



TO: House Education Committee

FROM: Sue Ceglowski, Executive Director, Vermont School Boards Association

RE: Health Care Benefits of School Employees

DATE: January 4, 2024

Thank you for the invitation to testify on the negotiations process for health benefits of public school employees. I am Sue Ceglowski, Executive Director for the Vermont School Boards Association. Joining me today are Mark Koenig (a member of the Commission on Public School Employee Health Benefits and Chair of the Employer Commissioners) and Attorney Joe McNeil (Chief Negotiator for the Employer Commissioners). They will present separate testimony after I provide testimony on the existing process for negotiations.

### **Statewide Bargaining Process Set Forth in 16 V.S.A. Sections 2101-2108**

#### *Creation of Commission on Public School Employee Health Benefits*

Prior to 2018, the health benefits of public school employees were negotiated at the local level. In 2018, the Legislature passed language in the budget bill (Act 11 of 2018) requiring negotiations to occur at the state level by the newly created Commission on Public School Employee Health Benefits (Commission).<sup>1</sup> The job of this independent Commission is to determine, in accordance with 16 V.S.A. Section 2103, 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.

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<sup>1</sup> Act 85 of 2017 created the Vermont Educational Health Benefits Commission to determine whether and how to establish a single statewide health benefit plan for all teachers, administrators, and other employees of supervisory unions and school districts. VSBA was a member of the Commission. The Commission recommended moving forward with a statewide benefit, to be negotiated by representatives of the parties. The Commission also identified a range of issues that any piece of legislation on statewide bargaining should address.

### *Composition of Commission on Public School Employee Health Benefits*

Pursuant to 16 V.S.A. Section 2102, the Commission has ten members - five members represent school employers and five represent school employees. Additionally, each side has two alternate members on the Commission. As the organization representing the majority of public school board members in the state, the VSBA appoints the five Commission members and the two alternate members representing school employers (referred to as the “Employer Commissioners”). The law does not require the Employer Commissioners to be serving as school board members.

### *Duties of Commission on Public School Employee Health Benefits*

The duties of the Commission (laid out in 16 V.S.A. Section 2103) include: determining 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. Each school employer is responsible for paying, on behalf of its participating employees, the applicable percentages of premium costs as determined by the Commission.

The Commission must also determine the amount of participating employees’ out-of-pocket expenses for which the school employer and the participating employees will be responsible and whether school employers must establish for their participating employees a health reimbursement arrangement (HRA), a health savings account (HSA), both, or neither,

In addition, the Commission must determine the extent to which the employer or employee shall bear first-dollar responsibility for out-of-pocket expenses if using an HRA and whether a balance in a participating employee’s HRA shall roll over from year to year.

### *Negotiations of Commission on Public School Employee Health Benefits*

On or before October 1 of the year prior to commencement of bargaining, the Commission must request from the parties any data and information that it anticipates needing for the negotiation in a common format. In September of 2023, the VSBA and Vermont-NEA requested data from all of the school districts in the state in a common format. Both sides utilize their own data analysts for negotiations once the data collection is complete.

16 V.S.A. Section 2104 requires the Commission to commence negotiations no later than April 1 of the year before the existing agreement is set to expire. In the current cycle, the Commission will begin the next round of negotiations no later than April of this year.

### *Dispute Resolution*

16 V.S.A. Section 2105 provides that the Commission must meet with its selected fact-finder no later than August 15 if the Commission is unable to reach an agreement by August 1. Since its creation, the Commission has utilized a fact-finder because it has never reached an agreement by August 1.

The fact-finder must attempt to mediate the matters in dispute before issuing a decision. The law provides that if the mediation fails to produce an agreement, the fact-finder must submit a written report to the Commission by September 15, recommending a reasonable basis for the settlement of the matters remaining in dispute. Mediation has failed to produce an agreement in the past two rounds of bargaining and the fact finder issued a written report in both rounds.

### *Last Best Offer Arbitration*

If the Commission is unable to resolve all matters remaining in dispute within 30 days after receiving the fact finder's report, the Commission must submit the matters remaining in dispute to the Vermont Labor Relations Board, an arbitrator or a panel of arbitrators.

The Employer Commissioners and the Employee Commissioners do this by submitting their last best offers prior to the VLRB or arbitration hearing which must be held on or before November 15. The Commission has never resolved all matters remaining in dispute after receiving the fact finder's report. In both previous rounds of bargaining, the parties have submitted last best offers prior to an arbitration hearing (in the first round to a single arbitrator and in the second round to an arbitration panel) and the arbitration hearing was held in a timely manner.

The VLRB, arbitrator or arbitration panel must issue a written decision within 30 days after the hearing, providing a full explanation of the basis for the decision. Weight must be given to the evidence, documents, written material and arguments presented as well as the following factors:

1. The interests and welfare of the public
2. The financial ability of the Education Fund and school districts across the state to pay for the costs of health care benefits and coverage
3. Comparisons of health care benefits of school employees with the health care benefits of similar employees in the public and private sectors in Vermont
4. The average consumer prices for goods and services commonly known as the cost of living and
5. Prior and existing health care benefits and coverage for school employees

16 V.S.A. Section 2105 requires the VLRB, arbitrator or arbitration panel to select one of the last best offers without amendment. In the first round of bargaining, the arbitrator selected the Employee Commissioners' last best offer. In the second round of bargaining, the arbitration panel again selected the Employee Commissioners' last best offer.

School employee health benefits are a major cost driver in school district budgets. The statewide negotiations process, as currently structured, has not been successful in slowing the rate of growth of the cost of school employees' health benefits. Cost containment (bending the curve of future increases in cost) is needed to avoid further jeopardizing educational opportunities for students and maintenance of facilities.

I am providing the Committee members with VSBA's legislative platform document based on resolutions passed by the membership and draw your attention to the resolution supporting legislation addressing health care for school employees that will reduce costs to school districts over the near and long term and reflect the health insurance plan norms for the majority of Vermonters.

At this point, I will end my testimony so that the Committee has time to hear from the Chair of the Employer Commissioners and the Chief Negotiator for the Employer Commissioners. Thank you for the opportunity to testify on this important topic.