

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was  
3 referred House Bill No. 81 entitled “An act relating to statewide public school  
4 employee health benefits” respectfully reports that it has considered the same  
5 and recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 16 V.S.A. § 2101 is amended to read:

8 § 2101. DEFINITIONS

9 As used in this chapter:

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

13 (2) “School employee” ~~means:~~

14 (A) includes the following individuals:

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

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

19 (iii) an individual employed as a supervisor as defined in

20 21 V.S.A. § 1502;

21 (iv) a confidential employee as defined in 21 V.S.A. § 1722;





1 representatives of school employers and the representatives of school  
2 employees shall equitably apportion their share of the costs of compensation  
3 and administrative expenses among their members.

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

7 (j) Alternate members.

8 (1) Four alternate members may be appointed to the Commission.

9 (2) Up to two alternate members may be appointed by representatives of  
10 school employees and up to two members may be appointed by representatives  
11 of school employers.

12 (3) The term of each alternate member, if appointed, shall be six years.

13 (4) An alternate member may serve temporarily in the role as a member  
14 appointed under subsection (b) of this section only in the absence of an  
15 appointed member and shall not otherwise have participation or voting rights  
16 in Commission business.

17 (5) An alternate member shall be appointed to be a full member of the  
18 Commission by the alternate member's appointing authority upon the  
19 resignation or removal of a full member.

1           (6) In the event of a vacancy of an alternate member, the appointing  
2           authority of the alternate member shall appoint a successor to serve out the  
3           remainder of the alternate member’s term.

4           (7) Alternate members may be removed by the appointing authority of  
5           the alternate member without cause.

6           (k) Funding. The Commission shall request the Governor to include in the  
7           Governor’s annual budget a minimum of \$35,000.00 appropriated to the  
8           Agency of Education for per diem compensation and reimbursement of  
9           expenses for members of the Commission. Any unencumbered appropriation  
10           shall revert to the General Fund in the year following the conclusion of an  
11           agreement under subdivision 2104(b)(1) of this title.

12           Sec. 3. APPROPRIATION

13           The sum of \$35,000.00 is appropriated to the Agency of Education from the  
14           General Fund for fiscal year 2022 for per diem compensation and  
15           reimbursement of expenses for members of the Commission.

16           Sec. 4. 16 V.S.A. § 2103 is amended to read:

17           § 2103. DUTIES OF THE COMMISSION

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



1       (e) The Commission may negotiate a statewide grievance procedure for  
2       disputes concerning public school employee health benefits.

3       (f) In no case shall a school employee receive cash in lieu of receipt of  
4       healthcare benefits from one school employer while simultaneously receiving  
5       health care benefits from the same or another school employer.

6       (g) Accommodations shall be made for school employees whose workload  
7       is shared between more than one school employer, and who may not otherwise  
8       qualify for health care benefits from only one school employer. The affected  
9       school employers shall determine the proportionate portion of the shared costs  
10       of the health benefits.

11       Sec. 5. 16 V.S.A. § 2104 is amended to read:

12       § 2104. NEGOTIATION; TIME TO BEGIN; GOOD FAITH; WRITTEN  
13                AGREEMENT

14       (a)(1) The Commission shall commence negotiation of the matters set forth  
15       in subsections 2103(a) and (b) of this chapter not later than April 1 of the year  
16       before the existing agreement pursuant to this section is set to expire. On or  
17       before October 1 of the year prior to commencement of bargaining, the  
18       Commission shall request from the parties any data and information that it  
19       anticipates needing for the negotiation in a common format, and on or before  
20       February 1 of the year of bargaining, the parties shall submit to the  
21       Commission the information requested.

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Sec. 5a. 16 V.S.A. § 2104 is amended to read:

§ 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. On or before October 1 of the year prior to commencement of bargaining, the Commission shall request from the parties any data and information that it anticipates needing for the negotiation in a common format, and on or before February 1 of the year of bargaining, the parties shall submit to the Commission the information requested.

\* \* \*

(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.



1           (B)(i) The Commission shall mutually agree on an arbitrator by April  
2           5 to decide all matters remaining in dispute if it is unable to reach an  
3           agreement within 30 days after receiving the fact finder's report.

4           (ii) If the Commission is unable to mutually agree on an arbitrator,  
5           it shall either request the Vermont Labor Relations Board (VLRB) to decide all  
6           matters remaining in dispute or form a three-member panel of arbitrators to be  
7           selected as follows:

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

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

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

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

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

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

3 Sec. 6. 16 V.S.A. § 2105 is amended to read:

4 § 2105. DISPUTE RESOLUTION

5 \* \* \*

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

10 (2) The representatives of school employees and the representatives of  
11 school employers shall submit to the arbitrator or arbitrators their last best  
12 offer on all issues remaining in dispute prior to the arbitration hearing. The  
13 arbitrator or arbitrators shall select one of the last best offers without  
14 amendment, submitted by the parties prior to the arbitration hearing in its  
15 entirety ~~without amendment~~. The parties shall not be permitted to modify their  
16 last best offers post hearing. Prior to the issuance of the decision of the  
17 arbitrator or arbitrators, nothing shall prohibit the parties from settling the  
18 matters in dispute.

19 (3)(A) The arbitrator or arbitrators shall hold a hearing on or before  
20 November 15 at which the Commission members shall submit all relevant  
21 evidence, documents, and written material, including a cost estimate for the

1 term of the proposal with a breakdown of costs borne by employers and costs  
2 borne by employees, and each member may submit oral or written testimony in  
3 support of his or her position on any undecided issue that is subject to  
4 arbitration.

5 \* \* \*

6 (4) The arbitrator or arbitrators shall issue ~~their~~ a written decision within  
7 30 days after the hearing, providing a full explication of the basis for the  
8 decision. The decision of the arbitrator or arbitrators shall be final and binding  
9 upon the Commission and all school employees and school employers. The  
10 decision shall not be subject to ratification.

11 (5) Upon the petition of a ~~Commission member~~ majority of the  
12 employer or the employee members within not more than 15 days following  
13 the arbitration decision, a Superior Court shall vacate the decision if:

14 \* \* \*

15 Sec. 6a. 16 V.S.A. § 2105 is amended to read:

16 § 2105. DISPUTE RESOLUTION

17 \* \* \*

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



1           (4) The VLRB, arbitrator, or arbitrators shall issue a written decision  
2           within 30 days after the hearing, providing a full explication of the basis for the  
3           decision. The decision of the VLRB, arbitrator, or arbitrators shall be final and  
4           binding upon the Commission and all school employees and school employers.  
5           The decision shall not be subject to ratification.

6           (5) Upon the petition of a majority of the employer or the employee  
7           members within not more than 15 days following the VLRB or arbitration  
8           decision, the Vermont Supreme Court, in the case of a VLRB decision, or a  
9           Superior Court in the case of an arbitration decision, shall vacate the decision  
10          if:

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

12                   (B) there was evident partiality or prejudicial misconduct by the  
13           VLRB or arbitrator or by individual members of the VLRB or arbitrators  
14           arbitration panel;

15                   (C) the VLRB, arbitrator, or arbitrators exceeded its or their power or  
16           rendered a decision requiring a person to commit an act or engage in conduct  
17           prohibited by law; or

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

20           (6) At any time prior to the issuance of a decision by the VLRB,  
21           arbitrator, or arbitrators, the Commission may notify the VLRB, arbitrator, or

1 arbitrators of any additional issues on which a majority of the representatives  
2 of school employees and of the representatives of school employers have  
3 reached agreement.

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

6 (c) The VLRB, arbitrator, or arbitrators shall have the authority to address  
7 complaints that either party has engaged in or is engaging in unfair bargaining  
8 practices, including a refusal to bargain in good faith. If the VLRB, arbitrator,  
9 or arbitrators find upon a preponderance of the evidence that a party has  
10 engaged in or is engaging in any unfair bargaining practice, the VLRB,  
11 arbitrator, or arbitrators may include in the decision a remedy for the unfair  
12 bargaining practice that is consistent with the provisions of 21 V.S.A.  
13 § 1727(d).

14 Sec. 7. EFFECTIVE DATES

15 Secs. 5a and 6a shall take effect on January 1, 2022. This section and the  
16 remaining sections of this act shall take effect on passage.

17  
18 (Committee vote: \_\_\_\_\_)

19 \_\_\_\_\_

20 Representative \_\_\_\_\_

21 FOR THE COMMITTEE