

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations and Military Affairs to which  
3 was referred Senate Bill No. 96 entitled “An act relating to privatization  
4 contracts” respectfully reports that it has considered the same and recommends  
5 that the House propose to the Senate that the bill be amended by striking out all  
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 3 V.S.A. § 341 is amended to read:

8 § 341. DEFINITIONS

9 \* \* \*

10 (3) “Privatization contract” means a contract for services valued at  
11 \$25,000.00 or more per year, which:

12 (A) is the same or substantially similar to and in lieu of services  
13 ~~previously~~ currently provided, in whole or in part, by permanent, classified  
14 State employees; or

15 (B) will substantially replace the duties of a vacant position in State  
16 government, and ~~which results in a reduction in force of at least one~~  
17 ~~permanent, classified employee, or the elimination of a vacant position of an~~  
18 ~~employee covered by a collective bargaining agreement.~~

19 \* \* \*

20 Sec. 2. 3 V.S.A. §§ 342 and 343 are amended to read:

21 § 342. CONTRACTING STANDARDS; CONTRACTS FOR SERVICES



1 discussion period. The continuation of discussions beyond the end of the 35-  
2 day period shall not delay the issuance of notices.

3 (B) During this 35-day period, the agency shall prepare a specific  
4 written statement of the services proposed to be the subject of the privatization  
5 contract, including the specific quantity and standard or quality of the subject  
6 services. For each position in which a bidder will employ any person pursuant  
7 to a privatization contract and for which the duties are substantially similar to  
8 the duties performed by a permanent, classified State employee, the statement  
9 shall also include the prevailing wage rate to be paid for each position, which  
10 shall not be less than the average step of the grade under which the comparable  
11 State employee position is paid. This statement shall be provided to the  
12 collective bargaining representative, the Agency of Administration, and be  
13 posted where it is viewable to the public. This statement shall be subject to 1  
14 V.S.A. chapter 5, subchapter 3 (Public Records Act).

15 \* \* \*

16 (4) Every bid for a privatization contract shall include:

17 (A) the wage rate for each position, which shall not be less than the  
18 prevailing wage rate contained in the statement described in subdivision (1)(B)  
19 of this subsection (a); and

20 (B) whether health, dental, and vision insurance coverage is provided  
21 to employees and, if applicable, the cost to employees for such coverage.

1           (5) The Agency and the Secretary of Administration shall each certify in  
2           writing that:

3                   (A) they have complied with all provisions of this section and with  
4           all other applicable laws;

5                   (B) the quality of the services to be provided by the designated bidder  
6           is likely to satisfy the quality requirements of the statement prepared pursuant  
7           to subdivision (1) of this subsection (a);

8                   (C) the designated bidder and its supervisory employees, while in the  
9           employ of the designated bidder, have no record of substantial or repeated  
10          willful noncompliance with any relevant federal or State regulatory statute,  
11          including statutes concerning labor relations, occupational safety and health,  
12          nondiscrimination and affirmative action, environmental protection, and  
13          conflicts of interest; and

14                  (D) the proposed privatization contract is in the public interest in that  
15          it meets the applicable quality and fiscal standards set forth in this section.

16                  (b) Each privatization contract shall include:

17                          (1) the wage rate for each position, which shall not be less than the  
18                  prevailing wage rate contained in the statement described in subdivision (a)(1)  
19                  of this section;

20                          (2) a provision that the cost and coverage of the health, dental, and  
21                  vision insurance provided to employees is substantially similar to the cost and

1 coverage of the health, dental, and vision insurance provided to State  
2 employees;

3 (3) a provision that the contractor shall submit quarterly payroll records  
4 to the agency that list the hours worked and the hourly wage paid for each  
5 employee in the previous quarter;

6 (4) a provision that the agency shall not amend any privatization  
7 contract if the amendment has the purpose or effect of voiding any requirement  
8 of this section;

9 (5) a provision requiring the contractor to comply with a policy of  
10 nondiscrimination and equal opportunity for all persons and to take affirmative  
11 steps to provide such equal opportunity for all persons;

12 (6) a provision granting all employees employed under the contract just  
13 cause employment protection; and

14 (7) a provision requiring the contractor to comply with a policy of  
15 whistleblower protection equal to those defined in sections 971–978 of this  
16 title.

17 ~~(b)~~(c)(1) A privatization contract shall contain specific performance  
18 measures regarding quantity, quality, and results and guarantees regarding the  
19 services performed.

1           (2) The agency shall provide information in the State’s Workforce  
2 Report on the contractor’s compliance with the specific performance measures  
3 set out in the contract.

4           (3) The agency may not renew the contract if the contractor fails to  
5 comply with the specific performance measures set out in the contract as  
6 required by subdivision (1) of this subsection.

7           ~~(e)~~(d)(1) Before an agency may renew a privatization contract for the first  
8 time, the Auditor of Accounts shall review the privatization contract, along  
9 with employer payroll and benefits records, analyzing whether it is achieving:

10           (A) the 10 percent cost-savings requirement set forth in subdivision  
11 (a)(2) of this section; and

12           (B) the performance measures incorporated into the contract as  
13 required under subdivision ~~(b)~~(c)(1) of this section.

14           (2) If the Auditor of Accounts finds that a privatization contract has not  
15 achieved the cost savings required under subdivision (a)(2) of this section or  
16 complied with performance measures required under ~~subdivision (b)~~  
17 subdivisions (c)(1) and (d)(1) of this section, the Auditor of Accounts shall file  
18 a report with the agency and the House Committee on Government Operations  
19 and Military Affairs and Senate ~~Committees~~ Committee on Government  
20 Operations, and the agency ~~review whether to renew the privatization contract~~

1 ~~or perform the work with State employees~~ shall not renew the privatization  
2 contract.

3 Sec. 3. FISCAL AND OPERATIONAL IMPACT OF PRIVATIZATION

4 CONTRACT CHANGES

5 (a) The Agency of Administration, in consultation with the Joint Fiscal  
6 Office, the State Auditor, the Vermont State Employees' Association, and the  
7 Office of the Attorney General, shall assess the fiscal and operational impacts  
8 of:

9 (1) modifying the definition of "privatization contract" as set forth in 3  
10 V.S.A. § 341, to include grants;

11 (2) increasing the required cost savings of a privatization contract from  
12 10 percent to 20 percent; and

13 (3) removing exceptions set forth in 3 V.S.A. § 342(4) that, after review,  
14 are used excessively or arbitrarily to certify contracts by the Office of the  
15 Attorney General.

16 (b) The Agency shall submit a written report to the House Committees on  
17 Appropriations and on Government Operations and Military Affairs and the  
18 Senate Committees on Appropriations and on Government Operations with its  
19 analysis conducted pursuant to this section on or before February 1, 2025.

20

1 **Sec. 4. LEGISLATIVE INTENT; PRIVATIZATION CONTRACTS**

2 It is the intent of the General Assembly that a privatization contract shall  
3 not be required for a contract for services when there is no permanent,  
4 classified State employee position to perform the equivalent of such proposed  
5 contracted services, which includes health services and capital construction.

6 Sec. 5. EFFECTIVE DATES

7 This act shall take effect on passage, except that Sec. 1 shall take effect on  
8 July 1, 2025.

9 (Committee vote: \_\_\_\_\_)

10 \_\_\_\_\_

11 Representative \_\_\_\_\_

12 FOR THE COMMITTEE