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Louisiana Federation

CITIZENS FOR EDUCATIONAL FREEDOM

P.O. Box 53244

• New Orleans, La. 70153-3244

• (504) 522-7469

January 23, 1984

Mr. Morton Blackwell  
Assistant to the President  
Public Liaison Office  
The White House  
Washington, D.C. 20050

Dear Morton:

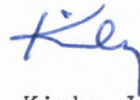
Just a note to thank you for sending the picture of the December meeting with President Reagan on tuition tax credits in the Cabinet Room.

In the photograph my face is not visible. I am seated across from the President, two places over from the center. As further identification, I am wearing a light gray coat. If possible, I would appreciate a similar photo where I can be seen. I'll understand if no such photo is available.

Again, thank you for your thoughtfulness in sending that beautiful color photograph.

With best wishes, I am

Sincerely,



Kirby J. Ducote  
Executive Director

KJD:js

*No other photo available*  
*File MB*

THE WHITE HOUSE  
WASHINGTON

TUITION TAX CREDITS MEETING PARTICIPANTS

June 22, 1982

The Roosevelt Room

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## Calendar No. 250

98TH CONGRESS  
1ST SESSION

## S. 528

[Report No. 98-154]

To amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17 (legislative day, FEBRUARY 14), 1983

Mr. DOLE (for himself, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. ROTH, Mr. D'AMATO, Mr. JEPSEN) introduced the following bill; which was read twice and referred to the Committee on Finance

June 20, 1983

Reported by Mr. DOLE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

---

A BILL

To amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the "Educational Opportunity*  
3 *and Equity Act of 1983".*

4 **SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.**

5       (a) *FINDINGS.—The Congress finds that it is the policy*  
6 *of the United States to foster educational opportunity, diver-*  
7 *sity, and choice for all Americans. Therefore, this Act recog-*  
8 *nizes that—*

9           (1) *pluralism is one of the great strengths of*  
10 *American society, diversity in education is an impor-*  
11 *tant contributor to that pluralism, and nonpublic*  
12 *schools play an indispensable role in making that di-*  
13 *versity possible;*

14           (2) *the existence and availability of alternatives to*  
15 *public education tend to strengthen public education*  
16 *through competition and to improve the educational op-*  
17 *portunities of all Americans;*

18           (3) *Americans should have equal opportunities to*  
19 *choose between the education offered by public schools*  
20 *and available in private educational systems and*  
21 *should not be compelled because of economic circum-*  
22 *stances to accept education provided by government-cre-*  
23 *ated and government-operated school systems, and to*  
24 *force such a selection is an unfair and unjust discrimi-*  
25 *nation against persons of lesser means;*



1           (4) increasing numbers of American families are  
2       unable to afford nonpublic school tuition in addition to  
3       the State and local taxes that go to support public  
4       schools, and tax relief for nonpublic school tuition ex-  
5       penses is necessary if American families are to contin-  
6       ue to have a meaningful choice between public and pri-  
7       vate education at the elementary and secondary levels;

8           (5) tax relief in the form of tuition tax credits is  
9       the fairest way to extend a choice in education to a  
10      wide range of individuals, tax relief in the form of tu-  
11      ition tax credits creates the least possible danger of in-  
12      terference in the lives of individuals and families con-  
13      sistent with achieving these ends, and tax relief in the  
14      form of tuition tax credits achieves these ends with a  
15      minimum of complexity so that those for whom the tax  
16      relief is intended will be able to understand and take  
17      advantage of it;

18          (6) the tax revenue loss occasioned by a tuition  
19      tax credit for a child would be small compared to the  
20      cost to State and local taxpayers of educating the child  
21      at a public school; and

22          (7) equality of educational opportunity is the  
23      policy of the United States, and the tax relief afforded  
24      by this legislation may not be used to promote racial  
25      discrimination.

1 *The Congress finds that this Act will expand opportunities*  
2 *for personal liberty, diversity, and pluralism that constitute*  
3 *important strengths of education in America.*

4 (b) *PURPOSE.*—*The primary purpose of this Act is to*  
5 *enhance equality of educational opportunity, diversity, and*  
6 *choice for Americans.*

7 **SEC. 3. CREDIT FOR TUITION EXPENSES.**

8 (a) *IN GENERAL.*—*Subpart A of part IV of subchapter*  
9 *A of chapter 1 of the Internal Revenue Code of 1954 (relat-*  
10 *ing to credits allowable) is amended by inserting after section*  
11 *44H the following new section:*

12 **“SEC. 44I. CREDIT FOR TUITION EXPENSES.**

13 **“(a) GENERAL RULE.**—*At the election of an individu-*  
14 *al, there shall be allowed as a credit against the tax imposed*  
15 *by this chapter for the taxable year an amount equal to 50*  
16 *percent of the qualified tuition expenses paid by such individ-*  
17 *ual during the taxable year for any qualified dependent.*

18 **“(b) LIMITATIONS.**—

19 **“(1) MAXIMUM DOLLAR AMOUNT PER QUALI-**  
20 **FIED DEPENDENT.**—

21 **“(A) IN GENERAL.**—*The amount of the*  
22 *credit allowable to the taxpayer under subsection*  
23 *(a) with respect to any qualified dependent for*  
24 *any taxable year shall not exceed the applicable*  
25 *amount.*

1           “(B) *APPLICABLE AMOUNT.*—For purposes  
2 of this paragraph, the term ‘applicable amount’  
3 means the excess, if any, of—

4           “(i) \$300, over

5           “(ii) 3 percent (6 percent in the case of  
6 a married individual who does not file a  
7 joint return) of the amount, if any, by which  
8 the adjusted gross income of the taxpayer for  
9 the taxable year exceeds \$40,000 (\$20,000  
10 in the case of such married individual).

11           “(C) *TRANSITIONAL RULE.*—For taxable  
12 years beginning after December 31, 1982, and  
13 before January 1, 1985, subparagraph (B) shall  
14 be applied—

15           “(i) in taxable years beginning in  
16 1983, by substituting—

17           “(I) ‘\$100’ for ‘\$300’,

18           “(II) ‘1 percent’ for ‘3 percent’,

19           and

20           “(III) ‘2 percent’ for ‘6 percent’,

21           and

22           “(ii) in taxable years beginning in  
23 1984, by substituting—

24           “(I) ‘\$200’ for ‘\$300’,

1                   “(II) ‘2 percent’ for ‘3 percent’,

2                   and

3                   “(III) ‘4 percent’ for ‘6 percent’.

4                   “(2) CREDIT NOT TO EXCEED TAX LIABILITY.—The credit allowed by subsection (a) shall not  
5                   exceed the tax imposed by this chapter for the taxable  
6                   year, reduced by the sum of the credits allowable under  
7                   a section of this subpart having a lower number or  
8                   letter designation than this section, other than credits  
9                   allowable by sections 31, 39, and 43.  
10                   allowable by sections 31, 39, and 43.

11                   “(c) CREDIT DENIED FOR AMOUNTS PAID TO RA-  
12                   cially Discriminatory Institutions.—

13                   “(1) DECLARATORY JUDGMENT ENTERED.—

14                   “(A) IN GENERAL.—No credit shall be al-  
15                   lowed under this section for any amount paid to  
16                   an educational institution during any taxable  
17                   year if—

18                   “(i) within the calendar year ending  
19                   with or within such taxable year or in any  
20                   preceding calendar year—

21                   “(I) a judgment has been entered  
22                   by a district court of the United States  
23                   under section 7409 (regardless of  
24                   whether such judgment is appealed) de-  
25                   claring that such educational institution

1 follows a racially discriminatory policy,  
2 or

3 “(II) an order by any United  
4 States Court of Appeals has been made  
5 which, by its terms, requires the district  
6 court to enter such a judgment, and

7 “(ii) no order described in section  
8 7409(f)(2) with respect to such educational  
9 institution has been entered which is in effect  
10 for the calendar year ending with or within  
11 such taxable year.

12 “(B) REVERSALS OF DECLARATORY JUDG-  
13 MENTS OR ORDERS.—

14 “(i) IN GENERAL.—A judgment or  
15 order described in subparagraph (A)(i) en-  
16 tered in an action brought with respect to an  
17 educational institution shall not be taken  
18 into account under subparagraph (A) for any  
19 taxable year if, after all appeals in such  
20 action have been concluded or the time for  
21 filing such appeals has expired, the declara-  
22 tion contained in such judgment, or required  
23 to be entered under the terms of such order,  
24 that such institution has followed a racially  
25 discriminatory policy is negated (other than

1 by reason of an order described in section  
2 7409(f)(2)).

3 “(ii) *WAIVER OF LIMITATIONS.*—Not-  
4 withstanding section 6511(a) or any other  
5 period of limitation or lapse of time, a claim  
6 for credit or refund of overpayment of the tax  
7 imposed by this chapter which arises by  
8 reason of this subparagraph may be filed by  
9 any person at any time within the 1-year  
10 period beginning on the earlier of—

11 “(I) the date on which all appeals  
12 with respect to the judgment or order  
13 described in subparagraph (A)(i) have  
14 been concluded, or

15 “(II) the date on which the time  
16 for such appeals has expired.

17 Sections 6511(b) and 6514 shall not apply  
18 to any claim for credit or refund filed under  
19 this subparagraph within such 1-year period.

20 “(C) *STAY OF DECLARATORY JUDG-*  
21 *MENT.*—

22 “(i) *IN GENERAL.*—Any judgment or  
23 order described in subparagraph (A)(i) shall  
24 not be taken into account under subpara-  
25 graph (A) for any taxable year if such judg-



1           *ment or order is stayed as of the close of*  
2           *such taxable year.*

3           “(ii) *REMOVAL OF STAY.*—If a stay  
4           entered against a judgment or order de-  
5           scribed in subparagraph (A)(i) is vacated—

6           “(I) this subparagraph shall not  
7           apply with respect to such judgment or  
8           order for any taxable year preceding the  
9           taxable year in which such stay is va-  
10          cated, and

11          “(II) notwithstanding any other  
12          provision of this title or of any other  
13          law, the statutory period for the assess-  
14          ment of a deficiency attributable to the  
15          disallowance of any credit under this  
16          section by reason of this clause shall not  
17          expire before the date which is 3 years  
18          after the close of the calendar year in  
19          which such stay is removed.

20          “(D) *WAIVER OF LIMITATIONS IF INSTITU-*  
21          *TION CEASES TO DISCRIMINATE.*—Notwith-  
22          standing section 6511(a) or any other period of  
23          limitation or lapse of time, a claim for credit or  
24          refund of overpayment of the tax imposed by this  
25          chapter which arises by reason of a reversal of



1       any order denying a motion under section  
2       7409(f)(1)(A) may be filed by any person at  
3       any time within the 1-year period beginning on  
4       the date on which such reversal is made. Sections  
5       6511(B) and 6514 shall not apply to any claim  
6       for credit or refund filed under this subparagraph  
7       within such 1-year period.

8       “(2) REQUIRED STATEMENTS.—

9               “(A) STATEMENTS FURNISHED BY INSTI-  
10       TUTIONS TO THE SECRETARY.—No credit shall  
11       be allowed under subsection (a) for amounts paid  
12       to any educational institution during the taxable  
13       year if such educational institution has not filed  
14       with the Secretary (in such manner and form as  
15       the Secretary shall by regulation prescribe) within  
16       30 days after the close of the calendar year  
17       ending with or within such taxable year a verified  
18       statement which—

19               “(i) declares that such institution has  
20       not followed a racially discriminatory policy  
21       during such calendar year;

22               “(ii) indicates whether—

23               “(I) a declaratory judgment or  
24       order described in paragraph (1)(A)(i)  
25       has been entered against such institu-

tion in an action brought under section  
7409;

“(II) a stay against such judgment  
or order is in effect; and

“(III) an order described in section  
7409(f)(2) is in effect; and

“(iii) attests that such institution has  
complied with the requirements of subsection  
(d)(3)(D) during such calendar year.

“(B) STATEMENTS FURNISHED TO TAX-  
PAYERS.—Except as otherwise provided by regu-  
lations, within 30 days after the close of the cal-  
endar year to which the statement described in  
subparagraph (A) relates, the educational institu-  
tion shall furnish a copy of such statement to all  
persons who paid tuition expenses to the institu-  
tion in the calendar year to which such statement  
relates.

“(C) STATEMENTS FURNISHED BY TAX-  
PAYERS TO THE SECRETARY.—No credit shall  
be allowed to a taxpayer under subsection (a) for  
amounts paid to an educational institution during  
the taxable year if the taxpayer does not attach to  
the return on which the taxpayer claims the credit  
the statement described in subparagraph (A)

1        *which is furnished by such institution for the cal-*  
 2        *endar year ending with or within such taxable*  
 3        *year of the taxpayer.*

4        *“(3) ENFORCEMENT RESPONSIBILITY.—The At-*  
 5        *torney General shall have exclusive authority under*  
 6        *this subsection to investigate and to determine whether*  
 7        *an educational institution is following a racially dis-*  
 8        *criminatory policy.*

9        *“(4) RACIALLY DISCRIMINATORY POLICY.—For*  
 10       *purposes of this subsection—*

11       *“(A) IN GENERAL.—An educational institu-*  
 12       *tion follows a racially discriminatory policy if*  
 13       *such institution refuses, on the basis of race, to—*

14       *“(i) admit applicants as students;*

15       *“(ii) admit students to the rights, privi-*  
 16       *leges, programs, and activities generally*  
 17       *made available to students by the educational*  
 18       *institution; or*

19       *“(iii) allow students to participate in its*  
 20       *scholarship, loan, athletic, or other programs.*

21       *“(B) QUOTAS, ETC.—The term ‘racially dis-*  
 22       *criminatory policy’ shall not include failure of*  
 23       *any educational institution to pursue or achieve*  
 24       *any racial quota, proportion, or representation in*  
 25       *the student body.*

1           “(C) *RACE*.—The term ‘race’ shall include  
2           color or national origin.

3           “(d) *DEFINITIONS*.—For purposes of this section—

4           “(1) *QUALIFIED TUITION EXPENSES*.—The term  
5           ‘qualified tuition expenses’ means the excess of—

6           “(A) the amount of tuition expenses paid by  
7           the taxpayer during the taxable year to any eligi-  
8           ble educational institution for any qualified de-  
9           pendent of such taxpayer, over

10           “(B) any scholarship or financial assistance  
11           paid during such taxable year to such qualified  
12           dependent or to the taxpayer with respect to such  
13           qualified dependent.

14           “(2) *QUALIFIED DEPENDENT*.—The term ‘quali-  
15           fied dependent’ means any individual—

16           “(A) who is a dependent of the taxpayer  
17           (other than an individual described in paragraph  
18           (4), (5), (7), or (8) of section 152(a)),

19           “(B) who has not attained 20 years of age at  
20           the close of the taxable year, and

21           “(C) with respect to whom a deduction under  
22           section 151 is allowable to the taxpayer for the  
23           taxable year.

1           “(3) *ELIGIBLE EDUCATION INSTITUTION.*—The  
2 term ‘eligible educational institution’ means an edu-  
3 tional institution—

4           “(A) which provides a full-time program of  
5 elementary or secondary education;

6           “(B) which is a privately operated, not-for-  
7 profit, day or residential school;

8           “(C) which is exempt from taxation under  
9 section 501(a) as an organization described in  
10 section 501(c)(3), including church-operated  
11 schools to which subsections (a) and (b) of section  
12 508 do not apply; and

13           “(D) which includes in any published  
14 bylaws, advertisements, admission application  
15 forms, and other such published materials, a state-  
16 ment (in such form and manner as the Secretary  
17 may by regulations prescribe) that it does not dis-  
18 criminate against student applicants or students  
19 on the basis of race.

20           “(4) *TUITION EXPENSES.*—

21           “(A) *IN GENERAL.*—The term ‘tuition ex-  
22 penses’ means tuition and fees paid for the full-  
23 time enrollment or attendance of a student at an  
24 educational institution, including required fees for  
25 courses.



1                   “(B) CERTAIN EXPENSES EXCLUDED.—

2                   *The term ‘tuition expenses’ does not include any*  
3                   *amount paid for—*

4                   “(i) books, supplies, and equipment for  
5                   *courses of instruction;*

6                   “(ii) meals, lodging, transportation, or  
7                   *personal living expenses;*

8                   “(iii) education below the first-grade-  
9                   *level; or*

10                  “(iv) education above the twelfth-grade  
11                  *level.*

12                  “(5) SCHOLARSHIP OR FINANCIAL ASSIST-  
13                  *ANCE.—The term ‘scholarship or financial assistance’*  
14                  *means—*

15                  “(A) a scholarship or fellowship grant  
16                  *(within the meaning of section 117(a)(1)) which*  
17                  *is not includible in gross income under section*  
18                  *117;*

19                  “(B) an educational assistance allowance  
20                  *under chapter 32, 34, or 35 of title 38, United*  
21                  *States Code; or*

22                  “(C) other financial assistance which—

23                  “(i) is for educational expenses, or at-  
24                  *tributable to attendance at an educational in-*  
25                  *stitution, and*

1                   “(ii) is exempt from income taxation by  
2                   any law of the United States (other than a  
3                   gift, bequest, devise, or inheritance within the  
4                   meaning of section 102(a)).

5           “(e) *ELECTION*.—The election provided under subsec-  
6           tion (a) shall be made at such time and in such manner as  
7           the Secretary shall by regulations prescribe.”

8           (b) *DISCLOSURE OF INFORMATION TO ATTORNEY*  
9           *GENERAL*.—Subsection (h) of section 6103 of such Code  
10           (relating to disclosure to certain Federal officers and employ-  
11           ees for tax administration purposes) is amended by adding at  
12           the end thereof the following new paragraph:

13                   “(7) *CERTAIN INVESTIGATIONS AND PROCEED-*  
14                   *INGS REGARDING RACIALLY DISCRIMINATORY POLI-*  
15                   *CIES*.—Upon the request of the Attorney General or  
16                   the Secretary’s own motion, the Secretary shall dis-  
17                   close any return or return information which is rele-  
18                   vant to—

19                   “(A) any investigation conducted by the At-  
20                   torney General under section 44I(c) with regard  
21                   to whether an educational institution is following  
22                   a racially discriminatory policy (within the mean-  
23                   ing of section 44I(c)(4)), or

24                   “(B) any proceeding which may be brought  
25                   under section 7409,



1 to any officer or employee of the Department of Justice  
 2 who is directly and personally involved in such investi-  
 3 gation or in preparation for such a proceeding.”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) The table of sections for subpart A of part IV  
 6 of subchapter A of chapter 1 of such Code is amended  
 7 by inserting after the item relating to section 44H the  
 8 following:

“Sec. 44I. Tuition expenses.”.

9 (2) Section 6504 of such Code (relating to cross  
 10 references with respect to periods of limitation) is  
 11 amended by adding at the end thereof the following  
 12 new paragraph:

13 “(13) For disallowance of tuition tax credits be-  
 14 cause of a declaratory judgment that a school follows a  
 15 racially discriminatory policy, see section 44I(c).”.

16 (3) Section 6096(b) of such Code (defining  
 17 income tax liability for designation of payments to the  
 18 Presidential Election Campaign Fund) is amended by  
 19 striking out all after “allowable under” and inserting  
 20 in lieu thereof “subpart A of part IV of subchapter A  
 21 of chapter 1 (other than section 31, 39, or 43)”.

22 SEC. 4. DECLARATORY JUDGMENT PROCEEDING.

23 (a) IN GENERAL.—Subchapter A of chapter 76 of the  
 24 Internal Revenue Code of 1954 (relating to judicial proceed-  
 25 ings) is amended by redesignating section 7409 as section

1 7410 and by inserting after section 7408 the following new  
2 section:

3 *"SEC. 7409. DECLARATORY JUDGMENT RELATING TO RACIALLY*  
4 *DISCRIMINATORY POLICIES OF SCHOOLS.*

5 *"(a) IN GENERAL.—Upon filing of an appropriate*  
6 *pleading by the Attorney General under subsection (b), the*  
7 *district court of the United States for the district in which an*  
8 *educational institution is located may make a declaration*  
9 *with respect to whether such institution follows a racially*  
10 *discriminatory policy. Any such declaration shall have the*  
11 *force and effect of a final judgment of the district court and*  
12 *shall be reviewable as such.*

13 *"(b) FILING OF PLEADING.—*

14 *"(1) IN GENERAL.—The Attorney General is au-*  
15 *thorized and directed to seek a declaratory judgment*  
16 *under subsection (a) against any educational institu-*  
17 *tion upon—*

18 *"(A) receipt by the Attorney General within*  
19 *the previous 1-year period of any allegation of*  
20 *discrimination against such institution, and*

21 *"(B) a finding by the Attorney General of*  
22 *good cause.*

23 *"(2) ALLEGATION OF DISCRIMINATION.—For*  
24 *purposes of this section, the term 'allegation of discrim-*

1        *ination' means an allegation made in writing by any*  
2        *person which alleges with specificity that—*

3                *“(A) a named educational institution has*  
4                *committed a racially discriminatory act against a*  
5                *named student applicant or student within one*  
6                *year preceding the date on which such allegation*  
7                *is made to the Attorney General, or*

8                *“(B) the educational institution made a com-*  
9                *munication, within one year preceding such date,*  
10               *expressing that the institution follows a racially*  
11               *discriminatory policy.*

12               *“(3) NOTICE OF ALLEGATIONS OF DISCRIMINA-*  
13               *TION.—Upon receipt of any allegation of discrimina-*  
14               *tion made against an educational institution, the Attor-*  
15               *ney General shall promptly give written notice of such*  
16               *allegation to such institution.*

17               *“(4) OPPORTUNITY TO COMMENT.—Before any*  
18               *action may be filed against an educational institution*  
19               *by the Attorney General under subsection (a), the At-*  
20               *torney General shall give the institution a fair oppor-*  
21               *tunity to comment on all allegations made against it*  
22               *and to show that the alleged racially discriminatory*  
23               *policy does not exist or has been abandoned.*

24               *“(5) AVAILABILITY OF CERTAIN INFORMATION*  
25               *TO COMPLAINANT.—*

1           “(A) *IN GENERAL.*—If an allegation of dis-  
2           crimination against an educational institution is  
3           made to the Attorney General and the Attorney  
4           General—

5                   “(i) declines to bring an action under  
6                   subsection (a) against such institution, or

7                   “(ii) enters into a settlement agreement  
8                   with such institution under subsection (d)  
9                   before such an action is brought,

10           the Attorney General shall make available to the  
11           person who made such allegation the information  
12           upon which the Attorney General based the deci-  
13           sion not to bring such an action or to enter into  
14           such settlement agreement. The Attorney General  
15           shall promptly give written notice to such person  
16           that such information is available for his inspec-  
17           tion.

18                   “(B) *PRIVACY LAWS.*—Nothing in this  
19                   paragraph shall be construed to authorize or re-  
20                   quire the Attorney General to disclose any infor-  
21                   mation if such disclosure would violate any appli-  
22                   cable State or Federal law relating to privacy.

23                   “(C) *REQUIREMENTS FOR A FINDING OF FOLLOWING*  
24           *A RACIALLY DISCRIMINATORY POLICY.*—A district court  
25           may declare that an educational institution follows a racially



1 *discriminatory policy in an action brought under subsection*  
2 *(a) only if the Attorney General establishes in such action*  
3 *that—*

4       “(1) *the institution has, pursuant to such policy,*  
5 *committed a racially discriminatory act against a stu-*  
6 *dent applicant or student within the 2 years preceding*  
7 *commencement of such action;*

8       “(2) *the institution has, within the 2 years pre-*  
9 *ceding commencement of such action, made a commu-*  
10 *nication expressing that it follows a racially discrimi-*  
11 *natory policy against student applicants or students; or*

12       “(3) *the institution has engaged in a pattern of*  
13 *conduct intended to implement a racially discriminato-*  
14 *ry policy, and that some act in furtherance of this pat-*  
15 *tern of conduct was committed within 2 years preced-*  
16 *ing commencement of such action.*

17       “(d) *SETTLEMENTS.—*

18       “(1) *IN GENERAL.—Prior to, and in lieu of,*  
19 *filing an action under subsection (a), the Attorney*  
20 *General may, at his discretion, enter into a settlement*  
21 *agreement with the educational institution against*  
22 *which an allegation of discrimination has been made if*  
23 *the Attorney General finds that the institution has*  
24 *been acting in good faith and has abandoned its racial-*  
25 *ly discriminatory policy.*

1           “(2) VIOLATION OF SETTLEMENT AGREE-  
2           MENT.—If the Attorney General has entered into a set-  
3           tlement agreement with an educational institution  
4           under paragraph (1) and the Attorney General finds  
5           that such institution is in violation of such agreement,  
6           the Attorney General may—

7                   “(A) notwithstanding subsection (b)(1)(A),  
8                   bring an action under subsection (a) without  
9                   having received any allegation of discrimination  
10                  against such institution, or

11                   “(B) bring an action to enforce the terms of  
12                  such agreement.

13           “(3) COPY OF SETTLEMENT AGREEMENT TO  
14           COMPLAINANT.—The Attorney General shall give a  
15           copy of any settlement agreement which is entered into  
16           with any educational institution under paragraph (1)  
17           to any person from whom the Attorney General has re-  
18           ceived an allegation of discrimination against such in-  
19           stitution.

20           “(e) RETENTION OF JURISDICTION.—Any district  
21           court which makes a declaration under subsection (a) that an  
22           educational institution follows a racially discriminatory  
23           policy shall retain jurisdiction of such case.

24           “(f) DISCONTINUANCE OF RACIALLY DISCRIMINA-  
25           TORY POLICY.—

1           “(1) *Motion.*—

2           “(A) *IN GENERAL.*—*At any time after the*  
3           *date which is 1 year after the date on which a*  
4           *judgment is entered in an action brought under*  
5           *subsection (a) declaring that an educational insti-*  
6           *tution follows a racially discriminatory policy,*  
7           *such institution may file with the district court a*  
8           *motion to modify such judgment to include a dec-*  
9           *laration that such institution no longer follows a*  
10          *racially discriminatory policy.*

11          “(B) *AFFIDAVITS.*—*Any motion filed under*  
12          *subparagraph (A) shall contain affidavits—*

13               “(i) *describing with specificity the ways*  
14               *in which the educational institution has*  
15               *abandoned its previous racially discrimina-*  
16               *tory policy;*

17               “(ii) *describing with specificity the*  
18               *ways in which such institution has taken*  
19               *reasonable steps to communicate its policy of*  
20               *nondiscrimination to students, to faculty, to*  
21               *school administrators, and to the public in*  
22               *the area it serves;*

23               “(iii) *averring that such institution has*  
24               *not, during the preceding year—*



1                   “(I) committed a racially discrimi-  
2                   natory act against a student applicant  
3                   or student pursuant to a racially dis-  
4                   criminatory policy;

5                   “(II) made a communication ex-  
6                   pressing that it follows a racially dis-  
7                   criminatory policy against student ap-  
8                   plicants or students; or

9                   “(III) engaged in a pattern of con-  
10                  duct intended to implement a racially  
11                  discriminatory policy, and committed  
12                  some act in furtherance of this pattern  
13                  of conduct; and

14                  “(iv) averring that such institution has  
15                  complied with the requirements of section  
16                  44I(d)(3)(D).

17                  “(2) ORDER.—If a motion is made under para-  
18                  graph (1), the district court shall issue an order modi-  
19                  fying the judgment entered in the action to include a  
20                  declaration that the educational institution no longer  
21                  follows a racially discriminatory policy unless the At-  
22                  torney General establishes that—

23                  “(A) any affidavit provided by the institu-  
24                  tion under paragraph (1)(B) is false;

1           “(B) the institution has, during the preced-  
2           ing year, committed any act, made any communi-  
3           cation, or engaged in any pattern of conduct de-  
4           scribed in paragraph (1)(B)(iii); or

5           “(C) the institution has not, in fact, com-  
6           plied with the requirements of clauses (ii) and (iv)  
7           of paragraph (1)(B).

8           “(3) *APPEAL OF ORDERS.*—Any order of the dis-  
9           trict court granting or denying a motion made under  
10          paragraph (1) shall be reviewable.

11          “(g) *ATTORNEYS’ FEES.*—If an educational institution  
12          prevails in an action under this section, the court may award  
13          the institution costs and reasonable attorneys’ fees in such  
14          action.

15          “(h) *DEFINITIONS.*—For purposes of this section—

16               “(1) *RACIALLY DISCRIMINATORY POLICY.*—The  
17               term ‘racially discriminatory policy’ has the meaning  
18               given to such term by section 44I(c)(4).

19               “(2) *RACIALLY DISCRIMINATORY ACT.*—

20                   “(A) *IN GENERAL.*—An educational institu-  
21                   tion commits a racially discriminatory act if such  
22                   institution refuses, on the basis of race, to—

23                           “(i) admit any applicant as a student;

24                           “(ii) admit any student to the rights,  
25                           privileges, programs, and activities generally

1 made available to students by the educational  
2 institution; or

3                   “(iii) allow any student to participate  
4                   in its scholarship, loan, athletic, or other pro-  
5                   grams.

6                   “(B) QUOTAS, ETC.—The term ‘racially dis-  
7                   criminatory act’ shall not include the failure of  
8                   such institution to pursue or achieve any racial  
9                   quota, proportion, or representation in the student  
10                  body.

11                   “(C) *RACE*.—The term ‘race’ shall include  
12                   *color or national origin.*”

13       “(i) *REPORT.*—Within 90 days of the close of each cal-  
14       endar year, the Attorney General shall submit a report to the  
15       Congress concerning the disposition during such calendar  
16       year of—

17           “(1) any allegations of discrimination received by  
18           the Attorney General, and

19           “(2) any actions brought under this section.”.

20      *(b) CONFORMING AMENDMENTS.—*

(1) The table of sections for subchapter A of chapter 76 of such Code (relating to civil actions by the United States) is amended by striking out the item relating to section 7409 and inserting in lieu thereof:

*"Sec. 7409. Declaratory judgment relating to racially discriminatory policies of schools.*

"Sec. 7410. Cross references."

1           (2) *Section 2201 of title 28, United States Code*  
2           *(relating to creation of declaratory judgment remedy) is*  
3           *amended by striking out "section 7428" and inserting*  
4           *in lieu thereof "section 7409 or 7428".*

5 **SEC. 5. TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSIST-**  
6 **ANCE.**

7           *Tax credits claimed under section 441 of the Internal*  
8           *Revenue Code of 1954 shall not constitute Federal financial*  
9           *assistance to educational institutions or to the recipients of*  
10          *such credits.*

11 **SEC. 6. EFFECTIVE DATE: SPECIAL RULE.**

12          (a) **CERTIFICATION REQUIRED.**—*The amendments*  
13          *made by this Act shall not take effect until the Attorney Gen-*  
14          *eral certifies to the Secretary of the Treasury that, pursuant*  
15          *to—*

16                 (1) *an Act of Congress which has been enacted, or*

17                 (2) *a final decision of the United States Supreme*

18          *Court,*

19          *the Internal Revenue Code of 1954 prohibits the granting of*  
20          *tax exemption under section 501(a) by reason of section*  
21          *501(c)(3) to private educational institutions maintaining a*  
22          *racially discriminatory policy or practice as to students.*

23          (b) **APPLICATION WHEN CERTIFICATION IS**  
24          **MADE.**—



1           (1) *IN GENERAL.*—If the certification described  
2           in subsection (a) is made to the Secretary of the Treas-  
3           ury—

4           (A) except as provided in paragraph (2), the  
5           amendments made by section 3 shall apply with  
6           respect to expenditures made after the date on  
7           which such certification is made to the Secretary  
8           of the Treasury in taxable years beginning after  
9           December 31, 1982, and ending after such date,  
10          and

11          (B) the amendments made by section 4 shall  
12          take effect on the date on which such certification  
13          is made to the Secretary of the Treasury.

14          (2) *NO APPLICATION BEFORE AUGUST 1, 1983.*—  
15          In no event shall the amendments made by section 3  
16          apply with respect to expenditures made before August  
17          1, 1983.

18          (c) *ESTIMATED INCOME TAX AND WAGE WITH-*  
19          *HOLDING.*—

20               (1) *ESTIMATED INCOME TAX.*—Any credit al-  
21               lowable to any taxpayer under section 44I of the Inter-  
22               nal Revenue Code of 1954 shall not be taken into ac-  
23               count under section 6015(d) in determining the esti-  
24               mated tax of such taxpayer for any taxable year begin-  
25               ning before January 1, 1984.



1           (2) *WAGE WITHHOLDING.*—Any credit allowable  
2           under section 441 of such Code shall not be taken into  
3           account in determining the number of withholding ex-  
4           emptions to which any taxpayer is entitled under sec-  
5           tion 3402 of such Code with respect to remuneration  
6           paid before January 1, 1984.

Calendar No. 250

98TH CONGRESS  
1ST SESSION

**S. 528**

[Report No. 98-154]

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**A BILL**

To amend the Internal Revenue Code of 1954 to  
provide a Federal income tax credit for tuition.

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JUNE 20, 1983

Reported with an amendment

THE WHITE HOUSE

WASHINGTON

June 22, 1982

Dear Mr. President:

I am herewith transmitting to the Senate proposed legislation entitled "The Educational Opportunity and Equity Act of 1982." This bill would provide for increased diversity in educational opportunity by providing tax relief for parents who choose to send their children to nonpublic schools.

Diversity in educational opportunity has been one of the great strengths of our nation. It is a foundation of our pluralistic society and essential to a nation which places a high value on individual freedom.

We are justly proud of our public schools, which now offer a free education through the primary and secondary school levels to all American children willing to take advantage of it. At the same time, we must remember the important role that has been played since the beginning of our nation by the diverse nonpublic schools which also offer an education to American children. Now, as they did prior to the establishment of our public school system, parents cherish their ability to choose from a wide range of educational opportunities for their children. It is of great importance to the continued vitality of our society that parents have a meaningful choice between public education and the many forms of private education that are available.

It is also important that there be innovation and experimentation in education. The existence of many private, as well as public, schools assures that new and possibly more effective teaching approaches will not go untested. It is also important that the differing needs and demands of students and their parents be met. Parents who, for whatever reason, are not satisfied by the education available in their local public schools should be able to seek an education better suited to their children elsewhere. Furthermore, the existence of a viable private alternative should maintain a healthy pressure on public education authorities to maintain educational standards and meet student needs.


As we are all aware, the cost of education, both public and private, has risen dramatically in recent years. We all bear the burden of the rising costs of public education through state and local taxation, directly or indirectly. But those parents who wish their children to attend nonpublic schools must also bear the additional burden of paying private-school tuition. This additional cost has always severely limited the ability of lower-income families to choose the nonpublic educational alternative for their children. Rising costs are now putting private schools beyond the reach of a growing number of middle-income Americans as well. If we are to provide a meaningful choice to those who have not had it in the past, and preserve a choice for those for whom it is in danger of becoming an illusion, we must find a way to lighten the "double burden" these families bear.

We must also bear in mind that private schools do more than offer alternative educational choices to students and their parents. Nonpublic schools also carry a significant part of the burden of providing primary and secondary school education in this country. If it becomes financially impossible for many of the families now sending their children to nonpublic schools to continue to do so, the resulting increase in public school attendance will place large and unwelcome new tax burdens on state and local taxpayers. The cost to taxpayers of offering some tax relief to parents, so that they can afford to keep their children in the private schools of their choice, is modest compared to the cost of educating their children in the public schools.

Thus, in order to promote diversity in education and the freedom of individuals to take advantage of it, and to nurture the pluralism in American society which this diversity fosters, I am transmitting to Congress today a draft bill which provides federal tax credits for the tuition expenses of children attending nonpublic primary or secondary schools. Starting in 1983, the Education Opportunity and Equity Act of 1982, if enacted, would allow a tax credit for the tuition expenses of each student attending a private, nonprofit primary or secondary school. By 1985, when this new tuition tax credit would be fully phased in, a credit equal to 50 percent of tuition expenses paid during the year, but not to exceed \$500, would be allowed for each student.

While it would be desirable for the reasons I have already mentioned to extend such tax relief for higher education tuition expenses as well, the large losses in federal tax revenues which would result make it impossible to recommend such legislation at this time. Today's proposal makes an important start by providing this relief where it is most necessary.

Sincerely,

A handwritten signature in dark ink, reading "Ronald Reagan". The signature is written in a cursive, flowing style with a large initial "R".

The Honorable George Bush  
President of the Senate  
Washington, D.C. 20510



## Explanation of Administration Bill

The Administration's bill would allow an individual taxpayer to take a credit against income tax in an amount up to 50 percent of the qualifying tuition expenses paid by the taxpayer in a taxable year. Qualifying tuition expenses are expenses paid for tuition and fees to send certain dependents under the age of 20 full-time to private elementary or secondary schools. Qualifying tuition expenses do not include amounts paid for books, supplies, equipment, meals, lodging, transportation, or personal expenses, or for education below the first-grade level or above the twelfth-grade level.

The credit is allowed only for expenses paid with respect to students for whom the taxpayer is allowed a dependency exemption and who bear any of the following relationships to the taxpayer: children and descendants; stepchildren; siblings, stepbrothers, and stepsisters; nieces and nephews; and members of the taxpayer's household, other than the taxpayer's spouse, whose principal place of abode is the taxpayer's home. To be allowed a dependency exemption, the taxpayer must provide more than half of the student's support for the calendar year in which the taxpayer's year begins, and except for the taxpayer's children and stepchildren, the student must have less gross income than the amount of the exemption.

The amount of the credit that is allowable for the taxable year with respect to a student is subject to two limits. First, the maximum amount of credit that may be claimed by the taxpayer for each student in any taxable year is \$100 for the taxpayer's first taxable year beginning on or after January 1, 1983, \$300 for the first taxable year beginning on or after January 1, 1984, and \$500 for taxable years beginning on or after January 1, 1985.

Second, the maximum amount of credit per student is reduced as the taxpayer's adjusted gross income increases over \$50,000 and is phased out entirely for taxpayers with adjusted gross incomes of \$75,000 and over. For the first taxable year beginning on or after January 1, 1983, the \$100 per student maximum credit is reduced by .4 percent of the taxpayer's adjusted gross income over \$50,000; for the first taxable year beginning after January 1, 1984, the \$300 per student maximum credit is reduced by 1.2 percent of the taxpayer's adjusted gross income over \$50,000; and for taxable years beginning on or after January 1, 1985, the \$500 per student maximum credit is reduced by 2.0 percent of the taxpayer's adjusted gross income over \$50,000.

The amount of tuition expense for which a taxpayer is allowed a credit does not include expenses that are paid by scholarships and other educational aid that are not includible in the taxpayer's or in the student's income. If the scholarship is paid directly to the school and the school sends a tuition bill



to the taxpayer that is net of the scholarship, the taxpayer is not deemed to have been paid the scholarship; the scholarship is excluded from the computation of tuition expense altogether.

A school with respect to which credits are allowable must provide a full-time elementary or secondary school program and must be a private, not-for-profit, day or residential school.

In addition, the school must be exempt from taxation under section 501(a) as an organization described in section 501(c)(3). Church-operated schools shall, pursuant to section 508(c), continue to be exempt from the provisions of section 508(a) and (b). The fact that credits are claimed for payments to a church-operated school shall not serve as a basis for imposing any new requirements on such schools in this regard.

The bill contains strong provisions to ensure that no credits will be permitted for amounts paid to schools that follow racially discriminatory policies.

A tax credit cannot be claimed unless the school is a tax exempt organization under section 501(c)(3). The bill also creates a new layer of protections above and beyond the 501(c)(3) requirement. In order for tuition expenses to be eligible for the credit, the school must annually file with the Secretary a statement under the penalties of perjury that it has not followed a racially discriminatory policy. In addition, the Attorney General of the United States, upon petition by an individual who claims to have been discriminated against by a school under a racially discriminatory policy, may seek a declaratory judgment in a United States district court in which the school is located that the school follows a racially discriminatory policy. If a final judgment is entered that the school follows a racially discriminatory policy, tuition tax credits are disallowed for the year in which the complaint is filed by the Attorney General and the two succeeding calendar years. The disallowance does not take effect until all parties have exhausted their rights to appeal the declaratory judgment.

The proposal defines a racially discriminatory policy as a policy under which a school refuses, on account of race: to admit applicants as students; to admit students to the rights, privileges, programs and activities generally made available to students by the school; or to allow students to participate in its scholarship, loan, athletic or other programs. A racially discriminatory policy does not include the failure by a school to pursue or achieve any racial quota, proportion, or representation among its students.

The proposal is effective for tuition expenses paid after December 31, 1982, in taxable years beginning after that date.

## A BILL

A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SEC. 1. SHORT TITLE.

This Act may be cited as the "Educational Opportunity and Equity Act of 1982".

### SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Therefore, Federal legislation should recognize that:

(A) pluralism is one of the great strengths of American society, that diversity in education is an important contributor to that pluralism, and that nonpublic schools play an indispensable role in making that diversity possible;

(B) the existence and availability of alternatives to public education tend to strengthen public education through competition and to improve the educational opportunities of all Americans;

(C) Americans should have equal opportunities to choose between the education offered by public schools and that available in private educational systems and should not be compelled because of economic circumstances to accept education provided by government created and government operated school systems, and that to force such a selection is an unfair and unjust discrimination against persons of lesser means;

(D) increasing numbers of American families are unable to afford nonpublic school tuition in addition to the state and



local taxes that go to support public schools, and that tax relief for nonpublic school tuition expenses is necessary if American families are to continue to have a meaningful choice between public and private education at the elementary and secondary level;

(E) tax relief in the form of tuition tax credits is the fairest way to extend a choice in education to a wide range of individuals, that tax relief in the form of tuition tax credits creates the least possible danger of interference in the lives of individuals and families consistent with achieving these ends, and that tax relief in the form of tuition tax credits achieves these ends with a minimum of complexity so that those for whom the tax relief is intended will be able to understand and take advantage of it;

(F) the tax revenue loss occasioned by a tuition tax credit for a child would be small compared to the cost to state and local taxpayers of educating the child at a public school;

(G) equality of educational opportunity is the policy of the United States, and the tax relief afforded by this legislation should not be used to promote racial discrimination.

Therefore, the primary purpose of this Act is to enhance equality of educational opportunity, diversity, and choice for Americans. The Congress finds that this Act will expand opportunities for personal liberty, diversity, and pluralism that constitute important strengths of education in America.

### SEC. 3. CREDIT FOR TUITION EXPENSES.

Subpart A of part IV of subchapter A of chapter 1 of the

Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44H. CREDIT FOR TUITION EXPENSES.

"(a) General Rule. -- In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the tuition expenses paid by the taxpayer during the taxable year to one or more educational institutions for any of his dependents (as defined in section 152(a)(1), (2), (3), (6), or (9)) who has not attained the age of 20 at the close of the taxable year in which the tuition expenses are paid and with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151.

"(b) Limitations. --

"(1) Maximum Dollar Amount Per Individual. -- The amount of the credit allowable to a taxpayer under subsection (a) with respect to tuition expenses paid on behalf of each dependent shall not exceed --

"(A) \$100 in the case of tuition expenses paid during the taxpayer's first taxable year beginning on or after January 1, 1983;

"(B) \$300 in the case of tuition expenses paid during the taxpayer's first taxable year beginning on or after January 1, 1984; and

"(C) \$500 in the case of tuition expenses paid for each taxable year of the taxpayer beginning on or after January 1, 1985.



"(2) Phase-out of Credit Above Certain Adjusted Gross Income Amounts. -- The maximum amount specified in paragraph (1) shall be reduced by the following percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds \$50,000 (\$25,000 in the case of a married individual filing a separate return) --

"(A) 0.4 percent for the first taxable year of the taxpayer beginning on or after January 1, 1983;

"(B) 1.2 percent for the first taxable year of the taxpayer beginning on or after January 1, 1984; and

"(C) 2.0 percent for each taxable year of the taxpayer beginning on or after January 1, 1985.

"(c) Special Rules. --

"(1) Adjustment for Scholarships and Financial Assistance. -- Tuition expenses paid by the taxpayer shall be reduced by any amounts which were paid to the taxpayer or his dependents as --

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which is not includible in gross income under section 117;

"(B) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code; or

"(C) other financial assistance which is for educational expenses, or attributable to attendance at an educational institution, and that is exempt from income taxation by any law of the United States (other

than a gift, bequest, devise, or inheritance within the meaning of section 102(a)).

"(2) Disallowance of Credited Expenses as Deduction. -- No deduction or credit shall be allowed under any other section of this chapter for any tuition expense to the extent that such expense is taken into account in determining the amount of the credit allowed under subsection (a) unless the taxpayer elects, in accordance with regulations prescribed by the Secretary, not to apply the provisions of this section to such tuition expenses for the taxable year.

"(d) Tax Credit Not Allowed for Amounts Paid to Racially Discriminatory Institutions. --

"(1) Required Annual Statements. -- No credit shall be allowed under subsection (a) for amounts paid to an educational institution during a calendar year unless, at the end of such calendar year, the educational institution files with the Secretary (in such manner and form as the Secretary shall by regulation prescribe) a statement, subject to the penalties for perjury, that

(A) declares that such institution has not followed a racially discriminatory policy during such calendar year; and

(B) indicates whether the Attorney General has brought an action against such institution under section 7408 during such calendar year or either of the two preceding calendar years.

On or before January 31 of the calendar year succeeding the

calendar year to which the statement relates, the institution shall furnish a copy of the statement to all persons who paid tuition expenses to the institution in the calendar year to which the statement relates. No credit shall be allowed to a taxpayer under subsection (a) for amounts paid to an educational institution during a calendar year unless the taxpayer attaches to the return on which the taxpayer claims the credit with respect to such calendar year a copy of the statement specified in this paragraph.

"(2) Declaratory Judgment Proceedings. -- If an educational institution is declared to have followed a racially discriminatory policy in an action brought pursuant to section 7408, then no credit shall be allowed under subsection (a) for amounts paid to such educational institution --

"(A) in the calendar year during which the Attorney General commenced the action pursuant to section 7408, and

"(B) in the two calendar years immediately succeeding the year specified in subparagraph (A).

"(3) Definition. -- For purposes of this subsection, an educational institution follows a 'racially discriminatory policy' if it refuses, on account of race --

(A) to admit applicants as students;

(B) to admit students to the rights, privileges, programs, and activities generally made available to students by the educational institution; or

(C) to allow students to participate in its scholarship, loan, athletic, or other programs. A racially discriminatory policy shall not include failure to pursue or achieve any racial quota, proportion, or representation in the student body. The term 'race' shall include color or national origin.

"(4) Time of Disallowance. -- No credit shall be disallowed under paragraph (2) until the judgment against the educational institution in the action brought under section 7408 has become final. A judgment becomes final within the meaning of this paragraph when all parties to the action have exhausted all appellate review.

"(5) Statute of Limitations. -- If a credit is disallowed under paragraph (2), the period for assessing a deficiency attributable to the disallowance of such credit shall not expire before the expiration of 3 years from the date the judgment becomes final within the meaning of paragraph (4). Any such deficiency may be assessed before the expiration of such three-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(6) Enforcement Responsibility. -- Exclusive authority to enforce the prohibition against following a racially discriminatory policy under this subsection, or to undertake activities connected with enforcing this subsection, is vested in the Attorney General. Under this subsection, the Secretary has authority solely to receive the statements



referred to in paragraph (1); to disallow credits for amounts paid to an educational institution which has failed to file such a statement as provided in paragraph (1); to disallow a credit in the case of a taxpayer who fails to comply with the procedures prescribed by the Secretary for claiming the credit; and to disallow credits for amounts paid to an educational institution against which a final judgment has been entered in an action under section 7408 as provided in paragraphs (2) and (4).

"(e) Definitions. -- For purposes of this section --

"(1) Educational Institution. -- The term 'educational institution' means a school that

"(i) provides a full-time program of elementary or secondary education;

"(ii) is a privately operated, not-for-profit, day or residential school; and

"(iii) is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), including church-operated schools to which subsections (a) and (b) of section 508 do not apply.

"(2) Tuition Expenses. -- The term 'tuition expenses' means tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including required fees for courses, and does not include any amount paid for

"(A) books, supplies, and equipment for courses of instruction at the educational institution;



"(B) meals, lodging, transportation, or personal living expenses;

"(C) education below the first-grade level, such as attendance at a kindergarten, nursery school, or similar institution; or

"(D) education above the twelfth-grade level."

#### SEC. 4. DECLARATORY JUDGMENT PROCEEDING.

Subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to judicial proceedings) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

"SEC. 7408. DECLARATORY JUDGMENT RELATING TO RACIALLY DISCRIMINATORY POLICIES OF SCHOOLS.

"(a) In General. -- Upon petition by a person who alleges that he has been discriminated against under a racially discriminatory policy of an educational institution, the Attorney General is authorized, upon finding good cause, to bring an action against the educational institution in the United States district court in the district in which the educational institution is located, seeking a declaratory judgment that the educational institution has followed a racially discriminatory policy and has, pursuant to such policy, discriminated against the person filing the petition.

"(b) Time for Filing Petition. -- The petition shall be filed with the Attorney General within 180 days after the date on which the act of racial discrimination is alleged to have been committed against the person filing the petition.

"(c) Notification and Opportunity to Comment. -- Upon receipt of the petition, the Attorney General shall promptly notify the educational institution in writing of such petition and the allegations contained therein. Before any action may be filed, the Attorney General shall give the institution a fair opportunity to comment on all allegations made against it and to show that the racially discriminatory policy alleged in the petition does not exist or has been abandoned.

"(d) Time for Bringing Action. -- An action may be filed by the Attorney General no later than 1 year after receiving the petition.

"(e) Definitions. -- When used in this section, the terms 'educational institution' and 'racially discriminatory policy' shall have the same meaning as assigned to such terms in section 44H."

#### SEC. 5. TECHNICAL AND CONFORMING AMENDMENT.

(a) The table of sections for subpart A of Part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following:  
"SEC. 44H. Tuition expenses."

(b) Section 6504 of the Internal Revenue Code of 1954 (relating to cross references with respect to periods of limitation) is amended by adding a new paragraph (12) at the end thereof:

"(12) Disallowance of tuition tax credits because of a declaratory judgment that a school follows a racially discriminatory policy, see section 44H(d)(5)."

(c) The table of sections for subchapter A of chapter 76 of the Internal Revenue Code of 1954 (relating to civil actions by the United States) is amended by striking out the item relating to section 7408 and inserting in lieu thereof:

"Sec. 7408. Declaratory judgment relating to racially discriminatory policies of schools.

"Sec. 7409. Cross references."

SEC. 6. TAX CREDITS ARE NOT FEDERAL FINANCIAL ASSISTANCE.

Tax credits claimed under this section shall not constitute Federal financial assistance to educational institutions or to the recipients of such credits.

SEC. 7. EFFECTIVE DATE.

The amendments made by section 3 of this Act shall apply to taxable years beginning after December 31, 1982, for tuition expenses paid after that date.

	<u>STATE</u>	<u>PARTY</u>
Congressman Mario Biaggi	New York, 10th	Democrat
Congressman Lawrence Coughlin	Pennsylvania, 13th	Republican
Congressman Charles F. Dougherty	Pennsylvania, 4th	Republican
Congressman Edwin B. Forsythe	New Jersey, 6th	Republican
Congressman Richard A. Gerphardt	Missouri, 3rd	Democrat
Congresswoman Majorie S. Holt	Maryland, 4th	Republican
Congressman Henry J. Hyde	Illinois, 6th	Republican
Congressman Bob Livingston	Louisiana, 1st	Republican
Congressman Thomas A. Luken	Ohio, 2nd	Democrat
Congressman Dan Lungren	California, 34th	Republican
Congressman Guy V. Molinari	New York, 17th	Republican
Congressman James L. Nelligan	Pennsylvania, 11th	Republican
Congressman John H. Rousselot	California, 26th	Republican
Congressman Gene Snyder	Kentucky, 4th	Republican
Congressman B. H. Solomon	New York, 29th	Republican
Congressman Thomas J. Tauke	Iowa, 2nd	Republican





# UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

## Tuition Tax Credit

### FACT SHEET

#### SUMMARY

All parents have a fundamental right and responsibility to direct the education of their children in a way that best serves their individual needs and aspirations. Private schools provide an essential means for many in fulfilling their aspirations.

The President's tuition tax credit legislation will provide tax relief to the working families of nonpublic school students, and expands the ability of American parents to exercise educational freedom of choice.

Educational opportunity and choice in a pluralistic society require a diverse range of schools -- public and private.

This choice raises issues of tax equity for those who carry the double burden of supporting both private and public school costs.

A tuition tax credit would assist these working families in meeting the increasing costs of nonpublic education. While still paying local taxes to support public schools, these families would be able to recover up to half the cost of each child's tuition.

- o Only parents who send their children to tax exempt, nonprofit, educational institutions at the elementary and secondary level could claim the credit.
- o In no case could parents who choose to send their children to schools which discriminate on the basis of race, color, or national origin claim the credit.
- o Nothing in the legislation would alter or interfere with the ability of the States to enact laws and regulations with respect to the operation of schools within the borders of the individual States; or with other rights and powers of the States.
- o Nothing in the legislation would create a basis for enabling the Federal Government to dictate policy to

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the schools. The credit would benefit individuals and would not make any funds available to the schools themselves.

### MAJOR CONCEPTS

The major concepts of the Administration's proposal include:

#### Tax Equity

On the one hand, parents who choose to have their children educated at a nonpublic school must bear the constantly escalating tuitions which these schools must charge to survive. On the other hand, these same parents support public education through taxes which are paid by all citizens.

For many working parents, this dual financial burden is too great to permit them to exercise the right to send their children to the nonpublic school of their choice. Therefore, tax relief is necessary as a matter of equity if these families are to continue to exercise educational choice. A majority of all parents who had children enrolled in private elementary and secondary schools had incomes of less than \$25,000.

#### Limited Coverage

The credit would be restricted to parents of children in private, nonprofit, elementary or secondary schools. These parents bear the heaviest double burden of meeting educational responsibilities to their children in ways they deem most appropriate.

#### A Phase-In of the Credit

The nonrefundable credits would be phased in over a three-year period. Parents could claim:

A maximum of 50 percent of tuition paid for each child up to a maximum credit per child of:

\$100 in 1983  
\$300 in 1984  
\$500 in 1985

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### Income Limitations

The credit would phase-out for families according to income level to insure that it would be used to meet the needs of working lower and middle income families. These families are suffering most from taxation and the need to meet their growing educational expenses. A full credit would be available only to those families with adjusted gross incomes up to \$50,000 and would phase-out entirely at \$75,000.

### Eligible Institutions

Parents would be eligible for the tax credit only if they sent their children to private schools which are nonprofit and do not discriminate on the basis of race, color, or national origin.

### Tuition Expenses

Tuition expenses would include required course fees and all other normal tuition fees, but not include books, supplies, meals, or transportation costs.

## STRONG ANTI-DISCRIMINATION PROTECTION

This bill insures that no credits will be permitted for amounts paid to schools which follow racially discriminatory policies. A school follows a racially discriminatory policy if it refuses, on account of race, either to admit student applicants or to allow students full participation in the school and its programs.

Triple anti-discrimination enforcement mechanisms have been written into the bill.

(1) IRS Code section 501(c)(3): A tax credit cannot be claimed unless the school is a tax exempt organization under section 501(c)(3).

(2) Perjury Prosecution: No credit can be taken unless the school files a statement every year attesting that it has not followed a racially discriminatory policy. The statement must be made under oath and is subject to the penalties for perjury.

(3) Civil action by U.S. against school: If a person is discriminated against under a school's racially discriminatory policy and complains to the Attorney General, the Attorney General is authorized to file an action on behalf of the United States against the school.

#### MAJOR BENEFIT TO LOWER AND MIDDLE INCOME FAMILIES

According to a study by the Bureau of the Census in the Fall, 1979, more than 50 percent of children enrolled in private schools came from families with incomes below \$25,000. Hence, the majority of benefits of the Tuition Tax credit would be paid to moderate and low income families. Moreover, since the proposal is a credit, the dollar benefit is the same to all, unlike a deduction which would provide a greater benefit for individuals in higher tax brackets.

#### RACIAL AND ETHNIC MINORITIES WILL BENEFIT

Contrary to popular misconceptions, minority enrollment in private schools is significant. According to that same Bureau of Census 1979 study, in all United States central cities in the standard metropolitan statistical areas 16 percent of all private school enrollees were Black, while Hispanic and other non-white students constituted 12 percent of the private school enrollment. In Washington, D.C. 80 percent of private school enrollees are Black. Thus Blacks and other minorities are currently well situated to take advantage of the Tuition Tax Credits proposed in the Administration bill.

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