

TO: House Committee on General, Housing and Military Affairs
FROM: Suzanne Dirmaier, UniServ Director, Vermont-NEA
DATE: January 19, 2021
SUBJECT: Testimony on H.81

My name is Suzanne Dirmaier. For years I was a Vermont elementary school teacher and I am currently on staff at the Vermont-NEA. I bring a lot of real, hands on local bargaining experience to my testimony today. Most relevant here is that I was a point person for school employees on the state commission that preceded the passage of Act 11, the educator health care bargaining law before you and I advised the Employee Commission members negotiating statewide health insurance benefits for school employees in 2019.

My main message is that H.81 is a clear, simple, and well thought out solutions to problems that were exposed by both parties after the first round of bargaining. It upholds a core value of any collective bargaining process – to establish basic parameters for negotiations without favoring one side or another. Any collective bargaining law, as is the case with the new statewide school employee health care bargaining law, is enacted to facilitate a conversation and not prescribe or dictate a specific outcome. I know that this is really about fairness for the essential public school, front line support staff. This is about letting them have equal rights to bargain for their health care.

Before I begin, I want to acknowledge that we are all still living and working through a global pandemic. That has meant great sacrifices – in some cases loss – for all of us. Every day I have the great pleasure of working with our dedicated public-school employees – teachers, paraeducators, bus drivers, guidance counselors, school nurses, bus drivers, food service workers, among others – over 75% of whom are women. Since before the pandemic, but even more so now, school employees have stepped up every day to support our students, families, and communities. They worked to create spaces where their students can feel safe and cared for, sometimes at great costs to their own families. Vermont schools are a model for the nation and that is in large part because Vermont educators – frontline essential workers – working in collaboration with school leaders have made it happen. And it is these school support staff employees (not teachers) -some making \$12-13/hour – who we are talking about when we are discussing H.81.

I have a long view of negotiations in Vermont – thirty years on staff with Vermont-NEA and nine years on teacher negotiations teams in the Mad River Valley where I taught grades five and six. Additionally, I have been involved in health care negotiations on a statewide level since my appointment to the Act 85 Commission in 2017 - the Commission created to study whether a statewide approach should be

enacted. The Act 85 Commission was the Legislature's response to the Vermont School Boards Association's request in 2017 to move to a statewide health care negotiations process, something we resisted. The Act 85 Commission Report was comprehensive and in part led to the creation of the new statewide bargaining structure in Act 11 of the 2018 Special Session. The Commission included representatives from the Department of Financial Regulation, Tax Department, Vermont School Boards Associations, Vermont Superintendents Association, Vermont-NEA, AFSCME, and one appointee each of the Speaker of the House and Senate Pro Tem. One key point I want to share from the Commission report states *"All Commission members agree that a negotiated benefit should allow for access to health care benefits for all school employees – including those that are currently not offered health coverage as a term of their employment – in order for the various interests and constituencies represented on the VEHBC to support any change to the status quo approach to negotiating health benefits. Likewise, a negotiation framework should create a path to achieving equitable and affordable health benefits across all districts and employee types."*¹ The Commission said health care should be accessible, affordable, and equitable for all school employees, including and especially for our lowest paid school support staff.

As you know, H.81 is identical to S.226 of last session as passed by the Senate. That bill was a fully vetted bill agreed to by both parties and it received unanimous support from the Senate Education and Appropriations committees as well as the full Senate. It represents clear, simple, and well thought out solutions to problems that were exposed by both parties after the first round of bargaining, but H.81 upholds a core value of any collective bargaining process – to establish basic parameters for negotiations without favoring one side or another. Any collective bargaining law, as is the case with the new statewide school employee health care bargaining law, is enacted to facilitate a conversation and not prescribe or dictate a specific outcome.

I will now speak to some of the specific provisions of H.81. I also want to make clear, I testified in the Senate Education Committee last year, as did VSBA's attorney, Joe McNeil.

Section 1 – Covered Employees

In the first round of negotiations both parties believe and assumed, as the law intended, that the agreement would cover all school employees. After the arbitrator made their decisions, per statute, it was noticed by the VSBA that the definition in statute needed clarification. We supported this adjustment that VSBA proposed last year in Senate Education.

Section 2

Removal

We appreciate that the VSBA advocated for and the Senate added qualification language about how Commissioners may be removed. It is important that both sides are able to be represented by active school employees and active school board members and that there is the ability to remove Commissioners who may no longer serve in that capacity.

Release time for school district employees and compensation for employer commissioners:

We believe this to be important due to the very short window for negotiations and the difficulty involved in scheduling meetings at reasonable times and places required the utmost flexibility

¹ Page 5-6 from "Finding and Recommendations of the Vermont Education Health Benefit Commission": https://dfr.vermont.gov/sites/finreg/files/doc_library/VEHBC%20Final%20Report.pdf

on the part of all commissioners. The Employee Commissioners came from all areas of the state, some driving long distances to attend meetings. It only makes sense to allow the employee commissioners the ability to meet when the parties agree, including during the school day without penalty.

Likewise, we believe that the employer commissions should be compensated for their time. There was no appropriation for this during the first round of bargaining and why we agreed to support VSBA's request to include this provision.

Alternates:

In the first round of negotiations, several of the first meetings, were spent on the concept of alternates. Ultimately, the parties resolved their differences on this issue. Nevertheless, the Senate Education Committee members noticed, and the Committee addressed this issue through this language. The presence of alternates at sessions gives alternates the necessary foundation to step in should a Commissioner no longer be able to serve. With such a tight timeline, having someone able to step in quickly, much like an understudy, is important for both sides who agreed to the additional language.

Section 4 - Duties of the Commission:

For entire time I have been involved in supporting public school employees – from when I was a teacher negotiating with my school board, to now when I support our local support staff and teachers in their negotiations – we have been able to negotiate over healthcare, whatever that may look like. Simply said, since the creation of collective bargaining in Vermont, school boards and teachers and support staff have been allowed to agree to a different arrangement for both premium and out of pocket costs based upon the types of school employees—teachers or support staff. The ability to bargain a different cost arrangement between teachers and support staff continued in the first round of statewide health care bargaining. Without a change to the statute, as proposed by H.81, the two sets of employees with vastly different wages would be subject to the exact same cost sharing. There are no other labor statutes in Vermont that has similarly restrictive language, this is an outlier. However, with the simple deletion in the statute the **conversation** about the ability to pay can occur. Both sides, Employer and Employee Commissioners, would make their respective cases and utilize the data to make decisions and balance interests. It is in the interest of both parties to keep it simple and practical for implementation.

During round one of statewide health care bargaining, VSBA sought agreement on a statewide grievance process. Because the parties were unable to come to agreement on this issue, in coming to his decision, the Arbitrator determined that “requiring” a grievance provision was not permitted under Act 11. VSBA sought this change in the Senate to allow the parties to discuss a

statewide grievance process and for an arbitrator to include such a provision in a decision should the parties be unable to come to an agreement.

Section 5 - Data:

One of the most important and yet difficult aspect of the previous negotiations cycle was good data both parties could use. Instead of arguing about the data, both sides agreed to collaborate and collect the data together; however, in collecting the data the integrity of the data and timeliness of receipt became an issue. For example, each side needs to fully understand the current situation with respect to the numbers. In a typical negotiation at the school district level, the parties would come to agreement over what we call the census as a first item of business. Knowing the actual number of employees and their benefit level prior to making a proposal is key. Without meaningful data any proposal from either side is only a guess. As we move forward it is imperative that both sides are able to trust the data and that it be received in a timely fashion. Section 5 attempts to address the data issue. I want to point out that given we are a mere three month from starting negotiations, this section, if passed, would only impact the third round of negotiations and not the one we are about to begin. Data, however, will remain an issue in the third round of statewide health care bargaining, which is why this section is important to both sides.

Section 6 – Dispute Resolution:

As we the parties moved toward the final steps of the first round of bargaining, it was clear that not all was, clear. Confusion at the end of any bargaining is not helpful, and such was the case in round one. The Arbitrator allowed both sides to modify their “Last Best Offer” after the arbitration hearing. VSBA thought it wise to adjust the statute to make it clear that the “Last Best Offer” could not be changed. While we did not seek this change, we understand why the Senate accepted it and the value of clarity in this regard.

There was also a desire to ensure the Arbitrator knew the cost estimate of each parties’ proposal and VSBA sought language in the Senate, reflected in H.81, to ensure that that the Arbitrator had that information. While already in statute requiring the Arbitrator to consider the ability of the Education Fund and school districts to afford proposals, we understand why VSBA sought to clarify this in statute.

Finally, in the first round of negotiations, the Arbitrator did not provide a full explanation of why Vermont-NEA’s proposal was selected not VSBA’s proposal. VSBA sought language in the Senate to address that, which is reflected here, and we agreed to the clarifying language.

Before I conclude I want to state what we all know, health care cost for all Vermonters is not sustainable. Collective bargaining is a process for school employees and school employers to discuss and decide how to address who pays for what. That said, it is not a place to address our broken health care system and ever increasing costs for all Vermonters. The out-of-control health care costs all our citizens face must be addressed as a policy matter to ensure it impacts all workers and employers. As

you may know, it is for this reason that Vermont-NEA has been a strong advocate for decades for systemic health care reform.

Thank you for your time and consideration. Again, I want to stress these technical fixes are borne from real experience, are simple to understand and implement. It is critical at this point that we do not endeavor to re-write a new law but rather focus on vetted, practical, simple, and timely technical fixes that do not favor either side.