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About the Author

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His publications in this area include “Who Says Vouchers Won’t Work?” (*Reason*, 1984), the U.S Department of Education-sponsored study *Educational Choice in Vermont* (1987), and a 17-part newspaper series on educational finance in Vermont (1987), acclaimed by former Governor and Senate Education Chair Philip Hoff as the best available study on that subject.

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Vermonters For Better Education

VBE is a nonprofit, nonpartisan organization founded in 2000 whose mission is to enlist parents and the public at large in achieving quality educational opportunities for all the children of Vermont. VBE monitors Vermont education policies, promotes the value of educational freedom for all parents, and works to give parents the evaluative tools with which to identify excellence in education. It publishes a newsletter and “How to Privatize A Public School in Vermont: A Layman’s Guide” (2000). Executive Director: Libby Sternberg, 170 Church St., Rutland VT 05701; (802 773 5240). lsternberg@aol.com. Web page: www.schoolreport.com.

Executive Summary

Schoolchildren First

This report proposes to replace Vermont's education law, Act 60, with a new system based on parental choice of schools for their children.

The primary purpose for this proposal is to expand and improve educational opportunities for all of Vermont's children.

Different children have different educational needs and preferences. Some thrive in a disciplined environment with demanding teachers. Some do better with student-centered learning and relaxed guidance. Some prefer courses covering the traditional subject matter. Some prefer a curriculum built around a theme, such as science, art, music, community service, or work opportunities. Some parents want their children to have an education that integrates moral and religious values. Others prefer to homeschool. For many reasons, parents may find that the school to which the government has assigned their child is not working out well for the child.

This proposal shifts the focus of education policy from "schools" to "schoolchildren". Because of the accumulating fiscal and educational difficulties arising under Act 60, the time is ripe for Vermonters to seize the opportunity to build upon Vermont's 132-year old parental choice system, to create a state-wide system which focuses on **Schoolchildren First**.

The proposed new system is based on these seven principles:

1. **Public Responsibility for Education:** All Vermont children are entitled to a publicly-financed education - not necessarily limited to attending government-operated schools.

2. **Consumer choice:** It is the primary responsibility of parents, not the government, to choose the form of education that they believe to be in the best interests of their children.

3. **Consumer Empowerment:** The consumer - the parents - must have the financial means to make their educational choices effective. Government should collect taxes and fund consumers to purchase the education they want for their children. Every child deserves this opportunity.

4. **Provider Competition:** Competition among schools gives empowered parents the opportunity to buy the educational product they find most suitable to meet the particular needs of their children.

5. **Public Oversight:** It is the proper business of government to regulate school health and safety and to assure honest financial reporting, but not to burden competing schools with intrusive regulation..

6. **Substantial Equity in Educational Opportunity:** The system is designed to conform to the Supreme Court's mandate in the 1996 *Brigham* decision.

7. **Primary State Responsibility for Special Education:** To level the playing field in a competitive system, the state Department of Education should accept primary responsibility for compliance with the federal IDEA (special education) mandate.

Schoolchildren First proposes that the state levy taxes and distribute the proceeds to consumers (parents) as tuition certificates. Public schools would accept certificates as full payment for tuition. The amount of the certificates would vary depending on an educational cost index taking into account wide disparities among the regions of the state.

The quality of education would be judged not by the government but by a school's customers. Customers dissatisfied with their choice of a school could switch their child to another school more suitable to the child's needs. The great merit of provider competition is that it offers a diversity of products to appeal to the customer's wishes.

Parents wishing to choose independent schools, including sectarian schools, would be eligible to receive scholarships from Student Tuition Organizations, organized like the Vermont Student Assistance Corporation. STOs would obtain their funds through contributions. The state would offer a 90% tax credit for the contributions to STOs, which taxpayers could claim against their income, corporate, or property tax liabilities. Homeschoolers would qualify for a direct tax credit averaging \$500 per child.

Schoolchildren First can be financed without increasing the amount of property taxes now devoted to education. Currently (FY 2001) the state collects \$578 million through its two state property taxes, one direct and one indirect (the sharing pool). Additional state funds less various offsets bring the total public education spending to \$840 million. Making generous allowances for the amount of tuition certificates and projecting an eight percent of Vermont's pupils will choose to transfer from public schools to independent schools, that amount of taxpayer dollars is easily enough to pay for the education of Vermont's children.

Act 60 cannot be expected to last for long. Without major reform, the state will inevitably move toward One Big School System, in an attempt to control education costs. Such a System, centrally controlled, will be the worst possible outcome. Like any huge government monopoly, it will be insensitive to the needs and demands of its customers. Over time, the one-size-fits-all mentality of a centralized monopoly system will result in standardized but inferior education. This will not be good for our children.

What will be good for our children is empowered parental choice, to enable parents to choose the most suitable educational program for their children, and marketplace competition from a wide variety of providers, striving to attract customers by offering them a product they want.

"Better for children, better for parents, better for enterprising providers both public and private, yet no more expensive than the present Act 60 regime. Ten years after implementing **Schoolchildren First**, Vermont education will be an envied model for the nation."



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Schoolchildren First

Replacing Act 60

Introduction

Beginning in 1969, Vermont has made use of four different methods of distributing state dollars to finance elementary and secondary education. The current method, Act 60 of 1997, was constructed to comply with the unprecedented mandate of the Vermont Supreme Court in the 1996 *Brigham* case. It is now in full operation after a four-year transition period. Although barely in full-fledged operation, Act 60 has already become the target for a host of criticisms. Projections of its fiscal future alone strongly suggest that within two years at most a major replacement will have to be devised.

A number of changes have been suggested to keep Act 60 alive fiscally and politically. It is the premise of this report that none of these changes holds any realistic promise of giving Act 60 a sustainable lease on life. The time is ripe for Vermonters to seize the opportunity presented by the collapse of Act 60 to develop an altogether new system – a system that focuses on **Schoolchildren First**, rather than on the preservation of institutions. Such an alternative is proposed in this report.

With so many conflicting interests and differing goals, no proposed plan for educating Vermont's children can possibly win universal approval. Every attractive feature is likely to produce criticism from one or more of the interests represented in any policy debate, especially those within the present public educational system who would face challenges and uncertainties in a different environment. Nonetheless, the proposal presented here is offered as a dramatic departure in state education policy. It complies with the Vermont Supreme Court's mandate in *Brigham*. It promises a quantum leap in the quality of education available to Vermont children. It maximizes the opportunities for each child to be educated in a way most tailored to the needs of that child. It promises increased parent and child satisfaction. It is fiscally sustainable. But – it is different. The main way in which it is different is that it focuses on **Schoolchildren First**, rather than on financing and protecting the existing public school system.

I. Setting the Stage

In 2001 Vermont had around 113,000 pupils of school age (5-17). Vermont's elementary and secondary educational system as it has evolved consists of these components:

First, there are 254 public school districts. These districts are democratically controlled by elected school boards. Of these, 237 operate schools with grades 1-6; 208 operate grades 7-8; 164 operate a high school or are part of a union school district which does so. Each public school district is overseen by a superintendent, who is responsible for seeing that state laws are carried out. Examples include Burlington High School, Barstow Memorial School (Mendon), and Granby School.

Second, there are 95 approved independent schools. Almost all of these are nonsectarian, nonprofit schools that receive tuition students from nearby towns which do not maintain schools, and from other students who pay their own tuition. (A few parochial schools have chosen to qualify for "approved" status mainly for marketing purposes, but remain ineligible

to receive public tuition payments.) They are approved by the state Board of Education because they meet standards equivalent to those required of public schools, but they are not required to employ state-certified teachers. Their teachers are not represented by a labor union. Examples are Lyndon Institute (Lyndon Center), The Mountain School (Winhall), and the Green Mountain Waldorf School (Wolcott).

Third, there are 54 recognized independent schools. About half of these are religiously affiliated schools which for that reason are not eligible to accept tuition payments from public sources. Recognized schools are very lightly regulated by the state, mainly in matters of health and safety. Examples include Trinity Baptist School (Williston), Mater Christi School (Burlington), and MidVermont Christian School (Quechee).

Vermont also has a few unusual school districts, such as Dresden and Rivendell (joint Vermont-New Hampshire districts), Miller's Run (a two-town unified school district in Sheffield and Wheelock), and Bellows Free Academy (St. Albans, nominally independent but governed by a publicly-controlled board).

Finally, there are 1,954 registered home schoolers in Vermont. The state education department has generally had a good reputation for accommodating home schooling parents and students. At least in the absence of contentious special education issues, state requirements for home schools and recognized schools are not generally considered to be unduly intrusive or burdensome.

Unlike 35 other states, Vermont does not have charter schools. These are autonomous public schools which operate free of most of the regulatory restrictions of a traditional public school system. A charter school enabling act was included in the Senate-passed educational finance bill of 1995, but the larger measure failed in conference. Charter school bills subsequently introduced have not seen action in the education committees. Act 150 of 2000 established a very limited program for choice among public high schools.

The tuition town system, put in place in 1869, allows the 90 towns which do not have a high school (grades 7-12) or belong to a union high school district to tuition their pupils to any approved school, public or independent, in or out of the state. The only restriction is that they cannot pay tuition to a sectarian school, a condition imposed by a court decision (*Swart v. South Burlington*, 1962) and largely reaffirmed in 1999 (*Chittenden Town School District v. Vermont Department of Education*). If the school chosen by a tuition pupil is public, the sending town must pay the full tuition. If the chosen school is independent, the town may choose to pay no more than the state average union high school tuition (in 2001, \$7,347). If students attend boarding schools or other high cost schools, parents may have to augment the public contribution to cover costs. A similar tuition law governs elementary (1-6) pupils. The tuition town system has been very popular with parents, and real estate agencies often advertise the choice option in promoting the sale of homes in such towns.

Teachers and many non-teaching employees in all public schools are represented by the Vermont-NEA teachers' union. The VT NEA claims 9,000 dues-paying members, and is highly active in supporting candidates friendly to its political platform. Vermont law does not require teachers to become members of the union, but most do, if only to gain the benefit of professional liability insurance currently available through the union.

The state's program for educational quality is based on Part I of Act 60 of 1997. That act gave the state Board of Education strong powers to implement standards for student per-

formance, and to prescribe methods of assessment and reporting. These standards are called the Vermont Framework of Standards and Learning Opportunities. Schools assess student progress toward meeting the Vermont Framework using the New Standards Reference Exam. Public schools are required to develop a comprehensive action plan to improve student performance, report results annually, and conform to state rules governing operation of schools and teaching personnel.

Schools which fail to achieve the state's quality standards are subjected to instructions and assistance from the Commissioner. After two years with insufficient improvement, the Commissioner may ask the State Board to allow him to assume administrative control of the school or close the school.

Special education is mandated by a federal law (IDEA, first enacted in 1975) requiring school districts to make available a "free and appropriate public education" tailored to each child's unique needs. School districts are required to prepare Individual Education Plans (IEPs) for students classified as eligible for special education. These plans, which may require the commitment of substantial school resources, have frequently been the subject of litigation brought by parents who feel that their child is not getting enough attention. Approximately 11.8 percent of Vermont's pupils are classified as eligible for special education due to various physical or learning disabilities. Most special education is offered through inclusion of special education students in regular classrooms ("mainstreaming"), coupled with special assistance from teachers or aides. The remainder is offered in special rooms or in extreme cases in specialized facilities.

School districts offer technical and business education through 15 technical education centers, some operated directly by school districts and some by contract.

All public school teachers belong to one of the several Vermont teachers' retirement plans, administered by a board within the state treasurer's office. Each year the legislature appropriates funds to maintain the fiscal soundness of this defined benefit plan. If the appropriation requested by the Governor is insufficient, in the opinion of the plan actuaries and the board, the law requires the Governor to explain what steps he intends to take to restore the funds' soundness. The teacher retirement system is a state system independent of the costs or property wealth of individual school districts.

Although it is not a part of the elementary and secondary school system, the Vermont Student Assistance Corporation, created in 1965, is an important model for educational reform. VSAC manages scholarships and loans for post-secondary education. VSAC aid is portable; qualified students may use it to attend the college or university of their choice, including sectarian institutions like Yeshiva, Notre Dame, or Bob Jones, in or out of Vermont. In FY 2002 the legislature appropriated \$15.8 million to support VSAC's activities.

II. Financing the schools prior to 1997

Beginning in 1988, the state provided aid to local school districts in accordance with Gov. Kunin's Foundation Plan, the main author of which was her Administration Secretary, now Justice, John Dooley. As originally proposed, the Foundation Plan's distribution to a school district was based on two products. The first was called "Need". It was the product of the number of students times "foundation cost". This latter figure was what it would supposedly cost a public school, per pupil, to conform to the Department's current Public School Approval standards.

The second product was called “Resources”. This was the product of a town’s tax base (equalized grand list) times another number set by the legislature, the “foundation tax rate”. If “Need” exceeded “Resources”, the state would pay local school districts the shortfall. In practice, the legislature accepted the foundation cost figure from the Department of Education, and then set the foundation tax rate to make “Need minus Resources” equal the amount of aid the legislature wished to appropriate.

The theory of the Foundation Plan as proposed by Gov. Kunin and Administration Secretary Dooley was that the state would “recapture” the tax base of the richest of the property-rich towns to provide funds to help provide a “foundation” for all towns. This feature proved to be intensely controversial, and was stricken from the bill on the House floor. Enacted without the recapture feature (as Act 84 of 1987), the Foundation Plan offered few if any advantages over its predecessor, the Morse-Giuliani plan of 1982.

As passed, the foundation plan allowed property-rich towns to spend their own tax dollars freely on high-cost schools while the property-poor towns struggled to make ends meet, even with state aid. Many legislators who had supported the original Foundation Plan recapture were not willing to accept this consequence. In 1994 and 1995 they pushed bills through the House to allow the state to tax property wealth from property-rich towns through a statewide property tax. The 1995 bill contained the “equalized yield” provision later to become the most controversial part of Act 60. In both instances, the more conservative Senate refused to agree to any bill containing a state property tax, an increased income tax rate, or a statewide teachers’ contract.

The 1996 House even appealed to the Senate to set in motion the process for a constitutional amendment to guarantee “a thorough and efficient system of free public schools and ensure funding for public schools sufficient to give each child an equal opportunity to acquire the essential skills required for full participation in the free enterprise economic system and the democratic political process.” The Senate, however, declined to bring the proposed amendment to a vote. The election of 1996 produced a new liberal majority in the Senate, and it was clear that some version of the two rejected House bills would be acted upon in the 1997 session.

III. “Equal Education Opportunity”: Act 60 of 1997

On December 27, 1996, the Vermont Supreme Court handed down its opinion in the case of *Brigham v. State*. Plaintiff Brigham based her case for an individual right to educational equality on Section 68 of the Vermont Constitution. That section, the only reference to education in the Constitution, reads “...a competent number of schools ought to be maintained in each town...” Acting in only 51 days on an interlocutory appeal of this question, over the objection of the trial judge and without a trial record, the Court found that Sec. 68 created an individual right to “a substantially equal opportunity to have access to similar educational revenues.” (The Court overlooked, among other things, the fact that the friends of equality in educational opportunity had, by proposing a constitutional amendment, conceded that their goal could not be achieved by thus interpreting the education provision of the 1786 Constitution.) The *Brigham* standard went well beyond the “adequate education” standard common to Supreme Court holdings in other states.

The *Brigham* decision established a demanding constitutional standard for Vermont’s educational finance system. It was however already clear when the Court acted that the 1997 general assembly would enact a new education finance law based on what later appeared as the *Brigham* mandate.

The product of the 1997 general assembly was the “Equal Educational Opportunity Act of 1997”, known as Act 60. The Act’s 105 pages contained these major features:

- A centralization of educational power in the State Board and Department of Education. The law explicitly authorized the Board to establish state educational standards which every public school had to implement. The schools were required to adopt a state-approved comprehensive action plan to boost student achievement, and to conform to state rules governing school practices and resources. The Board was for the first time authorized to put low-performing schools into state receivership.

- A per pupil block grant from the new state Education Fund to each local school district. The money in the Fund came from a new statewide property tax equal (after a transition period) to \$1.10 on each town’s equalized grand list, plus a general revenue contribution and the proceeds of the state lottery. The basic grant was (in 2001) \$5479. (The number of “pupils” includes various adjustments to the actual count of human beings, to account for low incomes, non-English speaking children, and higher high school costs.)

- The voters of towns that wished to spend above the block grant amount (and by 2001 almost every town did) adopted school budgets. Then the Commissioner of Education created a “sharing pool”, and taxed the equalized grand lists of the participating towns at a uniform rate to raise the total amount of money voted by the various town meetings. This pooling mechanism had the effect that a one cent levy on each town’s grand list raised the same amount of dollars (because the tax base of property-rich towns was shared with property-poor towns). This process had the great merit of always being in equilibrium. Via the sharing pool, what the towns voted to spend, the towns (collectively) taxed themselves to pay for.

It had the disadvantage, as noted above, of requiring an ever-increasing town contribution to the sharing pool. (This “equalized yield” provision was abandoned in 2000; see below.) A system of offsets was created to prevent all funds from flowing to Montpelier and back to the towns.

- The “income sensitivity” feature allowed persons with a total household income of less than \$75,000 to opt to pay 2 percent of that income in lieu of the state property tax on their homestead (house and up to two acres). Alternatively, they could pay the full state property tax on their homestead value less \$15,000, a provision particularly useful to persons living in low-value housing. In addition, they could opt to pay a fraction of their household income in lieu of the local share property tax. The fraction is the ratio of the 2 percent of income to the state property tax liability. This feature was funded by \$76 million (initially) in new taxes, including a 4.36 percent sales tax on telephone bills, two percentage points on the rooms and meals tax, one point on the purchase and use tax on cars and trucks, a corporate income tax increase, and a four cents per gallon increase in the gasoline tax. (Subsequent legislation capped the value of the homestead eligible for income sensitivity at \$160,000, and allowed taxpayers with household income of up to \$88,000 to receive a partial benefit.)

- A system of “prebates” distributed “advance rebate” checks to taxpayers in November. These checks were to apply toward the property tax rebate the taxpayer expected to be eligible to receive the following spring when filing Vermont income taxes.

- The state took control of local property tax stabilization agreements relating to local share education taxes, so that towns could not exempt properties (such as new factories) from the property tax base subject to “sharing pool” sharing. (Act 71 of 1998 subsequently created a state board to approve tax stabilization agreements.)
- The pre-existing “circuit-breaker”, allowing families (including renters) with incomes up to \$47,000 to pay not more than 5 percent of their incomes in total property taxes, was retained.
- The state continued to make contributions into the teacher retirement fund, for all teachers in all public schools.

These provisions were adopted over a counter-proposal from the minority party. That proposal (the Dwyer Plan) would have financed education with a 2 percent gross receipts tax (replacing the 5 percent retail sales tax), paid out to local school districts on a per pupil formula. The bill also placed major responsibility for special education on the state, relaxed state regulation of schools, and created a statewide parental choice program. It was defeated 57-90 in the House.

A year after the passage of Act 60, the newly formed Vermont Coalition of Municipalities proposed a plan called Education Revenue Sharing. It would have distributed state aid on the basis of each town’s tax burden (education spending divided by resident income) and the town’s educational spending per pupil. It would, however, have allowed property-rich towns to tax their own property base without sharing the proceeds with less favored towns, an apparent violation of the *Brigham* doctrine. Education Revenue Sharing was not voted upon in either House.

IV. Act 60 in Operation

The advocates of Act 60 had high hopes for their handiwork. When fully implemented, they believed, the following things would happen:

- The tax resources available for education would be equalized. The state property tax (initially projected to pay 88 percent of the costs of education) was by its nature equalized throughout the state. The sharing pool, by requiring property-rich towns to subsidize property-poor towns so that one cent on every grand list would raise the same amount in each town, also equalized tax resources. Since Act 60 allowed no other local taxation in support of schools, the result would be that mandated by *Brigham*.
- With tax resources thus equalized, spending per pupil would tend to equalize. It was a demonstrated fact that towns with a high tax base per pupil spent more per pupil than towns with a low tax base per pupil. If the tax bases were effectively equalized, towns should end up spending about the same amount per pupil. The property-rich towns would vote to maintain spending at their current high levels, even though they would be obliged to pay three or four times as much into the sharing pool as they retained to pay for their much higher above-block spending.
- Costs would be controlled by school meeting budget votes to finance above-block spending. Every penny on the grand list voted at a school meeting would result in increased tax bills for those voters.
- The state property tax could be assessed with reasonable precision, without initiating a state-managed uniform appraisal process.

- The income sensitivity feature would convert the property tax to an income tax for many with household incomes below \$75,000.
- The increased powers of the state Department of Education would improve educational results throughout the state, particularly in low performing school districts.
- Above all, political support for the new rules would continue despite unavoidable grumbling from the property-rich towns.

As it turned out four years later, many of these expectations were thwarted.

First, the state property tax performed as expected in generating revenue, but there were serious controversies, and lawsuits, over variations in valuations of taxable property. The state, having no assessment mechanism of its own, was forced to rely upon “equalization”. This sampling technique, supervised by the state’s Property Valuation and Review office, attempted to account for variations in appraisals by local listers. Naturally, local listers often disagreed with valuations established by people “from away”, who made decisions based on mathematical models and never actually looked at properties.

Second, the sharing pool became the focus of intense controversy. Property-rich towns naturally resented not only paying the state property tax to Montpelier, but also being socked through the sharing pool. For instance, in 2000 the \$1.10 state property tax raised \$8.7 million from Stowe. Of this, \$5 million was retained by the state. The remaining \$3.7 million was retained in Stowe as its block grant payment. This left Stowe \$2 million short of meeting its school budget. To raise that additional amount through property taxation, the town would have to raise \$6.6 million. Of this \$2 million would complete Stowe’s school budget, and the remaining \$4.6 million would be sent elsewhere through the sharing pool. In total, the state would ask Stowe to levy property taxes totalling \$15.3 million to fund its \$5.7 million local budget.

Gov. Howard Dean on the Act 60 Sharing Pool

“If you do spend above the statewide average, you’re going to be taxed [through the sharing pool] substantially above the statewide average. That’s one of the things in this bill I like.” (WCAX TV 10/9/97).

In his campaign statement on education, Gov. Dean declares that he wants to alter or eliminate the sharing pool, but does not yet have a workable alternative. (10/1/98).

“Gov. Howard Dean has said it is time to scrap the “sharing pool”, the device in Act 60 that equalizes towns’ abilities to raise money top pay for education.” (*Herald*, 1/17/99).

“Gov. Howard Dean embraced a [Gov-

ernor’s task force] plan Thursday that could delay full implementation of the state’s controversial school funding law for 10, 20 or even 30 years. The delay would mean that property-wealthy towns would not share as much of their taxes with poorer towns as Act 60 currently requires.” (*Free Press*, 2/12/99.)

Gov. Dean says that he hopes the Act 60 sharing pool will “disappear”. (WCAX TV, 1/2/00).

Gov. Dean said that perpetuating the guaranteed yield of the sharing pool “will be the end of Act 60.” (*Vermont This Week*, VPT, 5/5/00).

Rather than send 70 percent of this last \$6.6 million to other towns through the sharing pool, local leaders established the Stowe Education Foundation to raise tax deductible contributions from local taxpayers to subsidize local school costs. This mechanism enabled Stowe and many other property-rich towns to hold their official school expenditures at or near the level of the state block grant, thus exempting the town from paying into the sharing pool. In that way, all the local taxpayer contributions stayed at home. The Stowe-based Freeman Foundation materially assisted this process, making grants amounting to \$5.78 million to 47 local education foundations.

Third, Act 60's carefully designed equalized yield provisions became the first major casualty. The equalized yield process had two great merits. It equalized the tax yield among towns with widely varying tax bases, as mandated by *Brigham*. And it also contained a cost control mechanism, as viewed from the state's standpoint. That is, the towns in the sharing pool all voted school budgets. The revenues to pay for those budgets were raised by a uniform tax rate on the tax bases of all of the towns in the pool. Town voters voted, town taxpayers paid, and there was no obligation for the state to underwrite the pool's expenses.

However with the property-rich towns avoiding the sharing pool, their tax bases were omitted from the sharing pool tax base. Thus formerly underspending towns that increased their spending in response to the promises of Act 60 found their own tax liabilities increasing without the dollar injection from the non-participating property-rich towns. Towns which believed they would be receiving towns soon came to be sending towns. Had the process been allowed to follow its unsubsidized course in 2000, the equalized yield rate would have been \$32; 119 towns would have been sending towns, compared to 114 receiving towns. This proved to be politically unacceptable.

The 1999 legislature "bought out the sharing pool" for FY 2000 by transferring into it \$36.8 million of the surplus in the Education Fund. In the FY 2001 appropriations act (Act 152 of 2000), the original "equalized yield" procedure for the sharing pool was replaced, before it had a chance to go into full effect. The new scheme is called "predictable yield". The towns vote their school budgets. This determines total spending. The state determines the total equalized grand lists of the towns spending above the block grant, which is now virtually all of them. Under "equalized yield" the commissioner would then divide the total amount of spending by the EGL base to get the tax rate applicable to all the towns to raise the funds to pay the difference between the budgets and the total block grants.

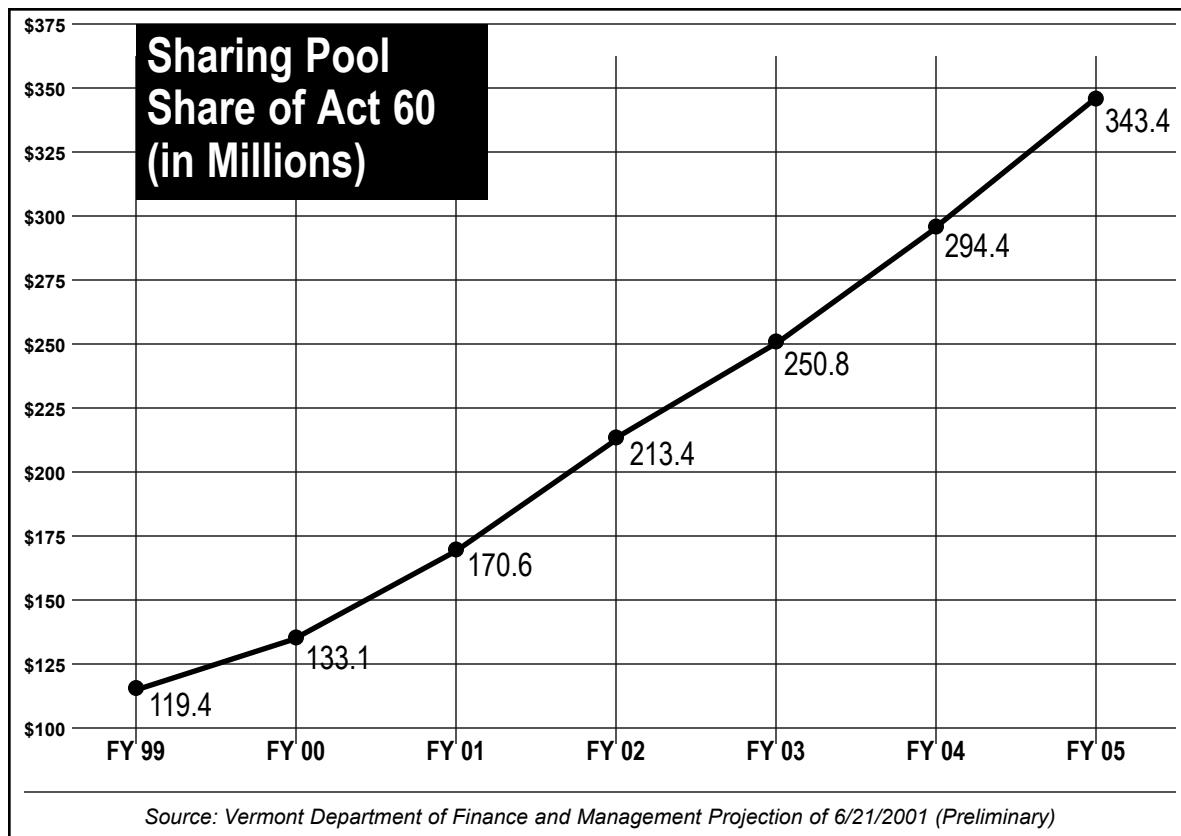
For FY 2001, Act 152 appropriated another \$36.0 million to guarantee that every town would receive \$40 for every one cent increase in the sharing pool tax rate. If the amount of money thus appropriated proved to be insufficient to deliver this, the state would make it up by taking money from the education reserve fund. A like amount was appropriated for FY 2002, and the commissioner was directed to establish a predictable yield of not less than \$39 per penny of tax rate.

By this mechanism the legislature subsidized the sharing pool to cover the school budgets voted by town voters, without driving up the rate on each town's tax base. In effect, the legislature took money from the Education Fund surplus (produced by the statewide property tax, the lottery, and the general fund appropriation, but not paid out in block grants) to subsidize the sharing pool. From now on the legislature would decide each year how much of the sharing pool would come from towns, and how much from state subventions.

However politically attractive this device was, it drew instant criticism from Gov. Howard Dean. He realized that once towns got used to the state using surplus funds to buy out the sharing pool, it would be very hard for the state to stop doing it. The sharing pool buyout would become an entitlement. Funding for other state programs, particularly his expensive health care access program and transportation improvements, would have to be diverted to placate opposition to Act 60.

Fourth, because of rising school costs (salaries, energy, health insurance), the gap steadily widened between the block grant, by statute increasing only at the rate of inflation, and the far more rapidly increasing per pupil cost. This gap was, by design, to be filled by payments from the sharing pool.

To restrain the growth of the sharing pool obligation, the legislature could increase the block grant. This meant increasing the general fund contribution to the education fund, or increasing the \$1.10 state property tax rate, or administratively increasing the value of property to create a larger tax base. Alternatively, the state could reduce the local share tax obligation by “buying out the sharing pool”, by transferring any available surplus funds into the sharing pool. This latter proved to be the technique of choice. It will work so long as surplus revenues can be found to buy out the sharing pool. The rising share of Act 60 payments from the sharing pool is shown by the chart:



Fifth, average Vermonters who were told that Act 60 was major tax relief found that when the state’s new income sensitivity taxes were taken into account along with school property taxes, their net savings were zero or even negative. As the Heaps-Woolf VCM study revealed:

“On average, property taxes for the average Vermont family went down by about \$200 in the first year of Act 60. But the increased general fund taxes that were raised to help finance Act 60 eliminated that property tax saving entirely. By the current fiscal year, FY01, school property taxes for an average family are 8.4 percent higher than they were in the FY98 school year, the year before Act 60 was implemented. If we include the additional General Fund taxes that an average family is paying as well as the increase in school property taxes, school taxes are 24 percent higher today than they were three years ago.”

The authors of the VCM study observed that two groups did very well under Act 60. One was composed of residents of generally higher-income towns who had been paying high taxes in support of education. The other was retired Vermonters with modest incomes who lived in expensive houses (and are likely to have substantial non-property assets). This group looks “poor” to Act 60, and burdened with high property taxes on their expensive homes. Hence they will get large prebate checks.

The VCM study also showed that school property taxes were higher for businesses and for families with incomes above the \$75,000 income sensitivity cap. In 70 towns these two groups saw a tax decline averaging 8 percent, but in 178 towns they saw a tax bill 37 percent higher than in 1997.

Sixth, the expected equity largely failed to materialize. The VCM study showed that students in towns with the bottom quintile of school spending saw a slightly larger increase in spending than the towns in the other four quintiles. The difference, the study found, was small and not sufficient to materially affect the spending gap between high and low spending towns.

Seventh, despite an almost 2 percent decline in the number of students between FY1998 and FY2001, school spending rose 17.3 percent and per pupil spending rose by 19.7 percent. The VCM authors identified three main reasons for the higher spending.

- Act 60 lowered education property tax rates in many towns in its first year or two. Thus voters could buy more education by spending at the same level, without increasing the burden they already had shouldered, and many voted to do so.
- Voters could not understand how their votes translated into their tax liabilities, because of the complicated sharing pool provisions. Assured by political leaders that higher school budgets in many low-spending towns would bring in large new revenues from the sharing pool, voters approved higher spending.
- In economic good times, the burden of school property taxes was relatively small, so voters didn’t mind the added cost.

Eighth, the advocates of Act 60, the *Brigham* plaintiffs, and the state Department of Education all agreed that educational improvement is proportional to dollars spent on schools, at least for a given school population. Over a wide range of per pupil spending, this is an extremely dubious assumption. Prof. Eric Hanushek of the University of Rochester has summarized hundreds of education input-output studies, finding no significant correlation between money spent and educational achievement.

A 2001 study by Lorna Jimerson for the Rural School and Community Trust concluded that the average percent of students meeting or exceeding standards on grade 4 New Stan-

Standard Reference Exams in FY1998 and FY2000 increased most for the lowest-spending quintile pupils. The gap between the highest and lowest income quintiles shrank from 19 percentage points in FY1998 to 14 percentage points in FY2000. “We believe that if this trend continues,” Jimerson says, “it will be a very significant indication that inequities in academic achievement are diminishing.”

Whether the increased educational spending per pupil as a result of Act 60 has led to improved educational outcomes is still too difficult a question to decide. The main problem is that the state’s New Standards Reference Exam is not normed to any recognizable performance standard, so it’s not clear just what it is measuring. In addition, the exam was given to different sets of fourth graders, so that an improvement in specific children could not be measured.

Ninth, Act 60 could have achieved its *Brigham*-mandated objectives by simply making Vermont one large school district for fiscal purposes: levying a state property tax on all property, adding general fund revenues, and returning the proceeds to local school districts (or to parents directly) according to a formula. This alternative was rejected out of deference to “local control”. Act 60 preserves “local control” only in the sense that local school district meetings continue to vote school budgets. However, taxpayers in those districts do not directly pay for the budgets they voted, previously the distinguishing characteristic of “local control”. How much the local district gets for education spending depends on state appropriations and on the political decisions and tax bases of other towns in the sharing pool. Under Act 60 an accounting set-off is employed to minimize the number of dollars shipped from most towns to Montpelier. Looking through this complicating feature, voters would soon understand that the proceeds of two state property taxes (the direct \$1.10 levy plus the sharing pool levy) are controlled by Montpelier, and distributed as Montpelier decrees.

In sum, Act 60 has led to some reduction in the school spending gap between high tax base and low tax base towns. Whether it has produced any positive changes in educational outcomes remains an open question. Overall education costs are rising steeply. The sharing pool share of those costs is also rising steeply. The political necessity of bailing out the sharing pool with surplus revenues, and the consequent abandonment of “equalized yield” in favor of “predictable yield”, has largely destroyed the self-regulating spending provisions under the original Act 60. More and more towns are becoming sending towns. The notion of “preserving local control” so assiduously promoted by Act 60 supporters is increasingly looking like a poor joke.

The available means for rescuing Act 60, fiscally, are:

- Increase the block grant, requiring some combination of an increase in the \$1.10 state property tax rate, an increase in the (state-controlled) assessed values of property, or an increased infusion of general fund revenues into the education fund. (The 2001 legislature increased the block grant to \$5,448.)

New Democrats on Act 60

“School finance reform can be either a lever for enhanced student performance or a point of political breakdown. Recent efforts in Vermont are indicative of the latter... In Vermont, a practice known as ‘power equalizing’ was adopted. Not only was funding equalized between school districts, but communities raising money above the required statewide rate... are required to contribute to a statewide pool for redistribution. While this is a liberal’s Walter Mitty fantasy, in reality it creates resentment and undermines support for public schools in many communities. It is not likely to be a tenable solution in the long run.” Andrew Rotherham, “Show Me the Results”, *New Democrat Blueprint*, Fall 1999. This journal is published by the Democratic Leadership Council. Rotherham is education policy director at the affiliated Progressive Policy Institute.

- Increase the annual state bailout of the sharing pool, by committing general fund revenues which may or may not be available depending on the economy, other budgetary demands, and the legislature’s willingness to increase tax rates (most likely, the income tax rate).

- Impose and enforce some kind of cost controls or spending caps on local school districts, putting an end to the last figment of “local control.” (Gov. Dean has frequently commented on the need for some such approach, and has even threatened to “micromanage” local schools that aren’t cost efficient.)

Act 60 could also be replaced. One proposal is Education Revenue Sharing, described above. It was not seriously considered by the 2001 legislature. Instead the House eventually focused on “Marron III”, a proposal offered by House Ways and Means Chairman Richard Marron (R-Stowe). It proposed to increase the statewide property tax from \$1.10 to \$1.26, raise the sales tax from 5 percent to 6 percent in all but the five Connecticut River counties, increase the Act 60 block grant from \$5,383 to \$6,666, and raise the homestead income sensitivity alternative rate from 2 percent of income to 2.24 percent. Marron III would have eliminated the sharing pool and would have allowed property-rich towns to spend their own tax dollars after meeting the higher state property tax obligation. This last provision appears to run afoul of the Supreme Court’s *Brigham* mandate, because it would allow property-rich towns to spend their own money without sharing it with poor towns.

When it became apparent in May 2001 that the House could not muster the votes to pass Marron III, the Senate Finance committee produced its version, passed by the full Senate on May 15. The Senate bill proposed to raise the state property tax rate to \$1.33, and the block grant to \$6200 per pupil. To thwart property rich towns that avoided the sharing pool by raising private contributions, the Senate bill proposed to count all such contributions above \$200 per pupil as if they were levied through local taxation, and thus subject to sharing. To compensate, the bill also capped the amount of dollars a property-rich town had to contribute to the sharing pool. The income sensitivity would increase from 2 percent to 2.4 percent of household income, but would be applicable to as many as 27 homestead acres.

The House, unable to arrive at its own position, declined to engage in negotiations over the Senate bill, and thus, there was no Act 60 “reform” in 2001.

Vermont needs to go beyond the patchwork “reforms” of Act 60 and find something better – a new educational model which is fiscally responsible, economically sustainable, and focuses on **Schoolchildren First**.

V. An Alternative: Schoolchildren First

The disintegration of Act 60 creates the opportunity for its replacement by a new education and educational finance system, based on principles both of financial equity and educational reform. Such a new system can be structured around these seven principles:

- 1. Public Responsibility for Education:** Since 1864 the people of Vermont have agreed that elementary and secondary education is a public responsibility, to be paid for with public funds. Since 1869 they have also agreed that independent as well as government-operated schools are an appropriate means of educating children, and that school districts may properly pay tuition for town children to both independent and public schools. The system proposed here makes no change in this fundamental and long-accepted public policy.

2. Consumer Choice: Even though the state requires the education of all children, it is the primary responsibility of parents, not the government, to choose the form of education that they believe to be in the best interest of their children. When parents make consumer choices in education, it is much more likely that the parents will inform themselves about the various choices available, and will place their child in a school best suited to the child's individual talents and needs. If what is best for the pupils threatens the disruption of long-established power relationships among other interests, then the consumer, not the producer, interest should prevail.

3. Consumer Empowerment: It is not enough for the consumers of education (parents, on behalf of their children) to have the theoretical choice of an educational provider. The consumer must also have the financial means to make that choice effective. Since 1864 the people of Vermont have accepted the principle that all of society will pay to ensure that all children can obtain an adequate education. Instead of government collecting taxes and funding institutions (schools) which may or may not offer what parents want for their child, government should now collect taxes and fund consumers to purchase the education they want for their children from a variety of qualified providers. The privilege of choosing a school for their child should not be confined to the wealthy, but extended to the parents of all Vermont children.

This is the same principle that underlies the highly successful G.I. Bill enacted after World War II, whereby millions of servicemen and women chose the type of higher education that best fit their career goals. It is also the principle underlying the successful VSAC program for college aid. While local cost variations may be taken into account when buying any product, the state has a responsibility for empowering parents to choose an education of equivalent quality (if not equal cost) throughout the state.

4. Provider Competition: In any marketplace monopoly serves consumers badly. The most efficient system, which produces maximum consumer satisfaction, is composed of numerous sellers competing to offer goods and services to attract many consumers. In education, some competing providers might stress a curriculum built on academic rigor, or on arts and music, or on science and math, or on moral and religious values, or on other types of skills. This competition among numerous providers, like competition among groceries and auto dealerships, gives empowered consumers the opportunity to buy the product they find most suitable to meet the particular educational needs of their children.

5. Public Oversight: When tax dollars are distributed to individuals to purchase services, the government which levied those tax dollars has a responsibility to establish some general rules governing their use. It is the proper business of the government to regulate provider health and safety and to assure honest financial reporting. It is also an appropriate function of government to make sure that consumers have sufficient information about the various educational products offered, and to enforce laws protecting civil rights. Beyond that, however, the various education providers ought to be free to offer their products to the marketplace without burdensome government regulation.

Proven Values

“It is time to bring the proven American values of choice and competition into education, to replace a centrally planned education system run from Washington and state capitols with a customer-driven system in which parents choose their children's schools and schools compete for their students... Education is an industry in which a thousand flowers should bloom. And they can bloom, nurtured not by well-intentioned government planners, but by thousands of free choices made by millions of free people in a free society.”

Pete Dupont, former Governor of Delaware, in *An Education Agenda* (2001).

6. **Substantial Equity in Educational Opportunity:** The plan, to be beyond constitutional challenge, ought to conform to the policy found to be constitutionally required in the *Brigham* decision: that all Vermont children “should be afforded a substantially equal opportunity to have access to similar educational revenues.” (It is not necessary to acquiesce in the legitimacy of the *Brigham* decision to embrace this principle.)

7. **Primary State Responsibility for Special Education.** To level the playing field in a provider competition system, the primary responsibility for complying with the federal Individuals with Disabilities Education Act (IDEA) should be assigned to the state Department of Education. The Department will contract for special education services with a wide range of providers – traditional public schools independent schools, specialized schools, and other programs to aid special needs children.

The specific proposal which follows is based on these seven principles. In some provisions it will resemble familiar current practices. In others it will call for dramatically different practices. The proposal necessarily makes choices among alternative techniques. It does not purport to have made the perfect combination of choices. Its purpose is to show in some detail how a reformed educational system could work in practice in Vermont, and how it could be brought about.

Competition Improves Public Schools

I find that greater private school competitiveness significantly raises the quality of public schools, as measured by the educational attainment, wages, and high school graduation rates of public school students. In addition, I find some evidence that public schools react to greater competitiveness of private schools by paying higher teacher salaries.

– Prof. Caroline Minter Hoxby, Department of Economics, Harvard. (*Do Private Schools Provide Competition for Public Schools?* National Bureau of Economic Research, 1994).

Provider Competition: Vermont’s present educational system consists predominately of public schools owned and operated by local (usually town) school districts. The new system will offer parents a multitude of qualified education providers, including traditional public schools, nonsectarian and religiously-affiliated independent schools, public charter schools, homeschooling, and perhaps other forms of education, nonprofit and for-profit, not now foreseeable.

The great majority of pupils will likely continue to attend schools operated by an elected local school board. These public schools will have the advantages of tradition, facilities, and community identification. The great difference will be that they will no longer be able to count on the coercive arm of government to deliver pupils to their door. They will now have to actively persuade parents to enroll their children. Converting government monopolies into competing entrepreneurial education services will require a major change of mentality in the public school establishment. The effect will be that conventional public schools will over time come more to resemble charter schools which must actively market themselves to consumers.

The public obligations of these multifarious providers will be essentially those of approved independent schools today. The state Department of Education will have to see that all schools meet reasonable health and safety standards; establish state approved accounting systems and have their finances audited; adopt some method of assessment; and publish factually accurate information about the school in their publications.

Qualified schools will not, however, be limited to hiring teachers with state-mandated credentials. Nor will they have to adopt a state-mandated curriculum, methods of assess-

ment, student discipline rules, or community reporting. It is the business of the state to ensure health and safety, financial integrity, and truth in advertising, but the quality of the educational product will be judged not by the government, but by the school's customers. If parents find that the school they have chosen turns out to be unsatisfactory, they can simply transfer their child to another school more to their liking. Some schools will prosper, and others will fail. The education marketplace will determine which it will be.

Schools will most likely not market themselves to potential customers as merely “meeting state standards”. Instead, they would seek to attract pupils by advertising the strength of their performance, curriculum, teaching, special programs, facilities, values, or test scores. This is already the practice of Vermont’s recognized schools, which emphasize religious and moral education, and of the state’s six “ski academies”, which advertise winter sport training and competition.

One school might advertise its adoption of the Core Knowledge curriculum, as does Crossroads Academy in nearby Lyme, NH. Another might advertise its art-centered curriculum, as does Green Mountain Waldorf School in Wolcott. Another might offer its high-tech internet based curriculum, like Oak Meadow School in Putney. Another might promote its school-based enterprises, as at Hazen Union in Hardwick. In time an independent “seal of approval”, like the AAA seal on motels and the UL seal on appliances, is likely to become an important part of consumer information.

A school might wish to advertise that 95 percent of its teachers held teaching credentials from the state of Vermont. Another might advertise that its teachers have vast practical experience, as for example a retired military officer, business executive, forester, or poet.

The central idea of provider competition is that it offers a diversity of products to appeal to the customer's wishes. This is a very different idea from that of the monopoly school, which all too often places great weight on making teachers and administrators comfortable and prosperous. In short, offering consumer choice allows and encourages different strokes for different folks. And it has the demonstrable effect of stimulating all providers to strive to identify and meet the demands of empowered consumers in the marketplace.

Under a provider competition system the state Department of Education would no longer set standards and prescribe student assessments. Indeed, except for some general oversight of health, safety, financial integrity, and truth in advertising, the Department would not have a lot to do other than monitoring compliance with unavoidable Federal requirements, offering technical assistance, assuring good consumer information, and managing special education (see below). The Department’s current overhead budget (\$11+ million in state funds in FY 2002) could be substantially reduced. The state’s 65 superintendents would become administrators of individual schools or affiliated groups of schools, or become employees of the Department to assist it in carrying out its remaining duties.

Under a provider competition system there would still be a place for a teachers union. Teachers and school support personnel, like any other workers, are entitled to form a union and get it certified to bargain with their employer. The major difference will be that the union would no longer be a political organization of workers in a government monopoly, where its demands and behavior have no relationship to their employer’s market share. Under the new system teachers unions would become more like industrial unions. Like unions at U.S. Steel or General Motors, they would have to press their economic demands in light of their employer’s competitiveness in the marketplace. A school with a very expensive

union contract might well be priced out of the market in competition with other schools with equivalent products but lower salary costs. There would thus be a market-influenced element of restraint familiar to unionized workers in industries like steel and auto making.

Local Scholarship Funds: As of 2001 there are 47 community-based foundations which have sprung up to raise tax-deductible funds to supplement the above-block expenditures of local public schools, thus allowing the school district to avoid, or at least minimize participation in, the Act 60 sharing pool. There is also a statewide scholarship program for pupils attending nonpublic schools, Vermont SOS.

These and similar institutions will have an important role to play under this proposal. They will have the opportunity to become analogs to the successful Vermont Student Assistance Corporation (VSAC), which receives public funds and awards scholarships for post-secondary education at both public and independent institutions. It is also possible that several regional Student Tuition Organizations (the name used in Arizona) will be created, or even one STO for the whole state.

Special Education Reform: The federal Individuals with Disabilities Education Act of 1975 (IDEA) declared the right of a student with “special needs” to a “free and appropriate” education at public expense. As a recent national study observed, “special education began as a program for children with clearly identified physical and mental handicaps. Today, however, it attempts to serve an ever-growing population of youngsters with an ever-lengthening list of problems and difficulties, some of them ambiguous in origin, subjective in identification, and uncertain as to solution.” (Finn et al, 2001).

Over 50 percent of all special education pupils are classified as “learning disabled”. As many as 80 percent of all “learning disabled” children are so classified because they are unable to read. The cause is as likely to be “instructional failure”, which commonly occurs when school systems abandon proven phonics-based and direct-instruction reading techniques in favor of trendy “whole language” or “look-say” guessing about the meaning of letter combinations.

School personnel have a natural tendency to classify failure to read as a “learning disability”. At traditional schools, aggrieved parents are not likely to have much success in demanding that teachers make use of what the parents believe to be more effective instructional techniques. Teachers naturally believe that their choice of techniques is preferable to the notions of untutored parents. The result: many children don’t learn to read, and are thus classified “learning disabled”, their parents’ protests notwithstanding. This explains why the percent of special ed students classified as learning disabled (nationally) went from 22 percent in 1976 to 52 percent in 1999.

Since the children, through their parents, have a right that can be enforced in court, the special education process has become exceedingly litigious. Plaintiff parents dissatisfied with the Individualized Education Plan (IEP) offered to their child frequently engage lawyers to challenge the plan. If the school district makes even one small and harmless procedural error in defending the case, the plaintiffs often win and the school district is required to reimburse their legal costs.

School districts face continuing demands from special needs parents and their lawyers. Removing a disruptive or violent special education student from a classroom requires “just cause”, which can be litigated. A school that fails to provide costly “educational” services

demanded by the parents of severely disabled children invites a lawsuit. The Department of Education is often seen as an accomplice to parents demanding more extensive and costly services from local school districts. Many a superintendent has caved in to parents' demands rather than risk the potentially staggering costs to the taxpayers of an active and prolonged defense.

A recent legal assault by Vermont Legal Aid on the independent St. Johnsbury Academy lasted nine years, and cost the Academy well over \$100,000. At issue was whether the Academy could be forced to abandon its 5th grade level admission standard, and to provide academic classroom instruction to a boy who was so severely disabled that he could not have met even a kindergarten standard. In 2001 a federal appeals court held that the public school district, not the Academy, was required to provide the "free and appropriate" education.

Reforming the techniques for special education is beyond the scope of this report. This report does, however, propose a new way of organizing special education in a new system built around provider competition and parental choice.

First, with every parent empowered to choose among public and independent schools, parents would be able to seek out options and instructional techniques that are best fitted to their children with special needs. Instead of being consigned to a public school special education program that is viewed by a school district as secondary to its main purpose and potentially the source of lots of trouble, parents could choose independent programs whose principal purpose is serving children with special needs. A 1997 study by the Mackinac Center in Michigan recounted numerous success stories made possible by local school districts contracting with specialized special education providers. If a selected arrangement proved to be unsatisfactory for the child, the parent could choose another provider. Such a program has just been enacted in Florida, which will benefit as many as 340,000 special education pupils in that state.

Second, since special needs children require more resources than regular pupils, the state would augment the scholarship amount depending on the level of services legally required. The burden of providing the "free and appropriate" education would thus rest with the state. Presumably the superintendents would be the state's local agents in making satisfactory pupil arrangements, and in negotiating costs.

Third, since the state will now be in the position of paying for special education, the Department of Education will take a renewed interest in promoting early reading instruction that works, in place of feel-good approaches that don't. It will also become the respondent in special education litigation, in place of the local educational agency. To meet that responsibility the Department would doubtless develop its own legal expertise, either in-house or by contracting, to defend the interests of taxpayers against excessive plaintiff demands. The state might wish to require mandatory mediation or arbitration of special education disagreements. To preserve impartiality, hearing officers for special education cases would have to

Florida Expands Parental Choice for Special Education Families

In 1999 the Florida legislature enacted the McKay scholarship pilot program to allow the parents of certain students with physical and mental disabilities to choose the schools best suited for their children. The program gives parents either the cost of educating their child in a public school, or private school tuition, whichever is less. Last year the legislature opened the program to all special needs students statewide whose parents could demonstrate a lack of progress in the assigned school. In May 2001 Gov. Jeb Bush signed a third bill, passed by lopsided margins, which allows parents of 340,000 Florida special needs children to exercise school choice for any reason whatever. (Matthew Robinson, "Florida Leaps Ahead with School Choice", *Human Events*, 6/18/2001).

be removed from the Department and assigned to another office, such as that of the attorney general. Plaintiff lawyers would quickly learn that it is more difficult to defeat an expert defense lawyer representing the state, than a general purpose local attorney hired to represent a local school board.

Fourth, under this proposal local school boards and administrators would be freed of the distracting burden of dealing with costly special education programs and demands. This is obviously necessary if they are to fairly compete for pupils with independent schools which have no legal responsibility for special education pupils. Traditional public schools would undoubtedly continue to offer special education services for moderately learning-disabled pupils, as part of a contract with the state. They would undoubtedly continue to make accommodations for those with visual or auditory impairments. But for the first time they would be able to turn away pupils who are disruptive or violent, or so severely disabled that they are incapable of any significant academic learning. It would be up to the Department, ultimately, to fulfill the federal mandate for a “free and appropriate” education.

How State Governments Help Parents Choose

Colorado will launch its new Web-based education report card in fall 2001. The site will contain a wide variety of data, including important information on teachers, school ratings, parent-friendly description of individual school features, and the ability to compare different schools. Private schools will also be able to post information on the site. (www.state.co.us/schools). Kentucky, Pennsylvania, Arizona and Georgia are close behind. Here, the Vermont School Information Web site is maintained by the private Vermont Independent Schools Association (www.vtedresources.org). It contains a searchable data base of information about more than 130 independent schools in Vermont.

“One size fits all” education is even less satisfactory for children with unique and special educational needs. By empowering the parents and enlarging the number of providers, parents ought to be able to obtain the greatest satisfaction in the way their children are assisted.

Financing Education: The basic mechanism of **Schoolchildren First** is a tuition certificate. Before the beginning of each school year (or semester), the state will distribute to the parent of each pupil a tuition certificate which can be exchanged by that parent for tuition at any public school in Vermont.

Conceptually, this is precisely the tuition town system now in use in some 90 towns which do not have high schools or belong to union districts. However under present practice there is no actual certificate; once the parent selects the school, the receiving school or school district sends an invoice to the sending school district, covering all the pupils from that district. Whether an actual tuition certificate would be issued, or whether the transaction would be performed electronically, is a matter to be decided by the disbursing authority within the Department of Education.

The Department of Education would determine the amount of tuition payable to each school. The Department would probably choose to establish some tuition caps, based on local education costs and historical experience, to prevent a school from increasing its tuition simply to maximize its revenue from the state. Public schools would be required to accept the tuition certificate as payment in full, and could not balance bill the parents.

Independent schools would charge tuition to their customers. Most customers (parents) would apply for a scholarship from a Student Tuition Organization (which could be an existing community education foundation). Any property or income taxpayer would be allowed to claim a nonrefundable credit against either the state property tax or the individual or cor-

porate income tax (or both) equal to 90 percent of his or her contribution to a qualified STO. (The 10 percent difference between the tax credit revenue loss and the actual contribution should more than cover the administrative costs of the STO, especially if the state provides each STO with a customized computer program for managing applications and funds.)

From these contributions the STO will offer scholarships to enable pupils to attend the independent schools of their choice. To take advantage of this option, parents would turn in to the STO their tuition certificate along with their child's accepted application to attend an approved or recognized independent school. The STO would issue the scholarship to the school in the name of the pupil, and pay the corresponding amount directly to the school.

There would be no proscription of balance billing for independent school tuition; parents would be expected to make a financial contribution to their child's education in proportion to their means, as parents of recognized independent schools do now. On average, an STO would probably contribute on the order of one-third of the comparable local public school tuition. Homeschoolers could qualify for direct tax credit averaging \$500 per child.

This tax credit mechanism is in wide use in New Hampshire to promote community development. Business subject to the business profits tax can earn tax credits for contributions to community development organizations like the bi-state Northern Community Investment Corporation. Thus a \$100,000 contribution toward the financing of an economic development project results in a \$90,000 credit against the firm's business profits tax liability.

In Arizona, since 1997 taxpayers may claim a 100 percent tax credit for the first \$500 contributed to a Student Tuition Organization, which in turn offers scholarships to independent schools. In Minnesota, families with incomes below \$37,500 can claim a \$1000 per child refundable tax credit for tuition payments to independent schools; higher income families may take a state income tax deduction. Illinois grants an income tax credit of up to \$500 per family for tuition and fee expenses. The Arizona and Illinois plans have survived court challenges brought by teachers unions. The 2001 Federal tax reform bill increases to \$2,000 per child the amount that can be contributed to an education IRA.

Examples: Joe and Mary Smith decide that Allen Public School is the right place for their 7th grade son Mike. Allen Public School posts a tuition cost of \$6400 per year. The Smiths turn their tuition certificate over to the school at registration, and the school cashes it in to the state's disbursing authority for \$6400.

Dennis and Barbara Jones decide that Mary would fare best at the St. Columba Roman Catholic high school. They apply to their local STO for a scholarship to pay St. Columba's tuition, and turn in their tuition certificate. The STO awards them a scholarship of \$3000, and they pay the \$1200 additional cost from their own pocket.

Bradleyvale Savings Bank responds to a solicitation to aid the local STO by making a \$20,000 contribution. Later it takes an \$18,000 credit against its state corporate income tax.

Universal Vouchers are Constitutional

"These decisions (*Mueller* and *Witters*) suggest that the (Supreme) Court would uphold an educational voucher scheme that would permit parents to decide which schools, public or private, their children should attend. The Establishment Clause probably would not stand as an obstacle to a purely neutral program, at least one with a broad enough class of beneficiary schools and one that channeled aid through parents and children rather than directly to schools."

Harvard constitutional law Professor Laurence Tribe, Quoted in Daniel McGroarty, "Does School Choice Work?", *American Experiment Quarterly*, Spring 2001.

The STO announces that six of its awards have been made to “Bradleyvale Savings Bank Scholars”.

Although under this plan the public schools could continue to receive direct public funding through their local school districts, providing the parents with a tuition certificate is an important tangible manifestation of empowered parental choice and provider competition. The certificate would bring home to parents the fact that they have the responsibility for making a choice for their child. From the perspective of the public school, the knowledge that their income comes from cashing certificates given by parents, instead of receiving payments from the state, will emphasize that they are no longer a part of a protected government monopoly, but must compete in the marketplace for their customers.

The Student Tuition Organization tax credit mechanism for independent school scholarships also insulates those schools from government control. Since only parental and STO dollars are paid to religious schools, the mechanism eliminates the legal problem that might arise under the establishment of religion clause of the federal constitution and the compelled support clause of the Vermont constitution. In addition, the plan prohibits balance billing for public schools. If high-spending public schools wish to spend more than they receive from cashing in tuition certificates, they will have to raise the money from other non-tax sources, in the same way that St. Johnsbury Academy recently raised \$5 million in private funds for its new arts center. Alternatively, parents of pupils could apply to a local STO to get assistance in meeting a local school’s extra expenses. **Schoolchildren First** retains the expectation that parents choosing an independent school will contribute a significant part of the cost of their child’s education.

Budget Estimate: The distribution of tuition certificates for public school education is little different than a portable block grant under Act 60, and should pose no particular fiscal problem. The authorization of tax credits for independent education will create revenue shortfalls that will have to be covered.

As an example assume:

- a) The tuition certificate redemption amount is \$6,000/pupil for public school grades K-6, \$6,400 for grades 7-8, and \$9,200 per pupil for grades 9-12.
- b) Contributors to STOs can claim a credit of 90 percent of their contribution against their state property tax or their individual or corporate income tax liabilities.
- c) The certificate for homeschooling expenses is worth \$600 for the first child and \$400 for each additional child, and averages \$500 per child.

For the 2000-2001 school year there were 102,930 pupils in public schools or as tuition pupils from public high school districts. Total public spending for these pupils is projected to be about \$840 million. An additional 10,500 children of school age either attend sectarian schools ineligible for public tuition funding or are homeschooled. These pupils of course receive no public funds at all.

Under Schoolchildren First the number of independent and homeschooled pupils would certainly expand, and STO donors would be eligible for tax credits. The number of public school pupils would decline, as parents took advantage of independent school options even though those options required an out of pocket cost to parents.

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The tax credit cost per independent school pupil would be significantly lower than the public school tuition certificate costs. Yet the public savings achieved by a shift to independent school attendance will not equal the difference. That is because the tax credit costs will include credits for STO contributions to pay for scholarships for some 10,500 pupils who have been attending independent schools or who are being homeschooled at zero public expense.

With those caveats, the overall education costs can be illustrated if the plan were in place for 2001-2002. The calculation assumes that 8 percent of the state's public school pupils at all grade levels (8234) would opt for independent schools. (For simplicity, this calculation includes the five independent academies as public schools; whether they would choose to be treated as such or as wholly independent schools is not resolved here.)

Tuition certificates, redeemed at public schools (including the five independent tuition supported high schools):

49,554 grades K-6 pupils at an average \$6000	\$297.3 million	
15,077 grades 7-8 pupils at an average 6400	96.5	
<u>30,064</u> grades 9-12 pupils at an average 9200	276.6	
94,695 pupils Total tuition certificates:		\$670.4

The revenue loss from tax credits for independent school tuition:

8,741 K-6 pupils at an average \$2000	\$ 17.5
2,693 grades 7-8 at an average \$2100	5.7
5,365 grades 9-12 at an average \$3100	16.6
<u>2,000</u> homeschoolers at an average \$500	<u>1.0</u>
18,799 pupils – Total credits:	\$ 40.8

Plus special education	60.0	
Plus technical education	7.7	
Plus transportation grants	12.0	
Plus small school grants	4.4	
Plus capital debt service aid	4.5	
Plus state-placed students	9.7	
Total:	\$ 98.3	
Total education spending		\$809.5

The present funding for Act 60 (FY 2001) raises this amount of money:

Direct State property tax at \$1.10	\$407.3	
Indirect state property tax (Sharing Pool)	170.7	
General Fund contribution	238.0	
Other (lottery revenues, miscellaneous)	105.0	
Total revenues:		\$921.0
Less income sensitivity	– 72.2	
Less renter rebates	– 5.9	
Less reappraisal and listing	– 2.3	
Funds available to meet educational costs:		\$840.7

Using these assumptions about the results of choice, this analysis shows that given generous public school scholarship funding, plus tax credits equal to about one third of the public school funding for independent school scholarships, the total public cost comes to \$31

million less than what is currently (FY 2001) being spent on Act 60. These figures are necessarily an approximation involving many arbitrary assumptions. They do not include likely transition or remediation subsidies to public schools losing a large percentage of pupils, and they do not include certain pre-kindergarten costs and the increased costs associated with state property appraisal. Nonetheless they do show the costs to the public of the new program should be closely comparable to the costs of the current Act 60 program.

The two state property taxes in the existing Act 60 program raised \$578 million in FY 2001. Increasing the state property tax to \$1.49 (on a EGL base of \$387 million) would allow the elimination of the sharing pool, while raising the same number of property tax dollars.

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Alternatives to the Property Tax: This high percentage of property tax support for education has long been a sore point with local governments, whose leaders have steadfastly demanded that this percentage be drastically reduced. The options are not promising. To limit property tax education support to 50 percent of all education costs (\$460 million in 2001), it would be necessary to shift \$137 million onto another tax base.

Increasing 1 cent on the sales tax (from 5 to 6 percent) would yield an estimated \$46 million.

Increasing 5 points on the income tax (24 to 29 percent) would yield an estimated \$95 million

This total of \$141 million would cover the required \$137 million. This tax raising effort would probably have a significant negative effect on the economy (income tax) and the increases would consume more of a tax base that may be needed to sustain other state entitlement programs, notably the Vermont Health Access Program. It should also be noted that around 30 percent of property taxes are paid by nonresidents, so that reducing the property tax rate reduces the taxes they pay.

Other alternatives would be to replace the retail sales tax with a gross receipts tax (GRT), or to replace the income tax with a consumed income (consumption) tax. The main problems with the GRT are:

- The revenues from the repealed 5 percent retail sales tax (\$230 million) must be replaced
- When a product passes through several stages within the state (production, distribution, retail), the GRT is collected at each stage, and thus the resulting product may have been taxed three or four times
- Like the sales tax extended to services, the GRT impacts many service industries, producing negative competitive effects with other states
- By the time politically necessary exclusions have been written into the GRT (for education, health care, exported goods, cascaded products, etc.) the GRT rate will likely have crept up in the vicinity of the 5 percent sales tax rate.

- It is likely that a GRT with exemptions would pose difficult and expensive administrative problems.

The consumption tax has several attractive features. It is a growth generator, since income not consumed (i.e., invested) is not taxed. It builds in all the investment tax shelters such as IRAs, 401(k)s, MSAs, ESAs and charitable giving. It would appeal to environmentalists because it discourages conspicuous consumption (SUVs, power boats, fancy restaurants, gowns, jewelry, etc); on the other hand, if the stimulated investment takes place in Vermont, environmentalists would doubtless have a problem with the resulting economic growth.

Adopting such a system in only one state invites tax gaming, however, and it would also require a complete divorce from the federal tax code. Even with large subsistence exemptions at the bottom end of the income scale, many might view the consumption tax as insufficiently progressive for their tastes.

Neither alternative promises to produce a pool of new money which would keep the property tax contribution to 50 percent of total education costs. Since Act 60 for the first time imposed a statewide tax on lightly taxed pockets of property wealth, there remains no substantial untaxed tax base. Since most wealth other than land and buildings is highly mobile, there is no reason to believe that a tax on financial assets, savings, art, coins, and the like could raise significant revenues. It would merely drive those assets beyond the reach of the Vermont Department of Taxes.

The most likely and most logical financing change, then, would probably be simply abolishing the sharing pool and predictable yield mechanism, and replacing the lost revenues through a state property tax with a rate of around \$1.49. With such a policy 60-65 percent of education costs would continue to be financed by the property tax. Town school districts would no longer have any say about education financing. As under Act 60, all school revenues would in fact come from state funds. Local school districts would in most cases continue to operate public schools and compete to offer programs and opportunities desired by potential pupils. Town governments would levy a property tax only for municipal services.

Since the legislature would establish a process for determining the tuition amounts for each public school, towns that wished to operate higher cost schools would have to rely on contributions from STOs or other eleemosynary sources to cover expenses not covered by the tuition certificate. These contributions would be tax deductible, and could be assigned for supplemental scholarships in the donor's town of residence. On the other hand, public schools which can operate efficiently below the tuition certificate amount could attract pupils by assigning the difference to an account (managed by a STO, VSAC, or a bank) to help pay the costs of a graduating pupil's post-secondary education (college tuition, technical training, apprentice program costs, independent study, etc.)

Installing such a program would naturally incur significant transition costs. Some arrangement would be needed to bail out public schools with previously incurred capital

Market Driven Solutions for Public Education

Market-driven solutions to educational problems recognize that the public, as purchaser, has clear and concise requirements that must be met and for which we are willing to pay. While the state provides funding for public education, it should neither operate schools nor place children in schools. Families must choose their own schools, with the state role confined to oversight and the distribution of information that parents can use in their selection process.”
– Lisa Graham Keegan, Arizona Superintendent of Public Instruction (*Chronicles*, 9/98).

debt, which are unable to attract enough customers to survive. Act 60's income sensitivity provisions, if retained, would either have to be calculated based on a higher percentage of income (instead of the present 2 percent), or new funding would have to be found. Necessary improvements in property assessment will require some millions of dollars a year to achieve and maintain.

Conclusion: Act 60 as constructed in 2001 cannot be expected to last for long. Without major reform, the state will inevitably move toward One Big School System, in an attempt to control education costs. Such a System, centrally controlled, will be the worst possible outcome. Like any huge government monopoly, it will be insensitive to the needs and demands of its customers. It will, however, be highly sensitive to the needs and demands of the people employed by it, from the Departmental bureaucracy to the "regional administrators" (formerly, "superintendents") to the part time teachers' aides. Over time the one-size-fits-all mentality of centralized monopoly systems will result in standardized but inferior curricula. Those managing such a System will not be enthusiastic about the objective assessment of academic outcomes, a result already exhibited by the state's brief and unproductive experience with "portfolio assessment".

This will not be good for the customers, our children.

What will be good for our children is empowered parental choice, to enable parents to choose the most suitable educational program for their children, and marketplace competition from a wide variety of providers, striving to attract customers by offering them a product they want.

Schoolchildren First recognizes that "local control" – by elected local school boards operating monopoly school systems – will necessarily disappear as Act 60 morphs into One Big School System. Its answer to centralized control is to decentralize control down to the actual customers themselves, as was done with the G.I. Bill and VSAC. If local school boards choose to operate competitive publicly owned schools, as most will, they will have unimaginable freedom to design their schools and market their wares, subject to approval of consumers in the market. Local control of such public schools will be vastly greater than the local control that school districts have had over public schools in living memory. The major difference is that the school board will no longer be able to rely on compelling parents to send their children to a government-operated school.

Better for children, better for parents, better for enterprising providers both public and private, yet no more expensive than the present Act 60 regime. Ten years after implementing Schoolchildren First, Vermont education will be an envied model for the nation.

The End of Public School Monopolies

"The idea of a public school monopoly is dead. It needs to be relegated to the Smithsonian because we are going to be in competition with other people...The already dead monopoly is going to be open to competition whether it likes it or not." – U.S. Education Secretary Rod Paige, Empower America conference, Silicon Valley, 2/28/01 (quoted in *Wired* 3/12/01)

Hard Questions Answered

Q: In **Schoolchildren First** local property taxpayers will pay nothing toward the cost of local public schools. Is that desirable?

A: Local taxpayers paying for and making decisions about their local schools was desirable. But the Supreme Court in the *Brigham* case and the legislature and governor in Act 60 put an end to that arrangement. Now there is in effect no local tax money supporting local schools, despite the accounting mechanism that tries to make it look like there is. The state is now levying taxes and paying the bill for all public education. Thus the state will increasingly make the decisions about local education. This has started with the approval of local “action plans” and will eventually end with cost controls, a statewide teachers union contract, and the “micromanagement” of local schools already promised by Gov. Dean. Vermont is well on the road to One Big School System, with its centralized taxation, decision making and bureaucracy.

Q: So the era of “local control” is over?

A: Except for relatively minor decisions like new hires, bus routes, and lunchroom menus, yes. **Schoolchildren First** restores “local control” to the parents of 112,000 children, rather than to 251 local school district governments.

Q: Won't **Schoolchildren First** destroy local public schools?

A: This proposal effectively makes public schools into competing publicly-owned independent schools, relying for revenues by attracting customers instead of by exacting their financial needs from local property taxpayers. They have an advantage over most independent schools in that they have a facility, tradition, and customer loyalty. That's why 80-90% of Vermont's children are likely to continue to attend public schools - and where there is effective competition, they'll be better public schools. Local school boards and school management may not be comfortable with this change to provider competition. Its goal, however, is not to put “Schools First”, but **Schoolchildren First**.

Q: What if, under this plan, a large number of pupils flee my local public school to attend independent schools?

A: That's a good sign that your local public school is not offering what children and parents want. It will have to change, or eventually go out of business. Interestingly, when low-performing Florida schools were made to face the prospect of pupil exit, their principals and teachers worked frantically to improve reading and math scores.

Q: Will parents know enough to choose the best school for their children?

A: A better question is, does the government know enough to choose the best school for everybody's child? Some parents, even with ample information, may make unwise choices, but mistakes are easily remedied. Mistakes by a monopoly government are rarely remedied. And after all, it's not the government's kids.

Q: Will the scholarships available from a Student Tuition Organization be enough to get parents to switch to independent schools, when they have to pay something out of their own pocket?

A: Almost all independent schools charge less than comparable public schools. Thousands of parents are today contributing part of the cost of their children's education, with no public assistance at all. A \$3000 scholarship will look like a lot of money to them. Children from lower income families will qualify for larger scholarships.

Q: Will the STOs be able to raise enough in contributions to be able to offer adequate scholarships to all applicants?

A: We won't know until we give it a try. A 90% credit against income, corporate or property taxation is a high-powered incentive to contribute. The legislature can adjust the rate in the light of experience. STOs would most likely transfer funds among themselves to ensure that all needs are met.

Q: How can competition work in spread-out rural areas? Isn't there a transportation problem?

A: Parents in Kirby and Barnet, whose children attend three area high schools, have always managed to get them there with little or no public assistance. With provider competition, the market will produce all sorts of arrangements to match customer with provider.

Q: Can such a system be financed with the same number of dollars as Vermonters are paying now?

A: Yes. The example offered on page 26 could no doubt be improved by much more detailed analysis, but it is a realistic illustration; in fact, the per pupil tuition numbers used are high.

Q: Is it wise to retain the present education financing burden on the property tax?

A: The report examines the level of income and sales tax rates needed to reduce the property tax burden for education to 50% of total costs. It concludes that there is no feasible way to get down to this level. The 1973 tax rebate program and the 1997 income sensitivity feature will doubtless be retained to ease the property tax burden on homesteads. Switching to a state property tax without a sharing pool brings in the same amount of property tax dollars for **Schoolchildren First** as under Act 60 today.

Q: Where is the cost control in **Schoolchildren First**?

A: As Gov. Dean has frequently observed about Act 60, there has to be a cost control mechanism. Local voters can't be allowed to vote huge school budgets and expect somebody else to pay for them. As under Act 60, the cost control in **Schoolchildren First** is essentially in the legislature, supervising the Department's calculation of the value of tuition certificates that the legislature must raise tax dollars to redeem. In a competitive system, efficient schools can use the savings to make their offerings more attractive to potential customers, or even help fund its graduates post-secondary education.

Q: Under **Schoolchildren First**, how much will my local school receive per pupil when it cashes in its tuition certificates?

A: This is a very tough question. The Department will have to develop a certificate reimbursement schedule, based on some index of local costs. That index might include incomes, wage scales, housing values, and historical trends. As always, the slicing of the school financing pie will be controversial, but there is no non-controversial method of solving this problem.

Q: Wait a minute - aren't you proposing a school voucher system?

A: Yes. Whatever the financial mechanism, parental choice requires a "voucher". The proposal refers to "tuition certificates", mainly to make voucher critics (notably the Vermont NEA teachers union) retool their attacks on parental choice.

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Privatization as a Spur to Improvement

"The only way to make a major improvement in our educational system is through privatization to the point at which a substantial fraction of all educational services is rendered to individuals by private enterprises. Nothing else will destroy or even greatly weaken the power of the current educational establishment, a necessary pre-

condition for radical improvement in our educational system, And nothing else will provide the public schools with the competition that will force them to improve in order to hold their clientele."

Dr. Milton Friedman, Nobel Prize winning economist, *Washington Post*, February 19, 1995.