

# CAPE OUTLOOK

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## Durenberger Offers Practical Advice

At CAPE's annual spring Board meeting in late March, Senator Dave Durenberger of Minnesota told a luncheon gathering that the biggest problem waiting to be solved in education is how schools should be financed. As one of the foremost Senatorial advocates of parental choice, he said that supporters of tuition tax credits will have a far better chance of being successful if they base their case on the need to fund education in a new way to meet the educational needs of all children and the aspirations of their parents. He said he felt that the tax credit issue needs to be broadened beyond one of simple equity because Congress is deeply concerned about spending and deficits. These constraints require Congress to look for ways to maximize educational opportunity and excellence in the fairest way at the lowest possible cost. Although the Senator did not spell out a new program for financing education, he did refer to vouchers as an effective vehicle for increasing choice within manageable fiscal limits.

Senator Durenberger was CAPE's luncheon guest in part because of his leadership in tax and educational legislation of special concern to private schools and because Minnesota is a pace-maker state in the development of effective new ways to increase educational opportunity.

## Lunch With Bell

Secretary of Education Terrel Bell during a luncheon meeting in late March with the CAPE Board, the National Advisory Board and State CAPE representatives, discussed a range of items of special concern to private schools. Among these were:

- the tuition cap now preventing hundreds of private schools and thousands of eligible students from further participation in the school lunch program.
- the inequitable manner in which the tuition paid by private school parents is treated in relation to college level financial aid programs.

- the Exemplary Private School Recognition Project and the need for private schools to make more visible what they are doing to improve schools and in relation to the national reports.

- the Administration's interest in pursuing a Title 1 voucher plan.

- future prospects for tuition tax credit legislation.

- our interest in legislation which would encourage the infusion of able people into teaching careers.

## Equal Access Follows Prayer In Congress

Congressional debate over student prayer did not end with the defeat in the Senate of the constitutional amendment that would have allowed vocal, organized prayer in public schools.

A bill originating in the House Education and Labor Committee that would require public schools to allow student-initiated extracurricular religious activity at junior and senior high schools whizzed from subcommittee into full committee and was approved on April 6 by a vote of 30-3. The measure, titled the Equal Access Act, provides that federal funds be cut off to the entire school district for policies which do not allow student religious groups to meet voluntarily and allow other groups to meet voluntarily on public school premises. It would only apply to secondary schools and not to meetings sponsored by schools, governments or their employees.

The bill, described by supporters as "equal access" legislation but assailed by critics as a "back door" approach to school prayer, has broad bipartisan support. It could be debated on the House floor before the end of the month.

"This legislation is needed to ensure government neutrality toward religion in public schools and to clear up the confusion which exists regarding the right of religious student groups to meet along with other student groups in public schools," said Rep. Don Bonker (D-WA), the bill's main sponsor in the House.

According to Congressional testimony by Harvard Law professor Lawrence H. Tribe, an expert who regards officially sponsored school prayer as clearly unconstitutional, the House "equal access" measure is entirely constitutional. He said that a school's decision to disallow religious meetings on its premises would "constitute a violation of the rights to free speech and free exercise of religion of the students involved. . . . I therefore have no

*(continued on page 2)*

## Equal Access *(continued from page 1)*

doubt that Congress has the constitutional authority — and may even have a real if imperfectly enforceable constitutional duty — to withhold Federally appropriated funds from any such authorities or agencies that do discriminate in this manner.”

Senator Mark Hatfield (R-OR), sponsor of a companion bill in the Senate, said that Congress by passing an equal-access bill “will do more for religious liberty than through any attempt to resurrect routine, formalistic, and government structured prayers.”

Immediately following defeat of the constitutional prayer amendment, President Reagan urged the Senate to consider an equal access bill sponsored by Senator Jeremiah Denton (R-AL) which was reported out of the Judiciary Committee in February. Senators Hatfield and Denton have since written a compromise version of their bills which would not cut off Federal funds but instead provide judicial remedy and allow intervention by the Attorney General.

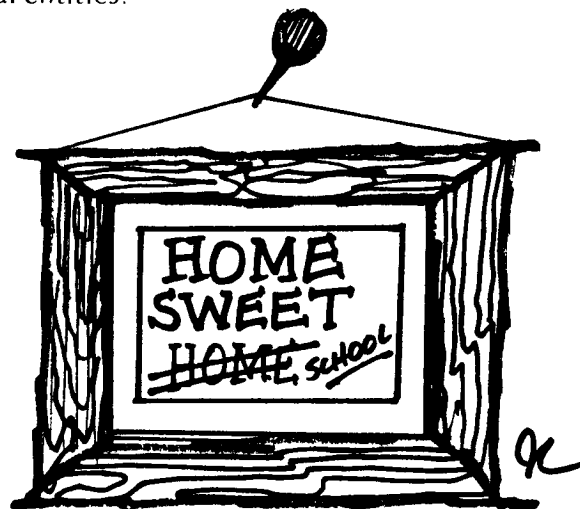
A survey of CAPE member organizations shows that as with the school prayer legislation, a clear division of opinion exists about “equal access” and therefore CAPE is not taking a position.

## What Is A Private School?

This seemingly simple question is now the center of debate in at least two state legislatures and may become a national issue as well. Recent litigation in which states have brought suit against so called “home schools” for violating state compulsory education laws, has spurred widespread concern to find good working definitions of private schools in both Georgia and Wisconsin.

Last year the supreme courts in both states declared state compulsory school attendance laws to be unconstitutionally vague because they failed to define a “private school.” At issue in Wisconsin was the plaintiff’s claim that by educating his children at home, he was in effect running a private school and thus was not governed by the state’s provision for home schooling. In Georgia, the state Supreme Court ruled that state officials cannot stop parents from designating their homes as “private schools” because the state’s compulsory attendance law does not define what constitutes a private school.

New statutes that define a “private school” have been drafted in those states. Under a bill passed in early April by the Wisconsin state legislature, a private school would, among other things, have to meet 6 criteria and, contrary to current requirements, could operate unless the state Department of Education *proves* it in non-compliance with the statutes. The burden of proof is now on the state. The bill awaits action by the governor. In Georgia the governor signed a bill on April 3 that completely remodels the old law relating to compulsory attendance requirements and for the first time the state recognizes home study programs as educational entities.



The regulation of home schooling has also been an issue in several other states including Missouri, Nebraska, Michigan, California and Virginia. A measure to define home schooling in Virginia was just approved by the state legislature. Under the new law a home school complies with compulsory attendance laws if certain criteria are met.

The broader implications of this effort to define private schools may be lost in the verbal gymnastics and fireworks which it tends to generate. Compulsory attendance laws were written at a time when the burning issue was *whether or not* Johnny was attending school. Today the issue is not whether but where Johnny is going to school. Parents are increasingly making choices about schools, not automatically choosing the neighborhood public school. And thus the states are looking for ways to harmonize their interests with the interests of parents and the private schools they are increasingly choosing.

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

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## Why The Humanities?

The National Endowment for the Humanities has sponsored two conferences this winter, in Phoenix and Minneapolis on "Challenges to the Humanities." CAPE's Executive Director brought back the following report from the Minneapolis conference:

"There were about 80 in the group. The majority were public school teachers and principals but there were also a good number of state school board members and a handful each of college professors, state legislators, national educational organization leaders, the press and federal education officials. We quickly learned that the main challenges to the humanities come, not surprisingly, from science, vocationalism, social science and current preoccupations with individual and group differences and self.

Teams of 3 teachers each from 16 public school districts described, in small group sessions, their programs in the humanities initiated with the financial and technical support of the National Endowment. All were different — a full-grown ethnic studies program in Buffalo, a beginning of an effort to define and create a humanities program in a Long Island school and a highly sophisticated 'great books' program in Winston-Salem.

We heard a distinguished Harvard history professor say that 'it's not the manipulation of things but the manipulation of meanings which will mark our future. Precise communication among strangers and a common currency of thoughts' is what we need.

And so the group focused in many ways on the goal of the humanities in teaching common truths and shared understandings.

Recent research in learning was referred to in which 'background knowledge' is found to be vital in learning to read. The conclusion drawn was that common background knowledge is central to the development of a 'common culture.' And our current mania for teaching basic skills can get in the way of our almost forgotten need to teach content, especially content of real substance and even more particularly, content of real and common substance.

A reaction: In most private schools, the humanities — English, history and foreign language, have long been at the heart of the curriculum. For they are the subjects which most fully serve both intellectual and moral growth — the goals of these schools. What seemed of special interest to this participant was that for most public school teachers and principals at the conference, the humanities appear to be a much needed additional subject in the school curriculum. Whether our approach, more integrated and less self-conscious, is ultimately more effective, will probably never be fully known."

## Legislative Update

At press time Congress was in Easter recess and plans to reconvene April 24. Before recessing the House passed a FY 1985 spending plan that would allow a 3.5% increase in education and most discretionary programs. The Senate Budget Committee April 11 approved a budget resolution for FY 1985 that would freeze education and other non-defense discretionary programs at current levels. The Budget Resolution sets spending targets to guide the appropriations committees in setting program spending levels. Election year budget battles will dominate Congress throughout the spring.

Action is expected on the following education legislation upon the lawmakers return to Washington.

### *Education Program Reauthorization, H.R. 11, S. 2496*

A late April markup is scheduled in the House Elementary and Secondary Subcommittee on H.R. 11, a bill that would reauthorize several education programs the Reagan Administration has targeted, including bi-lingual and adult education, asbestos detection and control, and Women's Educational Equity Act programs. The Senate Education Subcommittee reported S. 2496, a bill that reauthorizes the Adult Education Act through 1989. The Subcommittee may consider a comprehensive piece of legislation, similar to H.R. 11, to reauthorize education programs due to expire.

### *Child Nutrition Programs, S. 1913, H.R. 7*

The House debated but did not take a final vote on H.R. 7, a measure to reauthorize several child nutrition programs and restore funding cuts enacted under the 1981 Omnibus Budget Reconciliation Act. H.R. 7 includes a provision raising the private school tuition cap from \$1500 to \$2500.

The Senate Agriculture Committee will markup a similar measure, S. 1913 (Huddleston, D-KY) on May 1. That bill eliminates altogether the private school tuition cap.

### *Foundation Legislation, H.R. 4170, H.R. 2163*

Legislation designed to eliminate impediments which have inhibited gifts to foundations and the formation of new private foundations has been included in both the House and Senate major tax bills which passed both houses of Congress in April. In Conference, which is likely to be held in early May, the nonprofit sector will seek specific improvements to what is already considered positive legislation for foundations.

CAPE is encouraging its constituents to communicate support for the provisions which enhance foundations' sources of support and their ability to give.

## Wanted: Top Notch Teacher Candidates

The national concern to improve teaching and the quality of those who become teachers is reflected in the bill to reauthorize the Higher Education Act pending before the House Postsecondary Education Subcommittee.

Of particular concern to private schools is the proposed re-write of the teacher education title of the existing act to provide scholarships for students who intend to teach, fellowships for talented teachers, discretionary grants for college-school partnerships and grants to schools of education for the improvement of curriculum and teaching methods.

Representatives for private education in Washington have worked with Rep. Simon (D-IL) and Rep. Wyden (D-OR), the original sponsor of a bill to encourage talented young people to become teachers, so that the new bill extends the same financial inducements to potential teachers in private and public schools. They pointed out that although the recruitment of promising teachers is not yet a serious problem, except for math and science teachers, where difficulties are beginning to develop, the inability of private schools to match public school salaries could, over the long run, have a devastating effect on the attractiveness of private school teaching to able candidates.

No hearings have been scheduled in the Senate Education Subcommittee, and its chairman, Senator R. Stafford (R-VT) does not expect to work on this matter this year.



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