May 7, 2026

Dear House Health Care Committee Members:

Thank you very much for the opportunity to testify with respect to S.190. I am an attorney with the Burlington law firm of McNeil Leddy & Sheahan, and have been involved in labor relations and collective bargaining matters in Vermont since the initial passage of collective bargaining rights for public employees. I serve as counsel to the employer commissioners on the statewide healthcare commission for educational employees, and have also served as co-chief negotiator for the state in bargaining with VSEA and VTA for the last several cycles of collective bargaining.

A question has apparently risen as to whether the legislature may pass Section 4 of H.190 without impermissibly or inappropriately infringing on collective-bargaining rights. Nothing could be further from the truth. The General Assembly regularly articulates standards which, one way or another, impact how collective-bargaining is carried out. This ultimate oversight is neither impermissible nor inappropriate when a legislature believes that specified guardrails must be established for the protection of the public interest.

For example, just last year this General Assembly passed H.461 which became Act 32. This measure expanded the opportunity of both paid and unpaid leave for Vermont's employees, and will govern the terms of future CBA's. It added the category of "safe leave" and amplified personal leave benefits. Did doing so affect how parties would collectively bargain in the future? Yes, it did. For instance, the measure made impermissible for the future a provision in the collective bargaining agreements between the state and its employees that made the utilization of personal leave, dependent upon the usage of sick leave. Even more fundamentally, the US Fair Labor Standards Act requires that overtime compensation be paid for hours worked in excess of 40 hours per week. CBA's cannot be to the contrary, so in future negotiations, these legislatively imposed requirements must be respected.

The General Assembly and the Congress passed these laws under the belief that these choices are in the public's best interest. For the same reason, this body may decide that the actuarial value of the healthcare plan for educational employees should not be an excess of the actuarial value of the highest actuarial valued plan subject to regulation. This decision would be made in order to limit the extraordinary growth of the dollars that Vermont school districts and Vermont taxpayers are paying for health insurance. Such a decision is both legally permissible and an arguably desirable guardrail established to govern future negotiations.

The same would be true for the proposed standard that school district employees, rather than employers, be responsible for paying the first dollar obligations for health savings accounts and health reimbursement arrangements. This employee first-dollar standard was the original recommendation from the then administration to the General Assembly (together with an 80/20 premium sharing obligation) at the time statewide bargaining of healthcare benefits for educational employees was proposed to replace district-by-district collective bargaining.

In summary, there is absolutely no question in my mind that the General Assembly may legally enact the provisions of Sec. 4 of S.190 being proposed by this committee. Future collective-bargaining will simply need to be consistent with the standards established.

Joseph McNeil
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