

1 **With amendments suggested by Rep Buxton:**

2 Sec. 34. 16 V.S.A. § 166a is added to read:

3 § 166a. INDEPENDENT SCHOOL SERVING SAME POPULATION

4 (a) Privatization. Notwithstanding the authority of a school district to cease
5 operating an elementary or secondary school and to begin paying tuition on
6 behalf of its resident students pursuant to subdivision 563(11), subdivision
7 821(a)(1), subsection 821(d), and subdivision 822(a)(1) of this title, a school
8 district may cease operation of a school with the intention, for the purpose, or
9 with the result of having the school building or buildings reopen as an
10 approved independent school serving essentially the same population of
11 students (privatization), and an independent school may operate in the building
12 or buildings, serve essentially the same population, and receive publicly
13 funded tuition payments from the district (the privatized school), only by
14 meeting the criteria set forth in this section.

15 (b) Study committee; report.

16 (1) When the board of a school district wishes to study the advisability
17 of privatization or to request the voters to decide whether to privatize a school,
18 or if **five 30** percent of the voters eligible to vote at the last annual or special
19 school district meeting petition the board to do so, the board shall appoint a
20 study committee. The study committee shall have at least **9** members, at least
21 **5** of whom shall be members of the community who do not currently serve as

1 members of the board. **No member shall hold or intend to hold a position in**
2 **the proposed privatized school or have an interest or affiliation that could**
3 **reasonably be perceived as creating a conflict of interest.** The members of
4 the study committee shall elect a chair who shall notify the Secretary of the
5 study committee’s appointment. The study committee shall be a public body
6 pursuant to 1 V.S.A. § 310(3).

7 (2) The study committee shall issue a report determining either that
8 privatization is inadvisable or that the question should be presented to the
9 voters.

10 (A) If the study committee determines that privatization is
11 inadvisable, then the clerk of the district shall notify the Secretary of the
12 determination within **10** of days of receiving the report. The study committee
13 shall cease to exist on the day notification is made.

14 (B) If the study committee concludes that the voters should consider
15 the question, then the report shall **describe the ways in which student**
16 **learning will be affected by privatization, how the interests of the**
17 **community will be better served by privatization, and how privatization**
18 **will affect the opportunities for students in surrounding districts. The**
19 **report shall outline the process by which the committee shall inform the**
20 **public about its recommendation to privatize. The report shall also**
21 include:

1 (i) the grades to be operated by the proposed privatized school;

2 (ii) a business plan **prepared by the proposed privatized school**

3 showing all anticipated expenses and revenues for the proposed privatized
4 school's first year of operation, including details of any school district or town
5 expenses or revenues and how they satisfy section 4029 of this title;

6 (iii) the itemized real and personal property that the proposed
7 privatized school will purchase or lease from the school district and their
8 assessed fair market value;

9 (iv) the plan for establishing an annual tuition rate for the
10 proposed privatized school and ensuring that it does not exceed the average
11 announced tuition of Vermont union schools offering similar grades;

12 (v) the plan by which the proposed privatized school shall:

13 (I) provide special education services in a manner comparable
14 to a public school, within the legal processes and time periods required of a
15 local education agency and with the involvement of the local education
16 agency;

17 (II) meet requirements of section 2902 of this title and
18 29 U.S.C § 794, Section 504 of the Rehabilitation Act, so that the school will
19 provide a comprehensive support system in a manner comparable to a public
20 school;

1 (III) provide free and reduced-price meals to enrolled students
2 pursuant to section 1264 of this title;

3 (IV) employ licensed teachers and administrators and recognize
4 the representative of the former employees of the district as the representative
5 of the employees of the proposed privatized school under chapter 57 of this
6 title; and

7 (V) offer a quality educational program consistent with
8 Vermont educational quality standards pursuant to section 165 of this title; and

9 (vi) any other issues the study committee deems pertinent.

10 (c) State Board review and approval. Prior to presenting the question to the
11 voters:

12 (1) The study committee shall submit the report to the Secretary, who
13 shall submit the report with his or her recommendations to the State Board.

14 (2) If the proposed privatized school is not already an approved
15 independent school pursuant to section 166 of this title, then the persons
16 intending to establish and operate the privatized school shall submit an
17 application to the State Board pursuant to that section.

18 (3) The proposed privatized school shall provide assurance to the State
19 Board that the school **shall agrees to adhere to the provisions of the**
20 **proposed plan presented in subdivision (b)(2)(B) of this section and to:**

1 (i) make its operating budget available annually for public review
2 prior to the day on which the voters are asked to approve the district's
3 proposed budget;

4 (ii) conduct the meetings of its governing body pursuant to
5 1 V.S.A. chapter 5, subchapter 2; and

6 (iii) enroll every student residing in the municipality in which the
7 school is located who applies for admission.

8 (4) After review of the report and an opportunity for hearing, the Board
9 shall approve the proposed privatization plan if it determines that:

10 (A) the proposed privatized school is an approved independent
11 school pursuant to section 166; and

12 (B) the proposed privatization plan will serve critical State interests,
13 will reduce the district's education spending per equalized pupil, and includes
14 provisions to ensure adherence to the requirements of subdivisions (b)(2)(B)
15 and (c)(3) of this section.

16 (5) After the State Board approves a privatization plan under this
17 section, the privatized school shall provide assurance annually to the State
18 Board that the school is continuing to comply with the requirements of
19 subdivisions (b)(2)(B) and (c)(3) of this section. If at any time the privatized
20 school fails to comply with those requirements [or any other requirement set
21 forth in law or Board Rule], then the Secretary shall provide notice to the

1 **privatized school of the failure and of the steps necessary to correct it. If**
2 **the school fails to comply within 90 days after receipt of the notice, then**
3 the privatized school shall be ineligible to receive publicly funded tuition
4 payments **the Agency shall assume administrative control of the school**
5 **until operation of the school to reverts to the public school district.**

6 (d) Vote.

7 (1) If the Board approves a district's proposed privatization plan, then
8 the Agency shall develop the language for the warning to be presented to the
9 voters of the district at a regular or special meeting.

10 (2) Within 45 days after the vote or 15 days after an unsuccessful vote to
11 reconsider or rescind the original vote under 17 V.S.A. § 2661, whichever is
12 later, the clerk of the district shall certify the results of the vote to the Secretary
13 of Education. The study committee shall cease to exist on the day certification
14 is made. If a majority of the votes cast is in favor of privatization, then the
15 privatization shall occur on the date specified in the warning.