

# CAPE OUTLOOK

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## Educators Rue Gramm-Rudmann

Educators looking at federal education funding under the new Balanced Budget and Deficit Control Act, better known as the Gramm/Rudman/Hollings bill, say the prospects are grim. The new legislation passed by a Congress panicked over the staggering federal deficit calls for reduced annual deficits until a balanced budget is achieved in 1991. If Congress and the President are unable to pass a budget that meets the deficit targets, automatic spending cuts (sequestration, as the new law calls it) are made according to the formulas set out in the Act.

Under this plan more than 70% of the budget is off limits, including social security, medicare, interest on the national debt, and some poverty programs. Half of the automatic cuts would come out of defense spending and the other half from domestic programs. The law requires each "program, project or activity" to be cut by the same percentage.

When Congress returns to work on January 21 the deficit cutting process will have been set in motion. By January 15, the Congressional Budget Office (CBO) and OMB must report their estimates of the size of the federal deficit to the General Accounting Office, which will verify the information and report to the President by January 20. As we go to press, the deficit has been set at \$220 billion. Under Gramm-Rudman any projected deficit in excess of \$171.9 billion must be eliminated. However, for fiscal '86 the total amount of automatic spending cuts is limited to about \$12 billion, leaving the deeper cuts for fiscal '87 and beyond. On February 1 the President is required to issue an order for automatic spending cuts for the last seven months of fiscal '86, March through September. Congress will then have only one month before the cuts go into effect to come up with a new budget that meets the deficit targets. At this point Congress is not disposed to forestall the automatic cuts.

The dramatically adverse impact on federal education programs will be felt in the next school year. According to CBO's January 15 estimates, every education program and other domestic programs will be cut 4.3 % by March 1 to meet the reduction mandated in the new law. CBO analysts predict that the biggest cuts in education will come from Chapter 1 (which is currently only serving 35% of eligible students). The basic skills program will lose \$158 million of its \$3.7 billion 1986 appropriation. Special Education programs will be trimmed by \$2.9 million from its 1986 budget of \$1.4 billion. In fiscal '87, education programs could be hard hit with cuts as high as 30% and even more in succeeding years.

Thus, it is in the fiscal '87 year that draconian cuts will be unleashed. OMB now estimates that it will need to cut spending by \$50 billion to reduce the '87 deficit to the Balanced Budget Act's target level of \$144 billion. The programs bearing most of any major automatic spending cuts are new defense spending and those programs providing generalized benefits and services: education, aid to state and local governments, housing, transportation, agriculture, energy and environmental programs.

The law is being challenged on constitutional grounds in a federal court suit filed on January 6 by Rep. Mike Synar (D-OK) and 11 other House Members. Their suit charges that it violates the separation of powers by allowing a legislative branch agency, such as the Congressional Budget Office, and its unelected officials, to make the final determination of whether automatic spending cuts are necessary.

As the fiscal 1987 debate begins, observers predict that even with the constraints of Gramm-Rudman the President will submit a budget calling for a defense spending increase, no tax increases, no social security cuts and probably the most radical domestic spending cuts that Reagan has yet proposed.

Some observers think that the Balanced Budget Act will trap the Reagan Administration into choosing between higher taxes and cuts in defense growth. It is in this vast budgetary uncertainty that the second session of the 99th Congress begins.

## Chapter II : Now Legally Challenged

Although the troubled Chapter I legal front is relatively quiescent as we go to press, a major class action complaint was filed in early December in the U.S. District Court for the Eastern District of Louisiana by Americans United for Separation of Church and State. It challenges "the allocation and use of federal, state and local funds to finance, in whole or in part, instructional services in sectarian elementary and secondary schools and the providing of other benefits to such sectarian educational institutions."

The State programs being challenged are those which serve parochial school students with School Transportation, Special Education, Free School Books, Materials and Supplies, and those which provide a School Lunch Employees Salary Adjustment and payments to private schools whose students score well on the Advanced Placement Test of the College Board.

The complaint also challenges the constitutionality of Chapter II of the Education Consolidation and Improvement Act through which block grants are allocated to the state to meet educational needs and priorities and which are equitably divided to benefit all public and private school students. The three programs in question in Louisiana involving private schools have to do with micro-computer programs, a basic skills program and instructional resources. The complaint alleges that there are no safeguards to insure the secular use of personal property "purchased by federal funds and supplied to the non-public schools...." It also alleges that "any monitoring that would be useful in preventing the unconstitutional use of such equipment would create excessive entanglement...."

The entanglement question, which was central to the decision in the *Aguilar v. Felton* Chapter I case, is present here as well. It presents a circular dilemma. An activity seeking to establish its constitutional validity by including outside monitoring among its functions thereby entangles the state.

The case is considered to be highly significant because of the involvement of Americans United and because Chapter II, though far smaller than Chapter I,

is a major federal educational program involving private schools.

## What Do We Know About Private Schools? Not Nearly Enough Say Officials and Educators

The Department of Education's newly organized arm for school research, the Office of Educational Research and Improvement (OERI), hosted a meeting in mid-December for representatives of private schools to review the Department's research plans which affect private schools and to discuss other matters of common interest.

Chaired by Assistant Secretary Dr. Chester Finn, with help from a number of OERI staff members involved with elementary and secondary school research, this highly useful meeting revealed that both the Department and school representatives have had some problems working together. The Department had reason to complain that it had not been receiving reactions over the past year or so to its proposed initiatives from most of the private school representatives. Failure on the part of the Department to follow-up in several different ways was a major concern of private school representatives. Both parties agreed that the OMB practice of altering, as it wished, educational studies and/or questionnaires which had been laboriously developed by school and Department task forces was a serious detriment to obtaining needed information. A case in point was an OMB decision to delete a question related to the enrollment elasticity of private schools in the latest major survey of private education. This question is highly relevant to the Chapter I voucher plan. There was considerable sentiment to invite OMB to discuss with us our significant level of frustration with its high-handed treatment of research design.

The Department, which has begun a thorough review of its elementary and secondary data collection program, has recently circulated a major synthesis of reactions to its proposed Redesign. The meeting was, in part, intended to focus private school attention on this sizeable document and to anticipate further mutual consideration of it.

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

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## Research (continued from page 2)

Private school representatives were impressed with the high levels of energy, intelligence and purposefulness of the OERI leadership and expect a period in which the Department's enlarged research agenda is pursued with far better coordination and with added vigor.

## Legislative Update

The first session of the 99th Congress was adjourned on December 20, ending a Congressional year in which fiscal issues were the primary focus of attention. Education funding was threatened by proposals to eliminate state and local tax deductions in the tax reform plans and it will be further eroded by the recently passed deficit reduction legislation, better known as the Gramm/Rudman/Hollings Bill named after its chief Senate sponsors, Phil Gramm (R-TX), Warren Rudman (R-NH), and Ernest Hollings (D-SC). (see article, page 1)

The President will submit his fiscal '87 budget to Congress on February 5. Education Secretary William Bennett is said to be ready with an education funding package that falls within OMB's fiscal target of \$16.6 billion. Although details are not yet official, it is speculated that the deepest cuts will be aimed at higher education spending. The Education Department is currently funded at \$18.4 billion.

Congress will return for its second session on January 21. It will again devote its attention to fiscal and budget policy. On the education agenda several bills of significant importance to the private school community will be considered shortly after Members return. Included are the conference on H.R. 7, the reauthorization of Child Nutrition Programs; the reauthorization of the Higher Education Act; voucher legislation; and fiscal '87 appropriations.

The following education related issues were acted on during the first session:

**Education Appropriations, Fiscal 1986** - The bill signed by the President on December 12 funds the Education Department at \$18.4 billion, a decrease from the 1984 level of \$19.1 billion. Most elementary and secondary programs are frozen at FY'85 levels, but special education received a \$90 million increase and rehabilitative services and handicapped research received a \$138 million increase.

**Tax Reform, HR 3838** - On December 17, the House passed its landmark tax reform measure. The bill includes some significant victories for education and nonprofit organizations. First, the House rejected attempts to eliminate the state and local tax deduction, a vital issue for public education. Second, the bill makes permanent the charitable deduction for non-itemizers

for all charitable gifts above \$100. The nonprofit sector will seek to have the \$100 floor removed in the Senate.

Harvard University economist Larry Lindsey predicts that the House bill would cause a 4.6 % decrease in charitable giving by individuals. He estimates that most of the \$3 billion loss would result from lowered tax rates.

The bill will now be considered in the Senate where it faces an uncertain fate. The President wants major alterations in the bill before he will support it.

**Child Nutrition, H.R. 7** - The House and Senate will go to conference on a bill reauthorizing five child nutrition programs, including the School Lunch and Breakfast programs. The House version provides an additional \$121 million in program funding. It also contains an important provision that increases the private school tuition ceiling to \$2500 from the \$1500 limit adopted in 1981 for private school participation in the programs. The \$2500 cap is seen as a practical solution to maintaining services for those schools that have not already been forced out of the program. The Senate bill includes a provision which would affect the programs in private schools in the nine states where the USDA is currently administering them by requiring USDA to contract with another organization for the administration of such programs.

**Handicapped Children's Protection Act, H.R. 1523; S.415** - Both bills were introduced in response to the 1984 Supreme Court decision in *Smith v. Robinson*, in which parents of handicapped students who won their court cases were denied attorney's fees. A Conference Committee will have to work out the differences in the House and Senate bills.

**Higher Education Act Reauthorization, H.R. 3700, S. 1965** - On December 4, the House approved H.R. 3700, a five year reauthorization of the 1965 Higher Education Act. The Senate Education Subcommittee reported its version of the bill on December 12. The full Senate Labor and Human Resources Committee is expected to consider it in March. Both bills contain critical provisions related to the family allowance for school tuition in the determination of federal financial aid.

The House bill also contains provisions which make equal private and public school teacher participation in teacher recruitment and training programs.

## Upcoming Hearings...

**Voucher Legislation, H.R.3821 (Swindall, R-GA)** - The House Education and Labor Committee has scheduled a hearing on January 30th on the Administration's proposal to allow families to claim a voucher equal in value to the Chapter 1 remedial services received by their child. The voucher must be used to pay for tuition or remediation at a public or private school of their choice. Secretary Bennett is the only witness scheduled.

## Capenotes

On behalf of its constituency, CAPE has...

...congratulated Sister Catherine T. McNamee, C.S.J. for being named as the first woman president of the National Catholic Educational Association effective July, 1986. She is presently the dean of Dexter Hanley College at the University of Scranton in Pennsylvania. Sr. Catherine has twice served as a college president. She was the president of the College of St. Catherine, St. Paul, MN, from 1979-1984. Previous to that, she served as president of Trinity College, Burlington, Vt.

...received, so far, over 150 contributions in its 1985 Annual Giving Campaign. We want to express our sincere gratitude to our generous supporters. We greatly value your contributions and hope those who have not yet given will soon do so.

...been taking orders for its new annual Directory, *Private Schools of the United States*, which lists over 15,000 CAPE member organization schools. Schools are listed alphabetically by state and indexed by school name, grade level and school association. Information includes data on individual schools, statistical profiles of private schools by state and nationally, and accreditation and evaluation policies and practices. Copies are available at cost for nonprofit organizations (\$30 each) and for \$75 for commercial organizations. Orders should be accompanied by checks payable to CAPE (1625 Eye St., NW, #822, Washington, D.C. 20006).

...copies of *Exemplary Schools 1985*, the report of the 1984-85 Exemplary Private School Recognition Project, are now available from the program office. The report contains profiles of 6 of the private secondary schools selected for recognition in 1984-85 and an account of the procedure and purpose of the Recognition Program. After the first complimentary copy, each

additional report may be purchased for \$4.00; for orders of 100 or more, the cost is \$3.00. Please direct all orders to the Private School Recognition Program, 1625 Eye St., NW, #822, Washington, D.C. 20006.

...met in informal meetings with Congressional staff on the status of Chapter I services to private school students following last July's Supreme Court ruling in *Aguilar v. Felton*.

## CAPE Members to Create New Organization

Two CAPE member organizations, the American Lutheran Church and the American Evangelical Lutheran Church, have been involved over the past three years along with the Lutheran Church of America in negotiations which should culminate in the creation, from the merger of the three churches, of a single new Lutheran Church organization by January 1988. A 70 person Commission for the New Lutheran Church, broadly representative of members of the three churches, has been hard at work to have ready, by August of this year, a Constitution and Articles of Merger which can be considered by the conventions of the 3 churches. Then, in the spring of 1987, there will be a constitutional convention in which new Boards and other operational entities will be acted on in preparation for the January 1, 1988 starting date. Possible names for the new organization include the Evangelical Lutheran Church in the USA and the Lutheran Church in the USA. It can be anticipated that the new organization will have a Division of Education to serve as an advocate for church schools. 1,560 Lutheran schools belonging to CAPE member organizations (which includes the Lutheran Church-Missouri Synod which is not involved in the merger) enrolled 172,000 students in 1984.

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