

Situation Report - Independent Schools - March 2012

Citizens Summary

A situation report is an effective tool used to foster forward progress by informing citizens and management of issues that may need attention. It is not an audit and expresses no opinion nor draws conclusions. Instead, the report gathers information in order to identify issues relevant to the entity. Ultimately, it is the responsibility of the entity's stakeholders to address the issues. A situation report is a tool to improve effectiveness and efficiency. If we improve government performance we will improve the lives of Vermonters.

- *State Auditor Thomas M. Salmon, CPA, CFE*

The following is a summary of the situation report that resulted from work conducted under the State Auditor's Office (SAO) over the period May to September 2011 in regards to the Independent Schools community within Vermont and their relationships with the public school system, with the goal of promoting awareness among all stakeholders and to aid all stakeholders in evaluating where to provide sustained attention.

Issue One: Announced Tuition Calculation

Each winter public school boards approve and publish an Announced Tuition figure that projects per-pupil expenditures for the following academic year. This figure includes several costs that vary from year to year, such as student enrollment, fuel prices, and unanticipated maintenance expenses, making this figure difficult to accurately predict. Though the State Department of Education provides a template for this estimation, few districts use these templates for their projections. Additionally, there is no regulation regarding the methods used in these projections, and no oversight of the accuracy of these figures at the state level.

Issue Two: Average Announced Tuition

During the past two fiscal years, the Average Announced Tuition figures for high school students (the average of the announced tuition rates of all union schools at appropriate grade levels) have erroneously included the announced tuition rates of two union elementary schools. Since elementary education is generally less expensive than high school education, this resulted in an error in the Average Announced Tuition rate for this academic year of \$77 per-pupil. Students enrolled in public schools through Vermont's school choice policy are fully funded by their districts even if the Allowable Tuition exceeds the Announced Tuition of the receiving district. However, students choosing to enroll in Independent Schools through Vermont's school choice system are provided with vouchers equal to the amount of the Average Announced Tuition, regardless of the actual tuition rate of their chosen school. This accounting error reduced the funds available to those students by a significant amount, and negatively impacted Independent Schools with a high proportion of publicly funded school choice students, especially those who base their tuition rates on the Average Announced Tuition rate. The total underpayment due to this

Melissa Canney
Project Support Contractor

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error was approximately \$38,962 for 506 students. The Department of Education had concluded that to correct the error would have caused a good deal of confusion for school district voters and additional administrative expense for school districts, so no corrective action was taken.

Issue Three: Reconciliation

Because public school districts are able to reconcile their anticipated and actual costs of education through refund and bill-back processes, they do not face the same budget rigidity that Independent Schools educating sending districts students face. This creates a situation where sending districts could pay significantly more for resident students to attend public schools than independent schools once Allowable Tuition rates are published and accounts are reconciled. Because reconciliation agreements and transactions are not monitored by the State Department of Education, the nature and extent of these agreements are unknown.

Issue Four: Education Finance Reporting and Oversight

Each of the first three issues listed above is, in part, attributable to gaps in transparency, reporting, and oversight of educational finance decisions at both the district level and state level. While local control of schools is a strong tradition in Vermont, transparency in finance structures is also important for taxpayers and policymakers. It is important for Vermont voters to have access to public education expenditure figures, both state-wide and comparatively between schools and districts within the state, to facilitate informed decision-making on budget proposal measures and referenda found on Town Meeting Day agendas. Additionally, increased transparency at all levels promotes efficient operation of school systems through competition and sharing of best practices.

Looking Ahead

The State Auditor's Office will continue to monitor the relationship between public and Independent Schools in Vermont. There are a number of pressures on Vermont communities as a result of declines in student enrollment, increased operating costs, and budget constraints, and it is vital that we keep an eye on the operational reality of the school communities and ensure that all school educational activities producing value and results for students are not stifled or hurt by decision making not rooted in full awareness of the situation. Other next steps include monitoring changes in the educational landscape proposed by the Governor, Commissioner of Education, and legislators and promoting awareness and open communication between educational stakeholders regarding issues that require further attention.

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Authority

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State Auditor Thomas M. Salmon, CPA, CFE

History

The Auditor's Office under Auditor Salmon has made Educational Performance in Vermont a priority since taking office in 2007. There have been a number of education-related projects produced from the auditor's office ranging from a shared services survey to situation reports and a large performance audit. The auditor met with St. Johnsbury Academy officials in 2010 to discuss threats and opportunities to Vermont education systems as a whole, and specific challenges to the independent school environment. Mill Moore, Executive Director of the Vermont Independent Schools Association, later brought additional Independent Schools issues to the attention of the State Auditor's Office in May of 2011. Mr. Moore was concerned about errors in the calculation of the Average Announced Tuition formula, which is used to determine the dollar amount that choice towns must provide for their students to attend Independent Schools. Additionally, pending legislation at the Statehouse brings additional attention to the Independent Schools community, as well as the relationships between Independent and Public Schools across the state. To this end, we conducted interviews with leaders from several Independent Schools and the Vermont Independent Schools Association, as well as officials from the Vermont State Department of Education Finance Team.

Background

Vermont's Constitution, which was adopted in 1793, states, "A competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth." ¹ In 1869 this clause was further

¹Vermont Constitution Ch. II, § 68 Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth. All religious societies, or bodies of people that may be united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges,

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clarified in the Vermont State Statutes, which requires school districts to provide all resident students with an appropriate education either through enrollment in the districts' school(s), or in the event that the district does not operate schools serving all K-12 grades, with a voucher for enrollment at a public or state-approved, non-religiously affiliated independent school of the family's choice.

Today, Vermont's 255 towns are represented by 307 school districts and 60 supervisory unions operating 313 public schools². Forty of these schools are union schools, which are created through the consolidation of several neighboring town into a larger district, usually to provide for one larger, regional high school. Additionally, about one-third of Vermont school districts provide the restricted school choice option for students in at least some grade levels by not operating schools (or belonging to a union district) serving all K-12 grades. These 90 districts, called choice districts, continue the tradition of publicly funded school choice for their residents.

In addition to Vermont's 313 public schools, there are currently 128 Independent Schools operating within Vermont's borders. Independent Schools are independently governed and maintained, though they are required to meet the standards for "approved" status in order to accept any public tuition vouchers. The diversity of the independent school community cannot be overstated- each Independent School also has a specific mission related to the type of education it provides, the student population it serves, it's philosophical and pedagogical approach, and other services or opportunities. Additionally, five of Vermont's Independent Schools are act as Town Academies, which are independently-run schools that agree to educate all students from local districts³. These schools are Burr and Burton Academy, Lyndon Institute, The Mountain School at Winhall, St. Johnsbury Academy, and Thetford Academy.

Vermont's Students

Vermont is currently facing a steady decline in student enrollment as state demographics change. During fiscal year 2011, 90,289 students were enrolled in Vermont

immunities, and estates, which they in justice ought to enjoy, under such regulations as the general assembly of this state shall direct.

² Vermont Department of Education, Education Fact Sheet 2008-2009.

³16 VSA § 827 (a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school or a public school as the public high school of the district.

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public schools, a 1.04% decrease from 2010. Since Vermont's student population peak in 1997, public schools have experienced a 15.09% decrease in enrollment.⁴ In fact, our student population is declining faster than any other state in the nation⁵ due to low birth rates and the disproportional inward migration of families without school-age children⁶. Because the majority of public education funds are allocated to schools on a per-pupil basis, this decline in enrollment further stretches already tight school budgets. Schools have many fixed-cost budget items (building maintenance, personnel salary, etc.) that must be maintained regardless of the number of students enrolled. This creates incentives for schools to compete for students and their allocated funds in order to keep classrooms full and maintain course offerings and other opportunities for students. This competition is not limited to the public school sector, as Independent Schools must also maintain a stable student population in order to operate efficiently under their budgets.

Governing Public Education in Vermont

In order to understand Vermont's system of education finance, it is necessary to define the Local Educational Authorities (LEAs) that are responsible for the education of its students. As mentioned previously, Vermont contains 280 school districts, however not every school district operates schools containing all K-12 grade levels. Many school districts are simply town or city school districts, meaning that a town or city school district operates schools to provide for the education of its residents. Ultimately, LEAs are responsible for the education of all resident students, including those with special needs,⁷ the provision of local delivery of educational services or by covering the cost of tuition for services outside the district.

In some cases, several neighboring districts collaborate to create a unified school district, which provides education for the students of all member towns. In this case, each member town has a distinct school district that provides education for certain grade levels, while the unified district is responsible for providing education for the remaining grades. Each city or town school district and unified school district is governed by its own school board, though unified school districts often share a superintendent and central office administrative staff.

⁴ Vermont Department of Education. Elementary/Secondary Public School Enrollment, 2010-2011. April 2011

⁵ U.S. Department of Education, National Center for Education Statistics, Projections of Education Statistics to 2015, September 2006. <http://nces.ed.gov/pubs2006/2006084.pdf>

⁶ Vermont Housing Finance Agency, Housing and Vermont's School Enrollment, January 2007.

⁷ Individuals with Disabilities Education Act (IDEA)

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Additionally, some school districts operate schools that serve only some grade levels, and are not members of a unified school district. Students in grade levels not provided directly by the district are entitled to tuition vouchers, valued at the statewide Average Announced Tuition rate, which can be used at any public or approved independent school of the students' choice. The following statutes also apply to the school districts that choose not operate any schools, rather to provide restricted school choice for all students.

16 VSA § 821 (a) Each school district shall provide, furnish, and maintain one or more approved schools within the district in which elementary education for its pupils is provided unless: (1) The electorate authorizes the school board to provide for the elementary education of the pupils residing in the district by paying tuition in accordance with law to one or more public elementary schools in one or more school districts.

16 VSA § 822. (a) Each school district shall provide, furnish, and maintain one or more approved high schools in which high school education is provided for its pupils unless: (1) The electorate authorizes the school board to close an existing high school and to provide for the high school education of its pupils by paying tuition in accordance with law. Tuition for its pupils shall be paid to a public high school, an approved independent high school, or an independent school meeting school quality standards, to be selected by the parents or guardians of the pupil, within or without the state

For the purposes of this report, we must differentiate between *sending districts*, or districts that provide vouchers for the education of their students, and *receiving districts*, or districts that education students residing in other districts using education vouchers.

Financing Public Education in Vermont

Public education in Vermont is financed through local property taxes, state block grants, and funding for federally mandated programs and services. Each district is responsible for proposing a budget for approval by voters during the general election. An important component of this budget-making process is the calculation of the per-pupil expenditure for each school in the district. The per-pupil expenditure is calculated twice for each academic year: each January the district estimates an *Announced Tuition* rate for the upcoming academic year, while each June the district calculates the *Allowable Tuition* (the actual per-pupil cost) for the ending academic year.

Announced Tuition

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This figure utilizes the district's anticipated income and expenses, including factors such as student enrollment, fuel costs, and building maintenance to create an estimate of the per-pupil cost of education for the upcoming academic year. District business managers, pending School Board approval, are responsible for submitting the Announced Tuition rate for each school in the district's jurisdiction to the State Department of Education as well as any other districts from which it typically receives students. Additionally, local governments use Announced Tuition figures during their school district budget approval process.

Allowable Tuition

At the end of each fiscal year, district business managers calculate the actual cost of per-pupil education at the elementary, middle, and high schools in their district, and report this figure to the Department of Education and all sending districts. This calculation is relatively straightforward, as it measures actual expenditures rather than estimates and projections.

Reconciliation

According to Vermont Statute, large discrepancies between the Announced Tuition and the Allowable tuition are eligible for reconciliation between sending and receiving districts. Specifically, the Allowable Tuition must not exceed a three percent difference above or below the Announced Tuition. In the event of a discrepancy greater than three percent, the receiving district is obligated, under state statute⁸, to either refund or bill-back the difference between the Announced Tuition and the Allowable Tuition to the sending

⁸16 VSA § 836 (a) Annually, on or before November 1, the commissioner shall inform each school board of a receiving public school, each board of trustees of a receiving approved independent school for which the commissioner has calculated a net cost per pupil, and each sending school district in Vermont of the calculated net cost per elementary or secondary pupil in the receiving schools. Each school board or board of trustees of a receiving school shall then determine whether it overcharged or undercharged any sending district for tuition charges and shall notify the district by December 15 of the same year of the amount due or the amount to be refunded or credited.

(b) If the sending district has paid tuition charges in excess of three percent of the calculated net cost per elementary or secondary pupil and is not sending enough students to the receiving school to use the overcharge funds as credit against tuition, the school board or board of trustees of the receiving school shall refund the overcharge money by July 31. However, interest owed the sending district on overcharge monies shall begin to accrue on December 1, at the rate of one-half percent per month.

(c) If the receiving district has undercharged tuition in an amount three percent or more than the calculated net cost per elementary or secondary pupil, the school board or the board of trustees of the sending school shall pay the amount of the undercharge. If payment is not made by July 31 of the year following the year in which the undercharge was determined, interest owed the sending district on overcharge moneys shall begin to accrue on August 1, at the rate of one percent per month.

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districts. Because reconciliation agreements are created and maintained between participating districts, there is no statewide data regarding the frequency or nature of these agreements.

District Agreements

The ability of sending and receiving districts to create tuition agreements in order to avoid a reconciliation process exists, though there is little oversight over the creation of such agreements. As a result, there is a lack of data about the nature of these agreements, or the extent to which they mitigate the need for tuition reconciliation at the end of each fiscal year. Through the implementation of reconciliation agreements, both sending and receiving districts are able to better estimate their educational costs. Additionally, sending districts are permitted to designate a public school in another district as the public school serving its students.⁹

Tuition reconciliation outside of district agreement creates unanticipated costs, especially for sending districts. Because receiving districts are required to 'bill-back' sending districts for Allowed Tuition rates exceeding 3% of the Announced Tuition, sending districts are often required to find other sources of funds for these unanticipated costs after the upcoming years' budget has already been passed. Additionally, because their students are enrolled as tuition students in another district, residents of sending districts are unable to influence the educational budget decisions that directly impact them as both consumers of education as well as taxpayers contributing to its cost.

Financing Independent Education in Vermont

The diversity of Vermont's Independent Schools is reflected in their range of funding sources. Some students attend Independent Schools using private tuition money from family, friends, and scholarships, while others use public tuition vouchers to cover some, if not all, of the independent school tuition. Additionally, Independent Schools often engage in vigorous campaigns to raise scholarship and need-based financial aid for their students, as well as supplement other educational costs.

⁹ 16 VSA § 827 (a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate an approved independent school or a public school as the public high school of the district.

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Private Tuition Students

Private tuition students use private funds to cover the cost of an Independent School education. This money can come from family contributions, as well as need-based and merit-based scholarships and institutional aid provided by the school.

Sending District Students

Students residing in sending districts are able to direct their school choice vouchers toward the cost of an Independent School education. The voucher may or may not cover the entirety of the Independent School's tuition rate, in which case the family is responsible for the remainder of the tuition and fees through personal funds, financial aid, or scholarships. It is important to note that families from sending districts that choose to enroll in public schools are not required to contribute to their children's education, even if the per-pupil tuition at the public school exceeds the value of the Average Announced Tuition. In this instance, the sending district is responsible to cover the difference.

Each year, the value of sending district vouchers is determined by the statewide *Average Announced Tuition* figures computed by the State Department of Education. This is equal to the statewide average per-pupil tuition rate from all union schools. Due to the range in educational costs by grade level, separate Average Announced Tuition figures are calculated separately for primary and secondary school students.

Sending District Agreements

Like public school districts, Independent Schools are permitted to create tuition agreements with sending districts. Under these agreements, Independent Schools and sending districts reach a consensus regarding the per-pupil tuition rate for students in the applicable grade ranges. One form of these agreements is the institution of Town Academies, where a sending district designates an Independent School as the public school option for its residents. Though Town Academies are privately run, they agree to perform the function of public schools for the towns in which they are located, and accept students from surrounding towns on both a school choice and private tuition basis.

Current Issues

Issue One: Announced Tuition Calculation

While the Department of Education provides a template for each district to estimate its Announced Tuition, in practice very few business managers use this template for their estimates. Variation in several inputs such as fluctuations in student enrollment,

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unanticipated changes in fuel prices, or other unexpected costs (ex. necessary facilities repair) can significantly impact the accuracy of Announced Tuition projections. This variability is only amplified by the long-term nature of the Announced Tuition calculation, which anticipates educational costs between 9 and 17 months into the future.

In addition to the difficulty of making accurate projections addressed above, the process for Announced Tuition calculations is unregulated by the state Department of Education. Though the state collects these figures annually, there is no oversight regarding the measures and metrics used in these projections. Additionally, there is little incentive for district business managers to precisely predict Announced Tuition rates, as receiving schools are able to bill-back sending districts for undercharges (over expenditure). However, sending districts are strongly affected by the Announced Tuition figure, as they are often obligated to provide additional funds requested by a bill-back in the reconciliation process.

Further, there have been claims that competition for students (due to declining enrollment) incentivizes districts to underestimate Announced Tuition rates in order to attract tuition students into their districts, and then use the reconciliation process to regain funds from sending towns. This creates a disparity in the amount that choice towns actually spend on public and independent schools for their resident students. There has been scrutiny of Announced Tuition estimations (concurrent with large discrepancies in Announced and Allowable Tuition rates) in districts around the state, including Lake Region, Vergennes, Poultney, and Winhall. House of Representatives Committee records¹⁰ contain accounts of the use of Announced Tuition estimates to meet competitive needs by public schools and districts. This causes concern within the Independent School community regarding the validity and appropriateness of the Average Announced Tuition figure to set the value of tuition vouchers. Since Independent Schools have a finite budget based on tuition (and Average Announced Tuition vouchers) that can only be supplemented through private fundraising campaigns, receiving school districts can be more flexible with their budgets due to the ability to recoup unanticipated costs.

Issue Two: Average Announced Tuition

In its own analysis, the Vermont Independent Schools Association (VISA) recently found that the State Department of Education has, for the past two years, erroneously included two union elementary schools (Currier Memorial USD and Mettawee Community School UESD) in their calculation of the Average Announced Tuition for high school

¹⁰ Rep. Peter Peltz, House Education Committee

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students. These errors in calculating the Average Announced Tuition rate for those academic years resulted in lower than actual rates, as elementary education is generally less expensive than high school education.

These deficits negatively impact Independent Schools that educate large numbers of students from sending districts and, as a result, receive reduced funding for the majority of their students. Though Independent Schools (and sending districts) do not contribute to the calculation of Announced Tuition figures, these figures directly affect their budget decisions. Last year, the total underpayment due to this error was approximately \$38,962 for 506 students (these figures are approximate due to an estimation of full-year student enrollment). Michael Livingston, the President of the Vermont Independent Schools Association and Head of School at Sharon Academy poses the following questions regarding the Average Announced Tuition Issue:

- Where did that money go?

DOE response: It didn't go anywhere. The money was not in school district budgets. Consequently, it was not raised in taxes. It stayed in peoples' pockets.

- Why is it that publicly funded students at Independent Schools would not be entitled to it?

DOE response: The error was called to our attention after most school board approved budgets had gone to print. Adding the \$77 left out in error would have increased the \$11,867 average announced tuition for union secondary schools by 0.65 %. A decision was made at the DOE that the costs of attempting to change the average announced tuition for union schools would have caused a good deal of confusion for school district voters and additional administrative expenses for school districts.

- What is the process that is going to rectify the issue for *this* fiscal year?

DOE response: There is considerable pressure for DOE to turn the announced tuition figures into a report as rapidly as possible. Sending districts and independent schools need the report for their budgeting. When the errors were made we had in place a process that examined the report internally and asked business managers to review their figures prior to publication. (The error was created when a district operating elementary grades inserted its announced tuition in both the elementary and secondary cells. Neither we at DOE nor anyone in the district noticed the error.) This year we sent a draft of the entire report to the field for review and included Mill Moore, Executive Director of the Vermont Independent Schools Association, among the reviewers.

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- Is Announced Tuition being calculated in a fair and reasonable way?

DOE response: This question is complicated, especially since the report is used for several purposes. It sets the maximum tuition one district can charge others during the school year. The amount charged can be adjusted up or down if the allowable tuition is 3% above or below the amount charged.

Receiving districts by statute can negotiate tuitions different from the allowable tuition calculation with sending districts. We would expect these differences to be reflected in their announced tuitions.

The Vermont Independent Schools Association presented this issue to the Department of Education directly, and has publicized this issue through organizational email blasts and newsletters. The Commissioner of Education has said that no action will be taken to mitigate the damage caused by these errors.

Issue Three: Reconciliation

Because public school districts are able to reconcile their anticipated and actual costs of education through refund and bill-back processes, they do not face the same budget rigidity that Independent Schools educating sending districts students face. This creates a situation where sending districts could pay significantly more for resident students to attend public schools than independent schools once Allowable Tuition rates are published and accounts are reconciled.

Additionally, parents who choose to send their children to Independent Schools are unable to recover any part of the balance between Average Announced Tuition and the tuition costs of the independent schools (the family contribution), though sending districts are obligated to cover that same cost discrepancy for students choosing to attend public schools. This inequity results in limited educational choice for students of lower income families who cannot afford to pay the difference between Independent School tuition and public school announced tuition, in spite of the fact that students attending public schools often receive more per-pupil funding once bill-back costs are calculated. However, because the state does not monitor reconciliation, there is limited aggregate data about how much more per pupil is spent each year by sending district on public school tuition versus contributions to independent school tuition.

Issue Four: Education Finance Reporting and Oversight

Each of the current issues listed above is, in part, attributable to gaps in transparency, reporting, and oversight of educational finance decisions at the district level and state level. While local control of schools is a strong tradition in Vermont, transparency in finance structures is also important. It is important for Vermont voters to

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have access to public education expenditure figures, both state-wide and comparatively between schools and districts within the state, to facilitate informed decision-making on budget proposal measures and referenda found on Town Meeting Day agendas. Additionally, increased transparency at all levels promotes efficient operation of school systems through competition and sharing of best practices.

Announced Tuition

The lack of transparency regarding Announced Tuition calculations has led to substantial suspicion of district business managers and School Boards. It also leads to estimates of per-pupil costs of education that vary widely between schools and districts around the state due to different estimation techniques employed by business managers. Though these rough estimates might be sufficient for the purposes of public school districts, the impact of these estimates is felt most strongly by the Independent School community and the local tax base responsible for bill-back charges. Increased transparency and more rigid guidelines and/or procedures for these calculations will help to clarify many misconceptions between public and independent schools.

Reconciliation

Because reconciliation agreements exist between school districts and are not monitored at the state-level, it is nearly impossible to accurately estimate the cost of education- public and/or independent- in Vermont. Though rough estimates can be found comparing the Announced and Allowable Tuition rates (using the 3% discrepancy rule), the existence of tuition and reconciliation between receiving districts, sending districts, independent schools, and town academies creates a complex picture of education funding across the state. This information is important in helping residents to make informed voting decisions regarding education finance matters, as well as to facilitate the comparison of costs between districts at the local, regional, and state level.

Student Data Reporting

In addition to financial oversight and reporting matters, it is important to consider the scope of these issues within the larger framework of Vermont education. Currently, it is difficult to find the proportion of students from sending districts attending public vs. Independent Schools, the number of students who use tuition vouchers to attend schools out-of-state, and the overall proportion of students that have access to Vermont's restricted school choice policy. These figures, which are maintained by each town, are not aggregated at the state level to provide a more complete picture of educational activities in Vermont. Though the important policy and personal decisions regarding school finance and choice

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are made at the local and family levels, the trends in public school enrollment patterns may help to inform education policy reforms at all levels throughout the state.

Looking Ahead

The State Auditor's Office will continue to monitor the relationship between public and Independent Schools in Vermont. There are a number of pressures on Vermont communities as a result of declines in student enrollment, increased operating costs, and budget constraints, and it is vital that we keep an eye on the operational reality of the school communities and ensure that all school educational activities producing value and results for students are not stifled or hurt by decision making not rooted in full awareness of the situation. Other next steps include monitoring changes in the educational landscape proposed by the Governor, Commissioner of Education, and legislators and promoting awareness and open communication between educational stakeholders regarding issues that require further attention.

Updated with additional information by the Vermont Department of Education, March 2012