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	<u>21 V.S.A. § 1502;</u>
21	(iv) a confidential employee as defined in 21 V.S.A. § 1722;

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1	(v) a certified employee of a school employer; and
2	(vi) any other permanent employee of a school employer not
3	covered by subdivisions (i)-(v) of this subdivision (2); and
4	(B) notwithstanding subdivision (A) of this subdivision (2), excludes
5	individuals who serve in the role of superintendent.
6	(3) "School employer" means a supervisory union or school district as
7	those terms are defined in section 11 of this title.
8	Sec. 2. 16 V.S.A. § 2102 is amended to read:
9	§ 2102. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH
10	BENEFITS CREATED
11	* * *
11 12	* * *(b) Composition and appointment.
12	(b) Composition and appointment.
12 13	(b) Composition and appointment.(1) The Commission shall have 10 members, of whom five shall be
12 13 14	(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
12 13 14 15	(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.
12 13 14 15 16	 (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
12 13 14 15 16 17	 (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:

1	(ii) one member appointed by the labor organization representing
2	the second-greatest number of teachers, administrators, and municipal school
3	employees in this State.
4	* * *
5	(d) Removal of Commission members. Members of the Commission may
6	be removed only for cause. The Commission shall adopt rules pursuant to 3
7	V.S.A. chapter 25 to define the basis and process for removal by the
8	appointing authority of the member without cause.
9	* * *
10	(f) Compensation. Commission members shall be entitled to receive per
11	diem compensation and reimbursement of expenses pursuant to as permitted
12	under 32 V.S.A. § 1010 for not more than 20 meetings per year.
13	(g) <u>Release time</u> . A school district that employs a member of the
14	Commission, or an alternate member of the Commission under subsection (j)
15	of this section, who represents school employees or school employers shall
16	grant the Commission member time off as necessary for the member to attend
17	meetings of the Commission.
18	(h) Staffing and expenses. The Commission may hire staff as it deems
19	necessary to carry out its duties under this chapter. Compensation for
20	Commission staff and administrative expenses of the Commission shall be
21	shared equally by school employers and school employees. The

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	(1) The premium responsibility percentages shall remain in effect for the
2	entire plan year.
3	(2) Each school employer shall be responsible for paying, on behalf of
4	all of its participating school employees, the applicable percentages of
5	premium costs as determined by the Commission.
6	(3) The premium responsibility percentages for each plan tier shall be
7	the same for all participating employees.
8	(b)(1) The Commission shall determine the amount of school participating
9	employees' calendar year out-of-pocket expenses for which the school
10	employer and the school participating employees shall be responsible, and
11	whether school employers shall establish a health reimbursement arrangement,
12	a health savings account, both, or neither, for their participating employees.
13	* * *
14	(3) The school employers' and school employees' responsibilities for
15	out-of-pocket expenses for each plan tier shall be the same for all participating
16	employees.
17	* * *
18	(d) The Commission shall not make any determinations regarding school
19	employer or school participating employee responsibilities with respect to
20	stand-alone vision or dental benefits.

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.

1	* * *
2	Sec. 5a. 16 V.S.A. § 2104 is amended to read:
3	§ 2104. NEGOTIATION; TIME TO BEGIN; GOOD FAITH; WRITTEN
4	AGREEMENT
5	(a)(1) The Commission shall commence negotiation of the matters set forth
6	in subsections 2103(a) and (b) of this chapter not later than April 1 of the year
7	before the existing agreement pursuant to this section is set to expire. On or
8	before October 1 of the year prior to commencement of bargaining, the
9	Commission shall request from the parties any data and information that it
10	anticipates needing for the negotiation in a common format, and on or before
11	February 1 of the year of bargaining, the parties shall submit to the
12	Commission the information requested.
13	* * *
14	(3)(A) The Commission shall select a person to serve as a fact finder to
15	assist it in resolving any matters remaining in dispute in the event that the
16	Commission is unable to reach an agreement by August 1. The fact finder
17	shall be selected by a vote of a majority of the representatives of school
18	employees and of a majority of the representatives of school employers. If the
19	Commission cannot agree on a fact finder by April 5, the American Arbitration
20	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.
13 14	Association. (III) The Commission shall request the services of the
14	(III) The Commission shall request the services of the
14 15	(III) The Commission shall request the services of the American Arbitration Association for the appointment of the third arbitrator.
14 15 16	(III) The Commission shall request the services of theAmerican Arbitration Association for the appointment of the third arbitrator.(b)(1) The Commission shall enter into a written agreement incorporating
14 15 16 17	(III) The Commission shall request the services of theAmerican 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.

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 <u>a written</u> 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 <u>majority of the</u>
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	(2) The representatives of school employees and the representatives of		
2	school employers shall submit to the VLRB, arbitrator, or arbitrators their last		
3	best offer on all issues remaining in dispute prior to the <u>VLRB or</u> arbitration		
4	hearing. The VLRB, arbitrator, or arbitrators shall select one of the last best		
5	offers without amendment, submitted by the parties prior to the VLRB or		
6	arbitration hearing in its entirety without amendment. The parties shall not be		
7	permitted to modify their last best offers post hearing. Prior to the issuance of		
8	the decision of the <u>VLRB</u> , arbitrator, or arbitrators, nothing shall prohibit the		
9	parties from settling the matters in dispute.		
10	(3)(A) The <u>VLRB</u> , arbitrator, or arbitrators shall hold a hearing on or		
11	before November 15 at which the Commission members shall submit all		
12	relevant evidence, documents, and written material, including a cost estimate		
13	for the term of the proposal with a breakdown of costs borne by employers and		
14	costs borne by employees, and each member may submit oral or written		
15	testimony in support of his or her position on any undecided issue that is		
16	subject to arbitration.		
17	(B) In reaching a decision, the <u>VLRB</u> , arbitrator, or arbitrators shall		
18	give weight to the evidence, documents, written material, and arguments		
19	presented, as well as the following factors:		
20	* * *		

1	(4) The <u>VLRB</u> , 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 <u>VLRB</u> , 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 <u>VLRB</u> , arbitrator, or arbitrators exceeded <u>its or</u> 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 <u>VLRB</u> ,			
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 <u>VLRB</u> , 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 <u>VLRB</u> , 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	Rep	resentative		
21	FOF	R THE COMMITTEE		

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