

CAPE OUTLOOK



What's Up In Congress

A review of the educational events of 1983 of interest to OUTLOOK readers would not be complete without several preliminary observations. The most obvious is that the 'rising tide' of national studies on the condition of education has undoubtedly focused public attention on education and its direct link to our national well-being. And, somewhat less conspicuously, Congress has quietly renewed the Federal presence in education even as it vigorously protests that state and local governments are the primary policy makers.

Its response to public anxiety about the quality of education has been constrained by several key factors, including concern about the Federal deficit and wariness of getting involved in issues that are viewed as state and local responsibilities.

Looking back over the past two years the three most noteworthy actions taken by Congress with respect to education have been continuing the Department of Education, beating back Administration efforts to drastically cut education program funding and defeating the efforts to enact tuition tax credits.

We expect several education proposals and revenue measures affecting private education to be considered by Congress in the 1984 session. Among these could be the reauthorization of vocational education, teacher recruitment legislation, amendments to the school lunch program, math/science legislation, tuition tax credits and tax legislation affecting charitable contributions and fringe benefits.

On the state level, many of our member organizations have reported their concern that state legislative and regulatory initiatives may result in actions potentially counter-productive to private school quality. We continue to encourage the active participation of private education in state level reforms and urge you to keep us up-to-date on state actions.

Despite the Congressional preoccupation in 1983 with deficits and taxes, there was action on legislation of interest to private education. Listed below

(continued on page 3)

Federal Judge Rules in Favor of Private Education

For private education, "absolutely a landmark case." It has national ramifications because "it is the first Federal case in recent times and its influence will be persuasive to other state courts," commented Professor Donald Erikson of UCLA, an expert in private schools and state relations, during an interview on the recent U.S. District Court ruling in the case of Bangor Baptist Church v. State of Maine.

On December 20, 1983 a Federal judge ruled that the state of Maine does not have the right to shut down private-church related schools which refused to comply with state regulations for private schools. No Maine law "prohibits private schools from operating merely because they are unapproved or refuse to seek or accept approval," said U.S. District Judge Conrad Cyr. "If the legislature had meant to ban the operation of unapproved private schools, it would have said so in clear and unmistakable language."

The judge determined that although the state does have the statutory right to prosecute parents who send children to schools which have not complied with the requirements under truancy laws, it does not have the right to prevent such schools from operating.

The Maine law requires schools to meet "basic state approval" by adhering to health and safety standards, meeting certain curriculum requirements for graduation, making attendance and transfer records available to the state and hiring certified teachers.

When the state in 1981 threatened litigation to close the schools because some private schools, including Bangor Christian School, told the state that they would no longer comply with the requirements, the Maine Association of Christian Schools filed suit against the state, objecting to the teacher certification and basic approval demands.

The Christian Schools involved in the suit held that the state's laws for private schools violate the U.S. Constitution's prohibition against the entanglement of church and state. They argued that they are an arm of their respective churches and that government efforts to regulate teacher qualifications and curriculum violated their First Amendment rights. The state contended that the state has a profound interest in determining whether all children, regardless of where they go to school, receive a minimum level of academic work.

(continued on page 2)

Judge Rules in Favor of. . .

(continued from page 1)

Although the judge's decision was made on a narrow reading of the statute — and the statute was not declared unconstitutional — the court did raise the fundamental constitutional issues of the freedom of parents and religious liberty. In one part of his findings, Judge Cyr wrote: "Religious worship and discussion, integral aspects of the curricula of the plaintiff church schools, constitute forms of speech and association entitled to full First Amendment protection."

State officials have not determined whether to appeal Judge Cyr's ruling or what their next action will be. The options include appealing the case, drafting new legislation, amending current regulations, instituting truancy action against parents or doing nothing.

Since 1976 court decisions favorable to the private school's ability to function with reasonable freedom from state interference have been settled in Kentucky, Michigan, North Carolina, Ohio and now, Maine. Unfavorable decisions have been ruled in Iowa, Nebraska and North Carolina. According to Philip Murren, partner of William Ball of the Harrisburg, Pennsylvania law firm of Skelly and Ball, attorney's to the plaintiffs, the Maine case is "a big step forward" for private education. "It will make other states think hard before applying statutes unfavorably to private schools."

Close observers would not hazard a guess as to whether this case, in which the educational evidence presented was at least as extensive as that of any previous such case, would eventually end up in the U.S. Supreme Court.

The Search For Minority Teachers

Private schools, whose enrollment of minority students has more than doubled in the past eight years, have been working hard, if not as successfully as they would like, to recruit more minority teachers and administrators. Among the chief impediments of this effort are the salaries paid by other fields for minority professionals and a serious lack of knowledge about the private schools on the part of prospective teachers.

Recently a new effort to recruit minority faculty and administrators was announced by a consortium of organizations which for some years, have been concerned with minorities and private education

on a variety of fronts. ABC (A Better Chance) a national talent search nonprofit program for academically motivated and gifted minority students, NAIS (National Association of Independent Schools) and IES (Independent Educational Services) a highly regarded nonprofit teacher placement organization in Princeton, will work jointly to add minorities to independent school faculties. ABC has a roster of over 8,000 minority alumni of independent schools and IES has in place processes for servicing applications.

In 1982, Director of Minority Recruitment Bobette Reed Kahn was hired through the assistance of a foundation grant to develop the program and conduct workshops, recruitment activities with colleges and universities and to work with other sectors of the private education communities. During a recent conversation with OUTLOOK, Ms. Kahn, a former private school teacher, commented that once schools are informed about the service, many want to know about applicants regardless of positions open in their schools. Last year, 27 minority teachers were placed in schools and the target for 1984-1985 is 40.

War On Illiteracy Calls For Volunteers

The President announced last fall that his Administration was going to fight adult functional illiteracy, a problem with which previous administrations have tried unsuccessfully to contend. According to conservative estimates today, 23 million Americans are functionally illiterate and over 2 million join that pool yearly. In addition, each year there are over 500,000 immigrants and refugees in need of literacy training.

Because this is such a pervasive and massive problem, OUTLOOK recently interviewed the Director of the Adult Literacy Initiative, Diane Welch Vines, to see how private schools might be helpful in the effort.

Because the success of the Initiative depends on volunteer programs and because many private schools have strong service programs, Vines suggested that private schools could help by recruiting student, teacher and parent participation in local literacy efforts. In addition to contributing tutoring and administrative services, Vines said parents and students can play an important role in generating local business and industry interest in literacy training.

(continued on page 4)

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

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Congress (continued from page 1)

are the major bills that were considered or proposed which we have been monitoring and a review of the education-related bills carried over to the second session of the 98th Congress which is set to begin January 23.

Legislative Update

Bills Passed . . .

Fiscal 1984 Education Appropriations, P.L. 98-139

This bill marks the first time in five years that a regular education appropriations bill has been signed into law.

P.L. 98-139 funds special education at \$1.2 billion, Chapter 1 at \$3.48 billion, the Chapter 2 block grant at \$450 million and vocational education at \$738.5 million in fiscal 1984.

The federal education budget has grown from \$14.1 billion in fiscal 1980 to \$15.4 billion in fiscal 1984. While this is a 9% increase, it represents a 14.5% drop when accounting for inflation.

Second Fiscal 1984 Continuing Resolution, P.L. 98-151

In separate action, Congress has added an additional \$88.7 million to education in fiscal 1984 to fund special education and vocational rehabilitation state grants, special impact aid for school districts with large immigrant populations, child nutrition programs and veterans' training programs.

Social Security Reform, P.L. 98-21

In April the President signed into law a \$165 billion bill to bail out the Social Security system.

Changes in the law, effective January 1, 1984, require those nonprofit organizations, including those affiliated with religions, who are not already doing so to begin paying the tax beginning March, 1984.

CAPE member organization schools have virtually all their employees presently covered by Social Security and support the mandatory inclusion of nonprofit organizations under the Social Security law. However, some other school organizations contend that to do so violates constitutionally mandated separation of church and state.

Senate Finance Committee Chairman Robert Dole (R-KS) at hearings in December recommended a task force to work out a compromise in an attempt to head off a constitutional challenge.

Postal Rates

In the closing days of the session, Congress acted to keep nonprofit rates at their current levels (5.2 cents per piece, basic third-class, nonprofit) through September 30, 1984. The Administration had proposed cutting back subsidies for nonprofit second- and third-class mail.

Recent and Upcoming Action . . .

Tuition Tax Credits, S. 528, H.R. 1730 and others

The Senate November 16 by a vote of 59-38 defeated an attempt to add S. 528 as an amendment to H.J. Resolution 290, a resolution to permit free

entry of personal effects and equipment for the 1984 Olympics.

The House has yet to take action on similar measures. The time table for possible consideration of another effort to pass tuition tax credit legislation is not yet clear.

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

These bills would restore funds for child nutrition programs cut by the Reagan Administration. The House measure H.R. 4091 which passed the House October 25 authorizes an additional \$105 million to the cost of the child nutrition programs in fiscal 1984 by increasing the reimbursement for school meals.

An issue of concern to us is a provision in H.R. 4091 which raises the private school tuition limitation from the current \$1500 cap to \$2500. CAPE member organizations are working to amend this legislation to drop the \$2500 cap.

The Senate bill remains in the Agriculture Committee with no action scheduled, although 52 Senators have cosponsored the bill which will likely generate hearings in the Senate Agriculture, Nutrition and Forestry Committee.

S. 1913 has a provision which would altogether eliminate the \$1500 tuition cap for private schools.

Taxation of Fringe Benefits, Tax Changes to Help Philanthropic Foundations

The House did not take action on major tax legislation which included several significant provisions affecting foundations and private charities. However, both House and Senate tax writing committees dropped their consideration of "capping" the charitable contributions deduction for non-itemizing taxpayers.

Foundation legislation (H.R. 4170, S. 1857) which makes a number of important changes affecting foundations, has moved out of House Ways and Means but is pending in the Senate Finance Committee with action expected during the second session.

The failure to enact a tax bill in 1983 also means that the current moratorium on fringe benefit regulations expired at the end of December, 1983. It is likely that Congress will act to preserve the current rules regarding the taxation of school employee fringe benefits before the IRS steps in.

Mathematics, Science and Foreign Language Education Improvement, S. 1285, H.R. 1310

The House passed its measure authorizing \$425 million for fiscal 1984 math and science education programs to be administered by the National Science Foundation and the Department of Education.

The Senate has yet to pass its bill; a controversial proposed amendment on aid for school desegregation has delayed action. A compromise is expected in the second session.

Just Introduced . . .

College Grants for Future Teachers, H.R. 4477

The measure introduced by Rep. Wyden (D-OR)

(continued on page 4)

Legislative Update (continued from page 3)

would amend the Higher Education Act to provide Federal scholarships of up to \$5,000 a year for prospective teachers who graduate in the top ten percent of their high school classes. The amendment would also establish a national fellowship program for talented teachers. Pending before the House Education and Labor Committee.

Illiteracy (continued from page 2)

The national Coalition for Literacy has a clearinghouse which directs volunteers to local programs among which include chapters of the Literacy Volunteers of America, Laubach Literacy International, state administered Adult Education Programs and other grassroots programs. For information, you may contact the clearinghouse through a toll-free number: 800-228-8813.

Following a mid-January conference in Washington to consider the theoretical aspects of the problem and to develop practical strategies, CAPE has agreed to draft a letter for the Initiative which will go to all its member organizations describing practical means through which private schools can be helpful to this critical effort.

Capelog

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

... has completed its third printing of "Private Education in America: Myth and Reality." To date, 34,000 copies have been distributed nationwide. The brochures are available from our Washington office and to cover the printing and mailing costs we are now asking for a contribution of ten cents per copy.

... attended a three day seminar in New York sponsored by the Exxon Educational Foundation on improving science and math education with seventeen other representatives of education and scientific organizations.



1984 — And All Is Well!

George Orwell notwithstanding, this promises to be the best of years for private education in America. Ever higher standards of excellence, summit conferences on education, recognition of exemplary private schools — these are all a major focus of the 1984 educational scene.

And, as always, CAPE is in the forefront.

As a token of our appreciation of the partnership we share, Grolier Educational Services has just published a limited-edition *Private School Calendar for 1984*. State and regional directors are invited to request a copy from your Grolier coordinator or by writing directly to:

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