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Susanne R. Young, Secretary

**MEMORANDUM, H.81, AN ACT RELATING TO STATEWIDE PUBLIC SCHOOL
EMPLOYEES HEALTH BENEFITS**

TO: Honorable Tom Stevens, Chair, House Committee on General, Housing and Military Affairs

FROM: Susanne Young, Secretary, Agency of Administration
Daniel French, Secretary, Agency of Education
Craig Bolio, Commissioner, Department of Taxes
Mike Pieciak, Commissioner, Department of Financial Regulation

SUBJECT: H.81 & Reasonable Cost Containment Provisions in Statewide School Employees Health Care Negotiations

DATE: February 5, 2021

CC: House Committee on General, Housing and Military Affairs
Honorable Katherine Webb, Chair, House Education Committee
Honorable Janet Ancel, Chair, House Ways & Means Committee

This memorandum provides the Administration's perspective surrounding the evolution of the statewide bargaining construct for school employees' health care plans and the financial impacts of H.81. Additionally, if H.81 is voted out of committee, the Administration recommends the House Committee on Education and the House Committee on Ways and Means further consider the bill due to the significant financial implications for Vermont taxpayers.

Legislative Evolution of the Commission on Public School Employees Health Benefits:

As you may recall, the conversation around state-level negotiations over increasingly complex benefits began in the Spring of 2017 and was spurred by the redesign of school employees' health benefits to conform with the provisions of the Affordable Care Act. Specifically, the benefits and their cost structure needed to change to avoid the 'Cadillac Tax' in the Affordable Care Act, levied on plans with actuarial values above 94 percent.



Realizing potential savings from these plans, establishing sustainability of the plan's cost for employees and taxpayers alike, and creating uniformity in cost-sharing arrangements to make the benefit easier to administer were the underlying goals of the 2017 proposal from Governor Scott's Administration. Ultimately, the Legislature chose not to adopt the Administration's plan in 2017, leaving health care to be bargained at the local level.

In late April 2018, a year later, a bill was introduced in the Senate Education Committee establishing a statewide Commission to bargain school employees' health benefits. The Senate Education Committee never passed the bill, however, in late June 2018 as the Administration debated the state budget with the Legislature, the final draft of the Senate Education Committee bill materialized in H.18 of what became Act 11 of 2018 (Special Session), an act relating to making appropriations for the support of state government, financing education and vital records ("Act 11"), which went into law without the Governor's signature.

This bargaining construct, the rules governing it, and the outcomes it has produced are a product of the legislature. But to the extent this is an evolution of the Administration's 2017 proposal, then the foundational principles of cost containment, financial sustainability of the plans for employees and taxpayers, and simplified plan administration ought to apply.

H.81 and the Financial Ability of the Education Fund to Pay for the Costs of Health Care Benefits and Coverage:

The Administration would like to weigh in as you consider changes to the bargaining framework under Act 11 and emphasize one provision of the underlying statute: the financial ability of the Education Fund and school districts across the state to pay for the costs of health care benefits and coverage.

We respect and understand that your committee is not a 'money committee', but please note for the record, the Administration feels the fiscal impacts of this policy are real and deserving of more testimony. For example, the first negotiation under this new Commission, unfortunately, ended in an impasse with both sides submitting last best offers to the arbitrator.

Under law, the arbitrator must decide which offer to implement according to the following provisions:

- (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.

However, based on the arbitrator's explanation, it is unclear how he considered any of these factors, least of all the Education Fund's or taxpayers' capacity to pay for the costs of health care benefits and coverage.

This is the critical issue at hand – the lack of transparency into how a decision was made; that it was made by a single, unaccountable individual; and that it has had a major impact on school district budgets. The Commission's employer representatives estimate the initial contract added \$25 to \$30 million in costs to the Education Fund.

The bill before your committee, H.81, primarily changes the duties of the Commission, not the dispute resolution procedures. Furthermore, the Administration is concerned about the fiscal impacts of these changes. By striking the provision for uniform cost-sharing arrangements for premiums and out-of-pocket costs, this bill may result in the Commission negotiating a sliding health care contribution. The Administration is not opposed to this concept in the abstract, however, if the premium and out-of-pocket contributions only slide one way toward lower-paid employees– and higher paid teachers and administrators do not offset the cost through higher health benefit contributions, then employers – or taxpayers – are left making up the difference.

We understand you have a fiscal note in hand delineating the different impacts to the education fund in this scenario, but since it relies on 2019 premium data, it is likely understated. We have also reviewed testimony to House Education from January 14th of this year in which school board members discuss the difficulty of constructing a budget with higher, state-imposed health care costs without cutting education programming or raising local property tax rates.

H. 81 presents a big policy decision with impacts to other committees of jurisdiction. The Administration recommends the House Committee on Education and House Committee on Ways and Means review this bill before it goes to vote before the House as a whole. As always, the Administration appreciates the committee’s consideration of this written input and can provide follow up testimony at your request.

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