

CAPE OUTLOOK



Private Schools, Public Policy & The States — The Ball Is In The Court

At the time supporters of Federal tuition tax credits were defeated in the Senate last November in an attempt to add The Administration's tuition tax credit measure as an amendment to a non-controversial bill, increased support for state level tuition tax credit plans was surfacing in the wake of the U.S. Supreme Court's ruling in *Mueller v. Allen*, upholding Minnesota's tuition tax deduction law. According to an informal survey conducted by staff of *Education Week*, one-third of the state legislatures now in session (39) may consider tuition tax credit or tax deduction proposals. Already in Arizona, Illinois, Iowa, Kansas, Massachusetts, Michigan, Mississippi, New Jersey and Ohio proposals are on legislative agendas. Proposals are expected to be introduced in Kentucky, New York and Pennsylvania in this or the next legislative session. In addition, Minnesota legislators are proposing to increase the allowable tax deductions.

Proponents and opponents of the proposals expect the states to be a major arena for debate because of the Mueller-Allen decision and the public's increased support for educational choice. The Supreme Court's ruling in *Mueller v. Allen* was, in fact, the inspiration and major influence for drafters of state level tax initiatives according to *Education Week*. Some states however, including Pennsylvania, have constitutions which prohibit tax credits or deductions for any purpose. In such states, constitutional amendments to allow tuition tax credits could take many years.

Although the timing is not yet clear, President Reagan is on record as saying he wants Congress to make another effort to pass tuition tax credit legislation in this session of Congress.

In other action involving the relationship between government and private schools, the Supreme Court has agreed to decide whether a Michigan School district can constitutionally provide courses in classrooms leased from parochial

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Private Sector Building Links With Private Schools

The Reagan Administration has recently announced a stepped up program involving Private Sector Initiatives to assist education. At a recent White House lunch attended by Scott Thompson, head of The National Association of Secondary School Principals, Sam Sava, head of The National Association of Elementary School Principals and CAPE's Executive Director plans were outlined by Jim Coyne, Director of Private Sector Initiatives, to involve public and private schools in the effort to vastly increase private sector support of education.

At CAPE's March Board Meeting Doug Holladay, who is handling the Department of Education's effort, will talk about specific ways in which he anticipates how private schools can be involved.

What is essentially contemplated in the beginning is to develop a broad listing of optimal forms of effective collaboration between the corporate sector and schools or groups of schools. It is the Initiative's hope that creatively useful contacts between schools and the private sector will become a fixture and that this could have a significantly beneficial effect on educational quality. Because the corporate sector has such an enormous stake in education, the closer the two work together the better for the society as a whole.

A March To The Senate For School Prayer

During the month of March while backers of a constitutional amendment governing prayer in public schools lobbied Congress, the Senate for the first time in 12 years intensely debated the issue on 12 consecutive days. Supporters of the measure failed to get the 67 votes in the Senate to pass the amendment.

Since 1962, when the Supreme Court ruled that state-required school prayer was in conflict with the First Amendment, the issue has remained highly controversial and in the public eye. In May, 1982 President Reagan sent a constitutional amendment to Congress which, if enacted and ultimately ratified by 3/4's of the states, would permit prayer in public schools by reversing the Supreme Court decision and stripping the Federal courts of jurisdiction over the subject.

Last March, in a meeting with CAPE's Directors, Secretary of Education Terrel Bell asked for CAPE's support for the Administration's effort to push for

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schools. Before the Grand Rapids, Michigan program was challenged by local taxpayers, and halted by a Federal district court in 1982, "shared time" courses were taught to 10,000 private school students during regular school hours while "community education" courses were taught before and after school. The private school students who take part in the program are officially listed as part-time public school students. Many public school officials favor the policy because the programs improve relations between private and public schools.

The arguments in the case, *Grand Rapids v. Ball*, which was brought by the State of Michigan on behalf of the Grand Rapids public schools, will very likely be held this fall according to a Supreme Court spokesman. The 6th U.S. Circuit Court of Appeals ruled last September that the Grand Rapids schools "shared-time" and "community education" programs directly aided religion and the program violated the First Amendment's ban against government establishment of religion.

Last year, the Supreme Court rejected First Amendment challenges to Minnesota's law permitting state tax deductions for private school tuitions. A.E. Howard, a long-time observer of the Supreme Court and Professor of Law at the University of Virginia said that the Michigan case will be an interesting follow up to the *Mueller v. Allen* case and that the shared-time courses appear to be "one more variation on a theme" of illegal aid to religion. But an assistant Michigan attorney general, Gerald Young, said the Supreme Court's emphasis on aid to both public and private schools in approving the Minnesota tax deduction may be of significant help to Grand Rapids. "Part-time public school students" attending classes in parochial schools never got any instruction that wasn't available in public schools, said Young. Thus the Michigan program, like Minnesota's law, benefits a "broad class."

In other recent Supreme Court action the high court heard the oral arguments in the consolidated cases of *Regan v. Wright* and *Allen v. Wright*, which could have wide-ranging implications for government policies toward private schools. At issue is the tax-exempt status of racially discriminatory private schools and whether the parents (plaintiffs), whose children attend public school, have the right to sue for stronger IRS regulations of allegedly discriminatory public schools. In the

eight year old fight the parents charge that the IRS failed, through inadequate monitoring procedures, to limit its grant of tax-exempt status to non-discriminatory private schools.

The coalition of parents of 25 black children from seven states narrowly won the right to sue in a 1981 Federal appeals ruling. But that was challenged by the Reagan Administration and a Memphis Christian school who say the parents have no standing to sue. The parents are hoping to represent "several million" black parents in a nationwide class action suit against the IRS. According to the attorneys representing the parents, the Lawyers' Committee for Civil Rights Under Law, Federal tax breaks to race-biased schools are the "legal equivalent" of state support for segregation.

The Court will decide the case before it concludes its session in July. On the broad issue of whether the IRS can deny tax breaks to racially discriminatory schools, the Supreme Court ruled 8-1 last year that a school which discriminates racially for any reason may not be tax-exempt.

School Prayer (continued from page 1)

a constitutional amendment approving prayer in public schools. At that meeting the Board indicated that there was probably a wide difference of opinion among CAPE member organizations on the issue but that a careful assessment of organization positions would be made.

A subsequent careful CAPE review of all its member organization positions showed that there is a clear division of opinion about supporting school prayer.

Among the major themes of those who oppose any constitutional provision on prayer — including many Jewish groups and mainline Protestant denominations — have been that any amendment would divide school children along religious lines, subject them to coercion and humiliation, and undermine the true value of prayer.

In the 80% of private schools which are denominational prayer is, of course, often a formal part of the school day or week. For most private school principals and teachers, the value of prayer and other religious exercises depends greatly on the degree to which they are a natural part of the school's on-going life and purpose and the sympathetic understanding of that purpose by students and their families.

COUNCIL FOR AMERICAN PRIVATE EDUCATION/1625 Eye Street, N.W., Washington, D.C. 20006

(202) 659-0016

A coalition of 15 national organizations serving private schools (K-12)

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Robert L. Smith, *Executive Director*; Kellen Flannery, *Editor*; Jay Roudebush, *Art Editor*

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Academic Fitness — The Run For Excellence

At the National Forum on Excellence in Education last December in Indianapolis, President Reagan announced his Presidential Academic Fitness Awards (PAFA) program which is intended to recognize students who have attained a high level of academic achievement while pursuing a solid core of academic courses. The program, just announced by the Department of Education, is patterned after the President's Council on Physical Fitness implemented in 1966 by President Lyndon Johnson, which was highly successful in motivating students to strive to meet higher standards in physical fitness.



In a pilot effort during the first year of the program, awards will be made only to graduating seniors under criteria developed by the Department of Education. The program for 1985 has yet to be decided.

Of the nation's approximately 3 million high school seniors, about 20%, or 600,000 would qualify for PAFA recognition. Recipients of the awards will be given lapel pins and certificates signed by President Reagan, Secretary Bell and the principals of the students' high schools.

All secondary schools are eligible. Schools which wish to participate should identify seniors who meet program standards, write to the Department of Education by April 20 and indicate the numbers of students (not names) who qualify, certifying that the PAFA standards were followed.

The awards certificates will be mailed this spring along with lapel pins and information pamphlets.

Schools wishing to participate should direct replies to:

U.S. Department of Education
President's Academic Fitness Awards Program
P.O. Box 23749
Washington, D.C. 20026-3749

The Department also has installed a toll free number to field questions about the program: 800-621-2999.

Legislative Update

The Congressional calendar has been crowded with budget hearings on the FY 85 budget proposed by President Reagan. Other action of importance to private education includes the following:

Recent and Upcoming Action . . .

Child Nutrition Funds, H.R. 4091, S. 1913

The House Elementary, Secondary and Vocational Education Subcommittee on March 14 reported out H.R. 7 to reauthorize for 4 years five parts of the 1963 Child Nutrition Act. Incorporated in that measure was H.R. 4091, the House passed measure which would have restored funds in FY 84 for child nutrition programs cut by the Reagan Administration. The Senate did not act on the bill and so the House Education Subcommittee will attempt to increase the authorization in FY 85. Included in H.R. 4091 is a provision of concern to private schools which raises the current private school tuition limitation from \$1500 to \$2500.

On March 13, hearings were held on S. 1913 (Huddleston D-KY) in the Senate Agriculture Committee. This measure restores funding for child nutrition programs and would reverse a number of other changes made by the 1981 budget reconciliation law, including the \$1500 tuition cap on private school participation in child nutrition programs.

Vocational Education Reauthorization, H.R. 4164, S. 2341

After three months of debate the House Education and Labor Committee reported out H.R. 4164, which, by a vote of 373-4, passed the House on March 9. The bill directs aid to states in the form of basic grants similar to current law.

On March 1, the Senate Education Subcommittee reported out S.2341 (Stafford, R-VT; Pell, D-RI) which would bring about a major change from the current law by concentrating Federal vocational education aid on students with special needs and improve the quality of training programs.

The full Labor and Human Resources Committee is expected to mark up S.2341 in late March.

Asbestos School Hazard and Detection Control, S.2237

Introduced by Senator Sasser (D-TN), S.2237 would add a title to the current asbestos detection law to provide emergency grants of \$100 million per year for four years to assist schools most in financial need and with the most serious asbestos problems.

Senator Stafford (R-VT), Chairman of the Senate Education Subcommittee and the Environment and Public Works Committee has recommended to the Budget Committee that money for EPA to deal with asbestos be set-aside.

Charitable Contributions Law; Foundation Legislation

Attempts to cap the charitable contributions law for non-itemizing taxpayers at the 1983 level were defeated in the Senate Finance Committee on March 1, by a vote of 12-4.

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Legislative Update *(continued from page 3)*

Last year, the House dropped its consideration of capping the law, which is due to expire on December 31, 1986. Two pending bills, H.R. 1315 (Conable, R-NY) and S. 337 (Packwood, R-OR) would permanently authorize the yearly deduction increases of the original bill. However, in light of the tax increases which are likely next year Congress must be convinced that the base of support needed to protect the measure exists. Organizations are urged to make their constituencies aware of the provision, and urge them to make more contributions and take the deductions.

The Senate Finance Committee on March 14 voted 11-0 to approve foundation legislation (S. 1857, Durenberger, R-MN) which makes changes in existing law to generally support changes to enhance foundations' sources of support and their ability to give. Last year, the House version (H.R. 3043, Conable, R-NY) was in part incorporated into the Tax Reform Act of 1983 (H.R. 4170), which now awaits floor action in the House.

Still Pending . . .

Math/Science Legislation H.R. 1310, S. 1285

The House passed bill would authorize \$425 million for math and science education programs to be administered by the National Science Foundation and the Department of Education.

The Senate version has been expected to come up for a floor vote since last fall, but a controversial proposed amendment on aid for school desegregation continues to delay action.

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Among its recent activities on behalf of its constituency, CAPE:

. . . Long-time CAPE Director Donald A. Vetter announced, at his retirement, that Dr. Glenn Bracht, principal of St. Paul's Christian Day School in Wa-

verly, Iowa will succeed him as Director for Christian Day Schools. Dr. Bracht will work directly with congregations and schools and coordinate the Christian day school ministry with other units of the American Lutheran Church.

. . . Board of Directors, National Advisory Board and State CAPE representatives met March 19-20 in Washington for the annual CAPE spring Board meeting.

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