispute to arbitration at the earliest possible opportunity.

1 (5) On or before December 21, 2018, the arbitrator shall render a decision on all matters
2 remaining in dispute.

3 Sec. 10. EFFECTIVE DATE

4 This act shall take effect on passage.