

systems and shall have participated in at least one other study of a state tax system.

(i) Members of the Commission shall be entitled to compensation as provided under 32 V.S.A. § 1010.

* * * Public School Employee Health Benefits * * *

Sec. H.18 16 V.S.A. chapter 61 is added to read:

CHAPTER 61. COMMISSION ON PUBLIC SCHOOL EMPLOYEE

HEALTH BENEFITS

§ 2101. DEFINITIONS

As used in this chapter:

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

(2) “School employee” means:

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

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

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

§ 2102. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH

BENEFITS CREATED

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

(b) Composition and appointment.

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

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

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

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

(B) The five representatives of school employers shall be appointed by the organization representing the majority of the public school boards in this State.

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

(D) The term of each member of the Commission shall be six years, provided that of the members first appointed by the labor organization described in subdivision (A)(i) of this subdivision (2), one appointee shall serve a term of two years and one appointee shall serve a term of four years, and of the members first appointed by the organization representing the majority of the public school boards in this State, one appointee shall serve a term of two years and one appointee shall serve a term of four years.

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

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

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

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

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

(g) Staffing and expenses. The Commission may hire staff as it deems necessary to carry out its duties under this chapter. Compensation for Commission staff and administrative expenses of the Commission shall be shared equally by school employers and school employees. The representatives of school employers and the representatives of school employees shall equitably apportion their share of the costs of compensation and administrative expenses among their members.

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

§ 2103. DUTIES OF THE COMMISSION

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

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

(2) Each school employer shall be responsible for paying, on behalf of all of its participating school employees, the applicable percentages of premium costs as determined by the Commission.

(3) The premium responsibility percentages for each plan tier shall be the same for all participating employees.

(b)(1) The Commission shall determine the amount of school employees' out-of-pocket expenses for which the school employer and the school employees shall be responsible, and whether school employers shall establish a health reimbursement arrangement, a health savings account, both, or neither, for their participating employees.

(2) The Commission also shall determine the extent to which the employer or employee shall bear first dollar responsibility for out-of-pocket expenses if using a health reimbursement arrangement and whether the balance in a participating employee's health reimbursement arrangement shall roll over from year to year.

(3) The school employers' and school employees' responsibilities for out-of-pocket expenses for each plan tier shall be the same for all participating employees.

(c) The Commission may make recommendations regarding health benefit plan design to any intermunicipal insurance association that offers health

benefit plans to entities providing educational services pursuant to 24 V.S.A. chapter 121, subchapter 6.

(d) The Commission shall not make any determinations regarding school employer or school employee responsibilities with respect to stand-alone vision or dental benefits.

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

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

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

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

(B)(i) The Commission shall mutually agree on an arbitrator by April 5 to decide all matters remaining in dispute if it is unable to reach an agreement within 30 days after receiving the fact finder's report.

(ii) If the Commission is unable to mutually agree on an arbitrator, it shall form a three-member panel of arbitrators to be selected as follows:

(I) One arbitrator shall be selected by the representatives of school employees from a list prepared by the American Arbitration Association.

(II) One arbitrator shall be selected by the representatives of school employers from a list prepared by the American Arbitration Association.

(III) The Commission shall request the services of the American Arbitration Association for the appointment of the third arbitrator.

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

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

(c) The term of each agreement shall be negotiated by the Commission but shall not be less than two years.

§ 2105. DISPUTE RESOLUTION

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

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

(3) The fact finder shall, before issuing his or her decision, attempt to mediate the matters remaining in dispute.

(4) If the mediation fails to produce an agreement, the fact finder shall, on or before September 15, submit a written report to the Commission recommending a reasonable basis for the settlement of the matters remaining in dispute.

(b)(1) If the Commission is unable to resolve all matters remaining in dispute within 30 days after receiving the fact finder's report, the Commission shall submit the matters remaining in dispute to the arbitrator or arbitrators selected pursuant to section 2104 of this chapter for resolution.

(2) The representatives of school employees and the representatives of school employers shall submit to the arbitrator or arbitrators their last best offer on all issues remaining in dispute. The arbitrator or arbitrators shall select one of the last best offers in its entirety without amendment.

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

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

(i) the interests and welfare of the public;

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

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

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

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

(4) The arbitrator or arbitrators shall issue their decision within 30 days after the hearing. The decision of the arbitrator or arbitrators shall be final and binding upon the Commission and all school employees and school employers. The decision shall not be subject to ratification.

(5) Upon the petition of a Commission member within not more than 15 days following the arbitration decision, a Superior Court shall vacate the decision if:

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

(B) there was evident partiality or prejudicial misconduct by the arbitrator or arbitrators;

(C) the arbitrator or arbitrators exceeded their power or rendered a decision requiring a person to commit an act or engage in conduct prohibited by law: or

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

(6) At any time prior to the issuance of a decision by the arbitrator or arbitrators, the Commission may notify the arbitrator or arbitrators of any additional issues on which a majority of the representatives of school employees and of the representatives of school employers have reached agreement.

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

(c) The arbitrator or arbitrators shall have the authority to address complaints that either party has engaged in or is engaging in unfair bargaining practices, including a refusal to bargain in good faith. It the arbitrator or arbitrators find upon a preponderance of the evidence that a party has engaged

in or is engaging in any unfair bargaining practice, the arbitrator or arbitrators may include in the decision a remedy for the unfair bargaining practice that is consistent with the provisions of 21 V.S.A. § 1727(d).

§ 2106. STRIKES AND CONTRACT IMPOSITION PROHIBITED

(a) School employees and the representatives of school employees shall be prohibited from engaging in a strike, as defined by 21 V.S.A. § 1722(16), in relation to the negotiation of an agreement pursuant to this chapter.

(b) The representatives of school employers shall be prohibited from imposing the terms of the agreement that is subject to this chapter.

§ 2107. RATIFICATION OF AGREEMENT

(a) The representatives of school employers and the representatives of school employees shall each develop procedures by which their members shall ratify the agreement entered into by the Commission pursuant to this chapter within 30 days after the date of the agreement; provided, however, that if the agreement is determined by arbitration pursuant to subsection 2105(b) of this chapter, the agreement shall not be subject to ratification.

(b) In the event that either the school employers or school employees, or both, fail to ratify the agreement, the following provisions shall apply:

(1) If the Commission has not engaged in mediated fact-finding pursuant to subsection 2105(a) of this chapter during the current negotiation cycle, the Commission shall meet with the fact finder pursuant to the provisions of that subsection to settle all matters remaining in dispute. If the

Commission is able to reach a new agreement, that agreement shall be submitted to the bargaining units for ratification. If, after mediated fact-finding, the Commission is unable to reach a new agreement, the Commission shall proceed to arbitration pursuant to subsection 2105(b) of this chapter.

(2) If the Commission has already engaged in mediated fact-finding pursuant to subsection 2105(a) of this chapter during the current negotiation cycle, the Commission shall proceed to arbitration pursuant to subsection 2105(b) of this chapter.

§ 2108. DUTIES OF SCHOOL EMPLOYERS

Each school employer shall:

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

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

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

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

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

§ 2004. AGENDA

(a) The school board, through its negotiations council, shall, upon request, negotiate with representatives of the teachers' or administrators' organization negotiations council on matters of salary, related economic conditions of employment, the manner in which it will enforce an employee's obligation to pay the agency fee, procedures for processing complaints and grievances relating to employment, and any mutually ~~agreed-upon~~ agreed-upon matters not in conflict with the statutes and laws of the State of Vermont.

(b) As used in this section, the terms "salary" and "related economic conditions of employment" shall not include health care benefits or coverage other than stand-alone vision and dental benefits. Health care benefits and health coverage, excluding stand-alone vision and dental benefits but including health reimbursement arrangements and health savings accounts, shall not be subject to collective bargaining pursuant to this chapter, but shall be determined pursuant to chapter 61 of this title.

Sec. H.20 16 V.S.A. § 2005 is amended to read:

§ 2005. WRITTEN AGREEMENT

The negotiations councils for the school board and the teachers' or administrators' organization shall enter into a written agreement or agreements incorporating therein matters agreed to in negotiation. The written agreement shall incorporate by reference the terms of the agreement entered into pursuant to chapter 61 of this title.

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

§ 1722. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

* * *

(21) "Municipal school employee" means an employee of a supervisory union or school district who is not otherwise subject to 16 V.S.A. chapter 57 (labor relations for teachers and administrators) and who is not otherwise excluded pursuant to subdivision (12) of this section.

Sec. H.22 21 V.S.A. § 1725 is amended to read:

§ 1725. COLLECTIVE BARGAINING PROCEDURE

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

(2)(A) For the purpose of collective bargaining related to municipal school employees, "wages, hours, and conditions of employment" shall not include health care benefits or coverage other than stand-alone vision and dental benefits. Health care benefits and coverage, excluding stand-alone vision and dental benefits but including health reimbursement arrangements and health savings accounts, shall not be subject to collective bargaining by municipal school employees pursuant to this chapter, but shall be determined pursuant to 16 V.S.A. chapter 61.

(B) All written contracts executed in relation to municipal school employees shall incorporate by reference the terms of the agreement entered into pursuant to 16 V.S.A. chapter 61.

* * *

Sec. H.23 HEALTH CARE BENEFIT TRANSITION; LEGISLATIVE
INTENT

(a) In recognition of the existing disparities in health care benefits between different supervisory unions and school districts and between different categories of employees within the same supervisory unions and school districts, it is the intent of the General Assembly that the Commission on Public School Employee Health Benefits endeavor to transition school employees and school employers to more equitable health care coverage statewide in a manner that is fair and practicable for all parties involved.

(b) Notwithstanding any provision of 16 V.S.A. § 2103 to the contrary, for the agreement for school employee health benefits to take effect on July 1, 2020, the Commission may agree to establish, or the arbitrator's decision may provide for, one set of contribution levels toward premiums and out-of-pocket expenses for teachers and administrators and a different set of contribution levels for municipal school employees.

Sec. H.24 TERM OF INTERIM COLLECTIVE BARGAINING

AGREEMENTS; COMMENCEMENT OF COMMISSION

NEGOTIATIONS

(a) All collective bargaining agreements between a supervisory union or school district and school employees that take effect between July 1, 2018 and June 30, 2020 shall expire between July 1, 2020 and September 1, 2020.

(b) The initial agreement negotiated by the Commission on Public School Employee Health Benefits shall be for incorporation by reference into collective bargaining agreements between a supervisory union or school district and school employees that take effect on or after July 1, 2020. The Commission shall, pursuant to 16 V.S.A. § 2104, commence negotiations for the initial agreement on or before April 1, 2019.

Sec. H.25 24 V.S.A. § 4947 is amended to read:

§ 4947. ~~INDEPENDENT SCHOOLS; ELIGIBLE TO PARTICIPATE~~

HEALTH BENEFIT PLANS OFFERED TO ENTITIES

PROVIDING EDUCATIONAL SERVICES

(a) As used in this section:

(1) "Health benefit association" means an association that offers one or more health benefit plans to school employers for coverage of their school employees.

(2) "School employee" shall have the same meaning as in 16 V.S.A. § 2101.

(3) "School employer" shall have the same meaning as in 16 V.S.A.

§ 2101.

(b) A health benefit association shall offer the same plan or plans to all school employers.

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

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

(1) three members appointed by the organization representing the majority of the public school boards in this State, who shall not be employees of the organization; and

(2) three members appointed by the labor organization representing the greatest number of public school employees in the State, who shall not be employees of the organization.

(e) An A health benefit association that offers hospital, surgical and medical benefits insurance to entities that are providing educational services under this subchapter, may shall make such insurance all health benefit plans that it offers available to approved or recognized independent schools operating in Vermont. Participation shall be on the same terms and conditions that apply to municipalities and shall not create joint and several liability as a

result of any act or omission of any other school, municipality, or association. Schools that participate under this section shall be provided with copies of the annual audit. The provisions of ~~section 16 V.S.A. § 166 of Title 16~~ shall apply for purposes of determining whether a school qualifies as an “approved or recognized independent school.”

Sec. H.26 DEPARTMENT OF FINANCIAL REGULATION;

RULEMAKING

(a) The Department of Financial Regulation shall amend its rules pursuant to 3 V.S.A. chapter 25 as needed to conform to the provisions of 24 V.S.A. § 4947 as amended by this act, and a health benefit association shall amend its governing documents accordingly.

Sec. H.27 VERMONT EDUCATION HEALTH INITIATIVE PLANS;

BOARD TRANSITION

(a)(1) A health benefit association offering health benefit plans pursuant to 24 V.S.A. § 4947 on July 1, 2018 shall continue to make the same health benefit plans available to public school employers and approved or recognized independent school employers, and their participating employees, until the expiration of the first agreement entered into by the Commission on Public School Employee Health Benefits. A health benefit association may modify its plan designs or plan offerings, or both, beginning with the health benefit plans to be offered in the first plan year to which the Commission’s second agreement applies.

(2) Nothing in subdivision (1) of this subsection shall be construed to limit or modify the requirement that a health benefit association file annual, actuarially sound, proposed premium rates with the Department of Financial Regulation in amounts sufficient to ensure the continued solvency of the association and its health benefit plans.

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

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

Sec. H.28 NO IMPACT ON HEALTH BENEFITS FOR RETIRED SCHOOL
EMPLOYEES

(a) Nothing in this act shall be construed to modify the health benefits or health benefit plans offered to retired school employees.

* * * Administrative Changes * * *

Sec. H.29 32 V.S.A. § 5402b(a)(4) is amended to read:

(4) the percentage change in the ~~median~~ average education tax bill applied to nonresidential property; and the percentage change in the ~~median~~