



# The Ethan Allen Letter

IDEAS FOR VERMONT'S FUTURE

*A Monthly Publication of The Ethan Allen Institute*

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## COMMENTARY

Amid the spin-laden charges and countercharges of a national political campaign, there is one central fact that needs to come through clearly. Medicare “as we know it” is finished. Whether or not they are willing to say it – usually not – responsible political leaders on both sides of the aisle know this.

The centerpiece of Medicare, dating to 1965, is Part A, hospitalization insurance (HI). (Physician services and prescription drug coverage and provided for in parts B and D, that are financed differently.)

Part A has always been financed by a payroll tax, FICA. Workers and employers each pay 1.45 percent of payroll into the HI fund, along with the 6.2 percent (up to \$110,100) for social security retirement. The self-employed pay both portions, at a total rate of 15.3 percent.

Medicare HI will become insolvent in 2024, when it will be able to pay only 87 percent of its expenditures.

The first major cause is the baby boomer retirement bulge. Between 2010 and 2030 the over-65s will grow from 22 to 35 percent of the population. These seniors will also live much longer, and consume Medicare much longer, than anyone expected in 1965.

The other dominant cause is the rising cost of health care. What doctors and hospitals could do for patients in 1965 appears primitive compared to the remarkably advanced – an expensive – techniques now in use.

Medicare could, of course, be made fiscally solvent by raising the eligibility age above 65, as has been done for full social security retirement, or by increasing the payroll tax rate above 1.45 percent. Both are politically radioactive.

Middle-aged people are convinced that they have earned their Medicare entitlement at 65, and won't stand for a postponement. The growing realization among today's younger workers that they are paying payroll taxes to support today's seniors without much expectation that tomorrow's younger workers will support them when they turn 65, is just one powerful brake on payroll tax increases.

“Saving Medicare” comes down to putting the brakes on health care costs for seniors, through one of two vastly different policies.

The Obama/Democratic policy relies mainly on cutting back on reimbursement rates to providers. It's based on the belief that doing so will cause hospitals, doctors and other providers to perform the same services – and more – for the same patients more efficiently, since they will no longer be getting ever more Medicare payments for ever more services.

Accordingly the Obama Affordable Care Act reduces Medicare expenditures by a projected \$716 billion over ten years, the bulk of it from reducing payments to hospitals, doctors, nursing homes and Medicare Advantage plans.

This ostensibly extends Medicare's solvency by eight years. However the ACA rerouted the \$716 billion out of Medicare and into paying for the act's subsidized coverage for the uninsured. Even President Obama, in an unguarded moment, observed that “you can't say that you are saving on Medicare and then spending the money twice.”

See **The Hard Choice**, Page 3

# The Ethan Allen Letter

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The Institute sponsors and conducts research on important public policy questions facing the people of Vermont, and makes its findings and recommendations known through various channels to the general public, the news media, and civic leaders at all levels.

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# PRESIDENT'S MESSAGE

## It's Key Issues Time



Electoral politics will consume many Ethan Allen Institute members for the next month. No matter what your party affiliation, our biennial *Vermont Voters Report Card* will help. We chose and reported each legislator's vote on nine key issues from both House and Senate.

These votes relate to economic freedom and governmental responsibility, and include votes on health care, education and other taxes, renewable energy subsidies, and the \$21 million CVPS rebate (that didn't happen). This *Report Card*, together with our pocket card "Ten Questions for Informed Citizens", allows voters to cut through the clutter and focus on issues important to our economic health and personal freedom.

The pocket card and all of our *Vermont Voters Report Cards* dating back to 1999-2000 can be downloaded from the Institute's web site and freely reproduced. We also have a remaining stock of the hard copies that we will be glad to send out on request. We have distributed over a thousand to members, candidates, media, and the public.

The Institute web site will be renovated over the next couple of months. We have hired a Vermont contractor to work with us to improve the accessibility and attractiveness of our commentaries and reports. If you have ideas for improvements, please send them to me ([bruce@ethanallen.org](mailto:bruce@ethanallen.org)).

Be sure to keep up with Rob Roper's radio show from 11:00 a.m. to noon every weekday on Radio Vermont (550 AM and 96.1 FM). Rob interviews candidates and news makers and fields phone calls from listeners. Meredith Angwin's Energy Education Project continues to inform the public about the costs and future direction of Vermont's electrical supply. John McClaughry's newspaper commentary on understanding Medicare (front page) sheds a lot of light on this sensitive issue.



PRESIDENT

# Is Vermont Politically Risky As An Emerging Market?

Allison Kingsley (Assistant Professor of Management, UVM School of Business)

What we know from emerging markets is that capital flows to the most attractive destination. In the U.S., Vermont's corporate income tax rate is the twelfth highest, and state and local property taxes are the sixth highest. In terms of energy, Vermont has one of the highest energy rates in the U.S. Although there is no state-level measure for business regulation and permitting, one experienced entrepreneur told me that getting a business started in Vermont requires navigating "a labyrinth of Byzantine rules".

Vermont's ideological politics are also at play.

Existing research finds that political risk increases for business as more ideologically-motivated interest groups oppose them. Groups with ideological agendas have strongly felt preferences, tend to leverage public pressure effectively, and typically focus on politically salient or "hot" issues. In Vermont, anecdotal evidence suggests that businesses largely confront interest groups distrustful of the private sector and hostile to business interests.

Environmental and anti-growth groups opposed the Circ-Williston highway proposal that IBM advocated. Walmart battled VNRC and buy-local groups for 18 years in St. Albans. Employee unions fought Fletcher Allen. VPIRG and NEC confronted Vermont Yankee and Entergy. Ver-

mont is moving in a direction that will exacerbate risk.

Extensive research in business and politics has found that environments characterized by a lack of political competition introduce significantly more uncertainty for private businesses. When countries are run by heavy-handed autocrats or elections are dominated by one party, leaders face few constraints on arbitrary policy change.

Increasingly, Vermont lacks any political competition: the executive, legislative, and judicial branches are dominated by one party that holds significant majorities and winning margins in each branch.

*Excerpted from the Burlington Free Press, September 27, 2012.*

## The Hard Choice for Medicare

Continued from Page 1

If per capita Medicare spending growth exceeds 1.5 percent a year, and Congress fails to respond, the ACA Independent Medicare Advisory Board comes into play. This 15-member board will enforce spending cuts to keep the program going – but it's not allowed to restrict benefits, modify eligibility, or raise premiums or cost-sharing. All that leaves is reducing payments to providers.

The crucial problem with the Democratic plan is the likely effect of this continual slashing of reimbursements, and the ever-increasing Federal regulation of the health care sector. Will doctors refuse to accept Medicare patients, as many are doing now because of the even lower payments in the state-run Medicaid program? Will Medicare patients get lower-quality stripped-down care?

The Ryan/Republican plan, which

would take full effect in 2023, relies on the market force of millions of seniors, armed with Medicare premium support (vouchers), demanding their money's worth, leading to lower cost, higher quality plans. Ryan points to the cost-saving results of market competition in Part D (prescription drugs) and Medicare Advantage to support his argument.

The crucial question about the Ryan plan is the amount of the voucher. Ryan sets it at the cost of the second lowest Medicare Advantage plan in each region. If you bought the lowest cost plan, you could pocket the difference.

This would inspire insurers to offer more efficient organization of quality care to attract more Medicare patients. Ryan also agreed to leave traditional Medicare as an option, with the expectation that the consumer-se-

lected market plans would gain much of traditional Medicare's market share.

So, in broad brush, the first path to prevent Medicare insolvency without reducing eligibility or benefits is for the Federal government to impose provider reimbursement reductions that will arguably cause many doctors to refuse Medicare patients. This path could lead to requiring doctors to serve Medicare patients at deep discount rates as a condition of holding a license to practice medicine.

The other path, Ryan's, is for the federal government to empower millions of Medicare beneficiaries to buy products best suited to them in a competitive, innovative health care market.

Not choosing is no longer an option.



# Protecting Our Constitutions

## COMMENTARY

The United States Constitution, adopted this week in 1787, was rightly described by British Prime Minister Gladstone (1887) as “the most remarkable work... to have been produced by the human intellect at a single stroke... in its application to political affairs.”

Our written Constitution is the rulebook for the ordering of political society. It defines the purposes for which it was written, the frame of government, the method of election of the President and Congress, and the powers bestowed by “we, the people” upon the Congress, the Executive, and the Judiciary. The Bill of Rights, added in 1791, has become a great charter of individual liberty for Americans.

A key principle is that, once adopted, the Constitution shall be amended only by a prescribed process – never by “usurpation”. As President Washington said in his Farewell Address, “If in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates; but let there be no change by usurpation... it is the customary weapon by which free governments are destroyed.”

After adoption of the Bill of Rights, two more amendments were approved in 1804, dealing with court jurisdiction and election of the president. From then until the Civil War, the Constitution remained intact. Since 1866 the U.S. Constitution has been amended 15 more times.

The first threat to the Constitution today comes from judicial usurpation

– the growing tendency of judges to fashion enforceable constitutional rights from thin air. This too often happens both at the Federal and the state levels.

In Vermont there are two recent, flagrant examples of judicial usurpation. One was the sudden discovery by the Supreme Court, in 1996, that the Vermont Constitution required that public education be financed from substantially equal revenue bases.

For over 200 years no one had ever suspected such a requirement lurked in the Vermont constitution. The justices, without even a trial, instructed the legislature to come up with a new school financing scheme (Act 60) based only on the perceived (by the justices) need for a progressive school finance law that no legislature was, up to that point, willing to vote for.

The other recent judicial usurpation in Vermont was the Supreme Court’s discovery in 2000 that the constitution prescribed that same sex couples were entitled to marry, or at least enjoy “all or most” of the privileges of marriage (civil unions). In doing so, the Court stripped from the elected legislature the power to make the laws, and instead mandated that the laws be made to satisfy the liberal social theories of the justices. (In 2010 the legislature lawfully enacted same-sex marriage.)

A future opportunity for usurpation might well come with a lawsuit based on the theory that, as declared by Gov. Shumlin and the Vermont Worker’s Center, “health care is a human right”. So far the legislature has stopped short of labeling health care as anything more than a “public good”.

That suit will presumably be filed when Gov. Shumlin’s Green Mountain Care Board denies expensive care to a very sick Vermonter, on the grounds that even hundreds of millions of new tax dollars simply won’t be enough to pay for all the care

everybody wants (plus the salaries of all the bureaucrats administering the system), and the Board reasonably relegated the plaintiff to the “do not treat” category.

The U.S. Constitution is one of limited and specified powers. Another continuing threat comes from courts agreeing that Congress can constitutionally do most anything it wants unless explicitly prohibited (like quartering troops in private homes without permission – the Third Amendment.)

This trend was stalled, perhaps only briefly, when a 5-4 majority of the Supreme Court held in June that the power of Congress to regulate interstate commerce does not extend to requiring people to enter interstate commerce and purchase a government-approved insurance policy, under the pains of suffering an IRS-enforced penalty. (A different 5-4 majority in the same case held, however, that the Federal government can impose a special tax on a person for not having a government-approved insurance policy.)

For those who love and revere a free society governed by constitutions of the people’s own making, the never-ending task is to discipline judges intent on replacing the requirements of constitutions with their own social and political theories and expansive concepts of “rights”. An associated task is to replace legislators, presidents and governors who think they can inflict any legislation they choose on the American people, without regard to the constitutions that limit their powers.

Unless citizens persist in protecting the constitutions, and demanding their observance from presidents and governors, legislators and judges, the day will come when usurpation will have made them irrelevant, and we shall have ceased to be a constitutional republic of free men and women.

# NEWS & VIEWS

## Shumlin's New Math:

A week after charging that repealing community rating could increase premiums for seniors by 300 times (instead of three times), Gov. Shumlin declared (on WDEV 9/27/12) that "I'm not a math expert, but there are 100 million in a billion". Maybe so, in an alternative universe where single payer health care is high quality, efficient and affordable.

**Vermont Stats:** "Vermont has 20 percent more government employees, relative to population, than the average state. The gap between Vermont and the national average has grown since the turn of the century... Vermont's high level of public employment is entirely due to K-12 education." – *Vermont Economy Newsletter* (9/12)

**Support for Entergy on Appeal:** Nuclear scientists, the Nuclear Energy institute, the Washington Legal Foundation and the Chamber of Commerce of the United States have filed amicus briefs with the 2nd Circuit Court of Appeals in support of Entergy's position versus the Shumlin administration's continuing efforts to shut down Vermont Yankee. (*Reformer* 9/10/12)

**Save Our Trees!** "We old dinosaur Vermonters have long thought that helping our timber people access the fuel market for wood pellets would be helpful. The Vermont Sustainable Jobs Fund, created by the Vermont Businesses for Social Responsibility with material taxpayer assistance courtesy of its friends in Montpelier and our Vermont Congressional delegation, is having a Biomass Energy Conference soon, focused on making pellets from switchgrass – so that *no living tree need be sacrificed to create those pellets.*" (Bruce Shields 9/6/12)

**Tax Our Carbon!** "[Leading global warming predictor Dr.] James Hansen is promoting his plan for a carbon tax of \$115 per ton, phased in over 10 years... According to the EPA, in 2010 the U.S. total emissions amounted to 6,822 million metric tonnes of CO2 equivalence, or about 7,500 million short tons. If the tax did not reduce CO2 emissions, this would calculate to be tax revenues of about \$863 billion each year."

**Atlas Shrugs Again:** "Atlas Shrugged – Part II" is in theatres October 12, but so far no Vermont showing has been announced. Check the movie's website [www.atlsshruddmovie.com](http://www.atlsshruddmovie.com).

**Global Warming Review:** Dr. John Christy, the climatologist who supervised the microwave sensing satellites measuring lower troposphere temperatures since 1979, testified on September 20 to the House Energy and Power Committee. The expert testimony knocks the legs out from under Sen. Sanders, Gov. Shumlin, and others in thrall to the Menace of Global Warming. Excerpts and link can be found at <http://wattsupwiththat.com/2012/09/21/dr-john-christys-testimony-before-congress/>.

**Last Month's Commentary on the Citizens United Case** elicited this comment from a retired federal judge in another state. "I was at a conference with [prominent civil liberties lawyer] Floyd Abrams right after the *Citizens United* decision, and he described talking to *New York Times* reporters and his trying (and failing!) to get across to them that the *New York Times* IS A CORPORATION!!"

**Thorium Power Review:** John McClaughry's review of Richard Martin's Super Fuel: *Thorium, the Green Energy Source*

*for the Future* appeared on Reason.com on September 11. (Read it at [www.energyeai.org/thorium\\_review](http://www.energyeai.org/thorium_review)). Another useful new book on this topic is by EEP member Dr. Robert Hargraves of Dartmouth: *Thorium: Energy Cheaper than Coal*, available from Amazon.

**Climate Change Evolving:** The draft of the forthcoming Summary for Policymakers by UN Intergovernmental Panel on Climate Change (IPCC) has a new definition of climate change. "Climate change may be due to natural internal processes or external forcings, or to persistent anthropogenic changes in the composition of the atmosphere or in land use."

The past definition emphasized human caused changes, particularly activities that alter the composition of the atmosphere. (SEPP 9/16/12)

**Food Stamps in the News:** "3Squares reports that the average monthly administrative cost per case in 2011 in Vermont was \$122.01, while USDA reports the average monthly benefit per Vermonter for the same period was \$122.10. The administrative cost, then, equals 100 percent of benefit." – Bethany Knight (*The Caledonian Record* 9/20/12)

**Charles Koch Speaks:** "Trouble begins whenever businesses take their eyes off the needs and wants of consumers, and instead cast longing glances on government and the favors it can bestow – now we call it cronyism."

"To end cronyism we must end government's ability to dole out favors and rig the market. Far too

*Continued on Page 6*

many well-connected businesses are feeding at the federal trough.” (WSJ 9/10/12)

**Shumlin to Rescue Health Providers:** “It’s not sustainable, Shumlin said of the current [health care] system. Without big change, he said, Vermont’s doctors and hospitals ‘know they are toast’”. – Politico (9/20/12)

**The Market Works:** “[Health insurance giant] Humana announced a new partnership with Wal-Mart on Wednesday that will give the more than 1 million members of its wellness program, HumanaVitality, a 5 percent discount on healthy groceries.” (Washington Post 9/20/12)

**Labor Law Reform Results:** The principal labor law reform in Wisconsin was ending the automatic deduction of union dues from state paychecks. “Since [Gov. Scott] Walker’s law went into effect, more than a third of the American Federation of Teachers and more than half of the members of the American Federation of State, County and Municipal Employees in the state have left the unions.” (WSJ 9/27/12)

**The President’s Program:** “If we are to go forward, we must move as a trained and loyal army willing to sacrifice for the good of a common discipline. We are, I know, ready and willing to submit our lives and property to such discipline because it makes possible a leadership which aims at a larger good. I assume unhesitatingly the leadership of this great army....” – Inaugural address, F.D. Roosevelt, 1933.

**Free Market Revolution,** subtitled “How Ayn Rand’s Ideas Can End Big Government” (Palgrave

MacMillan 2012), is a passionate libertarian defense of capitalism and self-interest as the essential economic and moral values that will produce prosperity with justice. The authors, Yaron Brooks and Don Watkins of the Ayn Rand Institute, aren’t bashful about rescuing “selfishness” from its status as an outcast among moral values, and their critique of big government altruism scores some powerful points. – JMc

**‘California Dreamin’:** A long investigative article by three reporters in the *Los Angeles Times* of September 20, 2012 explains how “a new breed of prospectors – banks, insurers, utility companies – are receiving billions in [solar] subsidies while taxpayers and ratepayers are paying most of the costs.”

One quote from a California county official: “If this were a modern day fairy tale – and in many respects it is – solar developers would be saying ‘Mirror, mirror on the ground, look at all the money I found.’”

**Report from the Energy Front:** Asked in the VPR debate on September 12 about the failure of his efforts to shut down Vermont Yankee, Gov. Shumlin replied “justice will prevail”, adding “we need to focus on the prize – renewable energy.”

Let’s see, to get 280 Mw of wind and solar energy to make up from offing Yankee, Vermont would not only have to have battalions of wind turbines and acres of solar PV panels, but also somewhere find 280 Mw of fast-ramping gas turbine plants to keep the grid up when wind and sun let it down. Ap-

parently not a problem – just hand out more subsidies to the renewable industrial complex. (See our commentary “The Renewable Industrial Complex” on the EAI web site, newsletter of October 2010).

**Climate and Energy Truth File** is a new project of the Committee for a Constructive Tomorrow (CFACT). It will present accessible science-based counters to wild claims of human-caused “climate change”, such as “melting polar ice cap, worst forest fires in history, terrible storms, an unspeakably bleak future” (all from Gov. Shumlin, VPR debate 9/12/12). Check at [www.cfact.org](http://www.cfact.org) to see if the file has been posted.

**Education Factoid:** Vermont Education Fund spending will increase by 3.8% in 2013 even as the number of students continues to decrease.

**Jefferson on Federal Debt:** “I wish it were possible to obtain a single amendment to our Constitution. I would be willing to depend on that alone for the reduction of administration of our government to the genuine principles of our Constitution. I mean an additional article, taking from the federal government the power of borrowing.” (To John Taylor, 11/26/1798)

**Reagan on Concentrated Power:** “I oppose not bigness as such, but bigness unjustified by any claim to efficiency – bigness for the sake of exercising monopoly power – bigness to extract special privilege from government – bigness working to destroy competitive free enterprise. Concentrated power has always been the enemy of liberty. Power widely diffused among the people means freedom.” (Radio broadcast, 1978)



## Brattleboro's Totalitarian Left

On September 6 the *Reformer* published my commentary on “The Left’s Campaign to Destroy the First Amendment” (September *EA Letter*). It defended the Supreme Court’s ruling in the *Citizens United* case, criticized the proposed Sanders and Welch constitutional amendments to deny freedom of speech to (only) for-profit business corporations, and quoted the ACLU in support of my position.

The reaction from Brattleboro’s Left was quick. Four days later one Scott Ainslie accused me of “snide venom”, “objective facts won’t deter the man”, and “sophistry of the worst sort”. “I have a right,” he declaimed, “to tell the editors of this newspaper to stop paying him for it with a portion of my yearly subscription”. (Ainslie doesn’t realize that the *Reformer* does not pay to publish my commentaries.)

Two days later, his comrade Adam Wetzel offered this enlightenment: “McClaurghy (sic) has been spewing inaccuracies for too long. It’s time to get rid of this acrid talking fool.”

The next day, Tom Bertone offered a more reasoned rebuttal, favoring Congress deciding how much of their resources “within reason” “the wealthy” (individuals and corporations) will be allowed to spend on political speech. It’s pretty hard to square that with a Constitution that says “Congress shall make no law abridging the freedom of speech”.

Strangely, none of the Lefties condemned the ACLU for sharing exactly my position against the Sanders-Welch constitutional amendments to withdraw freedom of speech from for-profit corporations (but not from VPIRG, NARAL, Sierra Club, NEC, VWC, AFL-CIO, SEIU, etc.).

On the 15th, Vernon resident Bruce Rasmussen, who is not known to me, wrote “I hope the editors of the *Reformer* are not intimidated [by] what appears to be a campaign by those intolerant of hearing any sound outside of their own echo chambers. I ask the editors to please not stop publishing McClaghry’s column.” (Thank you, Mr. Rasmussen.)

To this, the editor appended: “We have no plans to suspend Mr. McClaghry’s submissions to the *Reformer*.”

Interestingly, almost 30 years ago one of Brattleboro’s Lefty totalitarians indignantly demanded that the *Reformer* stop publishing my commentaries on the Marxist takeover of Nicaragua. On that occasion *Reformer* editor Norman Runnion penned a splendid editorial rejecting the demand, and explaining how newspapers must protect freedom of speech. I’m pleased that today’s *Reformer* editor continues that honored tradition. — JMc

WDEV Radio Commentary #2031

September 18, 2012

## Shumlin’s Universal Preschool Claims

In his NPR debate with Sen. Randy Brock, Gov. Shumlin reiterated his claim that a dollar spent now on universal preschooling “saves seven dollars later on”.

On July 30 the Ethan Allen Institute sent a polite letter to Gov. Shumlin, asking him for citations to any of the studies that he had mentioned that supported the proposition that universal preschooling would save twelve to fourteen dollars for every one dollar invested. Last Friday we received a two page response from his office, citing four items, none

of which support Shumlin’s seven to one statement.

Shumlin’s claim came from the Perry preschool study of 58 low IQ severely disadvantaged children in Ypsilanti, Michigan from 1962 to 1965. The president of the foundation that sponsored the study claimed that it produced \$7 in benefits from every \$1 spent. That was based on such facts as by age 19 only 33 percent of the participants had dropped out of school, only 31 percent had been arrested, and only 17 of the 25 girls had gotten pregnant.

This tells us nothing about the value of spending millions of tax dollars in preschool programs for the full population of Vermont 4-year-olds. A 2003 Georgia State University review of Georgia’s billion dollar decade of universal preschooling regretfully concluded that it had made little or no difference in educational achievement.

Peter Shumlin’s seven-for-one return on universal preschooling is fiction, and his continuing to peddle it is simply dishonest.

This is John McClaghry — thanks for listening.



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*Burlington Free Press*

*(A Compendium)*

## The Merits of Expanded School Choice

**MEDIA**

“The school choice movement represents a paradigm shift in public education. Parents, not professional educators, should make the primary decisions about schooling children.” (11/8/01)

“House Bill 716 ... would allow any Vermont child to enroll in any Vermont public school, and even those outside the child’s district. This simple freedom – parental choice – could spark an educational revolution in Vermont. Imagine, schools would have to compete with their neighbors for students. Schools might develop special curricula – like magnet schools – to attract students. Parents could shop for the best educational setting for their child.” (3/17/02)

“Few school reform ideas have drawn as strong bipartisan support as choice.” (4/20/02)

“There is strong support for the idea that parents should be able to pick the school that is best for their child. The concept has been endorsed across the political spectrum from former President Clinton to President Bush. Gov. Jim Douglas and the

state Board of Education also back public school choice.” (2/11/04)

“With a selection of schools, parents could seek out the educational program that most closely matched their youngster’s learning style or social needs... Choice could make schools more accountable because they would be forced to respond to parental educational concerns.. School choice could advance social equity by giving low income youngsters similar educational options now available only to more affluent families. (2/11/04)

(This compilation is selective, and omits admonitions to proceed cautiously etc.)

*The 2012 legislature enacted Act 129, Sec. 35 of which repealed the worthless regional public high school choice act of 2000, and sec. 34 of which created a statewide public high school choice program limited to 5 percent of those wanting out of a school, prohibiting any financial benefit to the receiving school, and allowing the sending school to keep counting the departed student for property tax purposes.*