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THE WHITE HOUSE

WASHINGTON

May 3, 1982

MEMORANDUM FOR ELIZABETH H. DOLE

THRU: DIANA LOZANO
FROM: MORTON C. BLACKWELL
SUBJECT: Tuition Tax Credit

An astonishing thing is happening. We are about to torpedo our own initiative on tuition tax credits.

The language in the draft bill which Jack Burgess gave me three weeks ago was worked out in conjunction with congressional supporters of tuition tax credits. It defined eligible schools as 501 (c) 3 institutions and contained language which, while eliminating segregated academies, did not grant a broad charter to the I.R.S. to impose an "effects test." Nor would it allow the courts to impose requirements for "affirmative action."

Late last week Mike Uhlmann launched a move to drop the eligibility language from the draft bill and insert in its place the language of the defunct Bob Jones University bill. The Administration's Bob Jones bill to define 501 (c) 3 requirements was a fiasco which received contempt from civil rights groups and the Christian school community.

Insertion of the Bob Jones language would kill any chance of passage of a tuition tax credit bill. It would also cause prominent, currently pro-Reagan Protestants in the Christian school movement to attack us for the first time. They would view this move as a betrayal. As Jimmy Carter can testify, Hell hath no fury like a fundamentalist scorned.

Liberals in the Catholic hierarchy, who are hostile to our domestic, foreign and defense policy would hammer away in the Catholic media at the inability of the President to deliver tuition tax credits which he promised to an enthusiastic Catholic education meeting.

Tuition Tax Credit
May 3, 1982

If our officials in charge of legal advice on social issues were deliberately trying to stop the President from taking any effective action in these areas, they could not be more obstructive. Presuming they do support the President on these issues, they are appallingly inept.

For some reason, tuition tax credits has been treated as if it were almost entirely a Catholic issue. In fact, the great majority of political support which will come to us as a result of our support for tuition tax credit will not come through the Catholic hierarchy. With the exception of a handful of small, conservative Catholic journals and some local priests, we can expect few cheers for the President from the official Catholic sources.

The loud trumpets of praise for our support of tuition tax credits will come from fundamentalists and evangelicals.

Leaders of the "religious right" often draw their support from across denominational lines. Fully 25% of those on Jerry Falwell's and Pat Robertson's mailing lists, for instance, are Roman Catholics. Falwell, Robertson and their peers who also support the Christian school movement communicate directly to the grassroots religious people of all denominations.

One sure way to doom any strategy for tuition tax credits is to fail to take into account the strong feelings of the Christian school movement. More than any other mistake, the Carter Administration's harassment of Christian schools peeled away his core supporters.

The issue of tuition tax credit is separable from that of tax exempt status. There is no reason why we have to repeat in the tuition tax credit bill the language which doomed the I.R.S. tax status bill.

Our position should be that our tuition tax credit bill makes eligible any non-discriminatory tax exempt school. Whatever the outcome of the current court battles or pending legislative action, we will soon have a clearer definition of the requirements of eligibility for 501(c)3 tax exempt status which will then control eligibility for tuition tax credits.

Tuition Tax Credit
May 3, 1982

It would be hard to overstate the importance of this issue. Right now the religious right and the pro-family movement are gearing up to support us on defense policy and on the upcoming budget battles. They are working toward a massive 1982 election effort. If we make the wrong moves now we will cripple ourselves for the legislative and election battles we must fight for the rest of this year.

If we keep our original draft language on eligibility, we will reap the maximum political benefit for the President on this issue. And we will put together the strongest coalition in behalf of tuition tax credits. Passage would be good for American education.

We might still lose, but we would have record votes. If we do lose, we will have exposed many hostile incumbents to the wrath of the grass roots supporters of this excellent idea.

THE WHITE HOUSE

WASHINGTON

April 20, 1982

MEMORANDUM FOR JACK BURGESS

FROM: MORTON BLACKWELL 
SUBJECT: Movers and Shakers on Tuition Tax Credits

Here is a list of people who ought to be part of any presidential event relating to tuition tax credits. Per your suggestion I have not included Catholic church leaders or Jewish leaders.

Very frankly we have a large number of people who would qualify. This makes it very difficult for me to narrow the list down. I have selected out fourteen key leaders who are representative of a very broad spectrum. They are:

Dr. Jerry Falwell
Moral Majority
499 South Capitol Street, S. W.
Washington, D. C. 20003

Gary Jarmin
Christian Voice
418 C Street, N. E.
Washington, D. C. 20002

William Billings
National Christian Action Coalition
5515 Cherokee #306
Alexandria, Virginia 22312

Edward McAteer
Religious Roundtable
1500 Wilson Blvd., Suite 501
Arlington, Virginia 22209

Mrs. Connaught Marshner
Coalitions for America
721 Second Street, N. E.
Washington, D. C. 20002

Dan Alexander
Taxpayers Educational Lobby
P. O. Box 160224
Mobile, Alabama 36616

Mrs. Marilyn Lundy
Citizens for Educational Freedom
854 Washington Building
15th and New York Avenue, N. W.
Washington, D. C. 20005

Dr. Roy W. Lowery, Jr., President
Association of Christian Schools, International
P. O. Box 311
Newton Square, PA 19073

Dr. Bailey E. Smith, President
Southern Baptist Convention
First Southern Baptist Church
P. O. Box 15039
Del City, Oklahoma 73115

Dr. W. A. Criswell, Pastor
First Baptist Church
Dallas, Texas 75201

Robert P. Dugan, Jr., Director
Office of Public Affairs
National Association of Evangelicals
1430 K Street, N. W.
Washington, D. C. 20005

Dr. M. G. (Pat) Robertson
Christian Broadcasting Network
CBN Center
Virginia Beach, VA 23463

Dr. Ben Armstrong, Executive Director
National Religious Broadcasters
Box 2254-R
Morristown, N. J. 07960

William B. Ball, Esquire
Ball & Skelly
511 N. Second Street
P. O. Box 1108
Harrisburg, PA 17108

THE WHITE HOUSE

Office of the Press Secretary
(Chicago, Illinois)

For Immediate Release

April 15, 1982

REMARKS OF THE PRESIDENT
TO THE NATIONAL CATHOLIC EDUCATIONAL ASSOCIATION

McCormick Place
Chicago, Illinois

10.37 A.M. CST

THE PRESIDENT: Thank you very much. (Applause.) Thank you. Thank you Bishop Cummins, Madam Mayor and distinguished guests here on the platform. And I thank all of you very much for your most warm welcome. I'm also glad to see Congressman Hyde and Dan Rostenkowski here with me today. I know that Congressman Hyde and I have shared a relationship in our interest in social causes that are of interest very much to the Catholic community. And I have to say that Dan Rostenkowski has been such a stalwart in our attempts to resolve our budget problems in Washington in a bipartisan manner. And I'm grateful to him for that. (Applause.)

Before I begin talking about some of the things that I think are of immediate concern to you in this kind of a meeting, could I just say to those who obviously and very sincerely are motivated by a deep desire for peace in the world that I share -- (applause) -- that desire. And whatever we're doing in Washington today in this regard is aimed at one purpose and one only -- to make war impossible and never again have to bleed a generation of young Americans on the battlefield. (Applause.) Thank you very much.

Now, I'm sure you realize that it's something of a risk for any government official to appear in public on income tax day. (Laughter.) And I'm delighted to have this opportunity to be among leaders and educators in the Catholic community -- a community of Americans who have done so much to bring sustenance and fulfillment to people around the world. I'm grateful for your help in shaping American policy to reflect God's will -- for your efforts to allow Americans to provide direct aid to the people of Poland. And I look forward to further guidance from His Holiness Pope John Paul II during an audience I will have with him in June. (Applause.)

MORE

But I have come to speak to you today about other subjects of mutual concern, about the strength and the future of American families, about the education of their children, and about the increase in strains placed on both by current levels of taxation. I believe that working Americans are overtaxed and under appreciated. (Applause.) And I have come to Chicago to offer relief. I have come -- (applause) -- to propose further restoration of the incentives and the choices that were our inheritance and encouraged our people to build the greatest nation on earth.

We have already taken historic strides. Last year, with the help of a bipartisan coalition in the Congress, we enacted the largest tax cut in history for the working men and women of America. But to give you an idea of what we are up against, that tax cut will barely offset the increases that had already been built into the system. Despite all the moaning you have been hearing in Washington about huge tax cuts running up a deficit, our tax reduction program has not meant that government revenues are going down. The United States Treasury is still taking in more money every year than the year before. In 1981, personal taxes actually went up by about \$41 billion.

Raising taxes is no way to balance the budget. History proves that it doesn't work. Taxes went up by more than two hundred percent in the last decade and we still have the largest string of deficits in our history, because you see while taxes were going up two hundred percent, spending was increasing over the same period by over three hundred percent. If people are serious about balancing the budget they must cut spending. Suggestions to -- (applause) -- suggestions to repeal the third year of our tax cut would stifle our recovery and hike the tax bill for working families.

I believe the working families you see every day are already weary and overburdened, so I have come to Chicago to propose another tax bill that would allow them to keep a little more of their own money. I have come to propose a tuition tax credit for parents -- (applause) -- Thank you very much. Thank you. Maybe I should have saved that for last. (Laughter.) But this tax credit will be for parents who bear the double burden of public and private school costs.

Now I know that you have heard promises before. Politicians in the past promised tax credits and broke those promises.

MORE

But this administration is different. We're a bunch of radicals. We really intend to keep our promises. (Applause.) And we intend to act on the will of the people.

In 1980, while campaigning, I promised to base this administration's policies on the primacy of parental rights and responsibility. I pledged to expand education opportunities by supporting a tuition tax credit plan that would permit parents to take a credit on their income tax for each child they have in private school.

And today, as your President, I keep that pledge. I'm pleased to announce that after consulting with Congressional leaders, we will send to the Congress later this spring draft legislation to be known as the Educational and Opportunity Equity Act. Our bill will be aimed at the middle and lower income working families who now bear the double burden of taxes and tuition, while still paying local taxes to support the public schools. (Applause.) Working families will be able to recover up to half the cost of each child's tuition. Our proposal is fair, equitable and designed to secure the parental right to choose.

Key elements of our draft proposal include a limited coverage provision that would restrict credit to parents of children in private, non-profit elementary and secondary schools. I wish we could include college as well, but you know the budgetary constraints that face us today, we're working under. So I look forward to a day when we can expand this bill -- a phase-in of the credits beginning in 1983 to be completed in 1985: a maximum credit of \$500 per child; an income cap proposal to insure the benefits go to working families; and a policy of non-discrimination to insure that credits are not available to parents sending their children to schools which discriminate on the basis of race. (Applause.)

And it's important to understand that we do not propose aid to schools. This bill will provide direct benefit to individuals. It's proposed as a matter of tax equity for working, taxpaying citizens.

We don't seek to aid the rich, but those lower and middle income taxpayers who are most straddled by inflation, oppressive taxation and the recession that grips us all.

I would like to think that we are offering help to the inner city child who faces a world of drugs and crime -- (applause) -- the child with special needs and to families who still believe the Lord's Prayer will do them less harm in the schoolroom than good. (Applause.)

In 1979, a majority of all parents who had children in private elementary and secondary schools had incomes of \$25,000 or less. Secondary school parents pay average tuition costs of \$900 while also supporting their community public schools through local taxes. Our proposal is intended to relieve, as I've said before, that dual financial burden

threatening to usurp the traditional right of parents to direct the education of their children. (Applause.) Today more than five million American youngsters attend thousands of religious and independent schools because of emphasis on values or the type of teaching available. Their parents have made that choice at great cost and sacrifice. They have ~~made it~~ because the education of their children is their greatest concern.

Senator Patrick Moynihan, Democrat of New York, said a few years ago -- (applause) -- I'll tell him you responded to that -- (laughter) -- "It's time that we acknowledged the ordinary family's insistence on providing its children with the best obtainable education results in costs that the federal government should help it to bear, not by giving it a handout or a gift but simply by allowing it to keep a bit more of the money it earns for itself." I wholeheartedly agree and I think most of you do as well. (Applause.)

At the same time, we must recognize that America today faces real fiscal difficulties -- difficulties which cannot be ignored in scaling and shaping the tuition tax credit proposal that we're making. Our responsibility as parents and citizens requires no less of us.

It's no accident that we who are the freest people on earth have an educational system unrivaled in the history of civilization. We know that knowledge and freedom are inseparable. And we also acknowledge the right of every individual to both. They cannot be arbitrarily apportioned according to race, station, or class.

The Pledge of Allegiance, now missing from too many of our classrooms, concludes with the affirmation that we are "one nation under God, with liberty and justice for all." (Applause.) America embraces these principles by design and would abandon them at her peril.

Private education is no divisive threat to our system of education. It is an important part of it. Our public schools offer quality education to our children and are the heart of our communities. We must ensure that their classrooms continue to provide the finest education possible. But alternatives to public education tend to strengthen public education. (Applause.) Taken together, public and private institutions sustain the diversity that has made our culture rich. (Applause.)

Excellence demands competition among students and among schools. And why not? We must always meet our obligations to those who would fall behind without our assistance. But let's remember, without a race there can be no champion, no records broken,

no excellence -- in education or any other walk of life.

This freedom to choose what type of education is best for each child has contributed much to America's reputation for excellence in education. Unfortunately, the high plane of literacy and the diversity of education we have achieved is threatened by policymakers who seem to prefer uniform mediocrity to the rich variety that has been our heritage. (Applause.)

As competition has lessened, so has quality. As taxes and inflation have ballooned, choices have evaporated. Together we must restore the pluralism that has always been the strength of our society.

Our leaders must remember that education doesn't begin with some isolated bureaucrat in Washington. It doesn't even begin with state or local officials. Education begins in the home where it's a parental right and responsibility. (Applause.) Both our public and our private schools exist to aid our families in the instruction of our children and it's time some people back in Washington stopped acting as if family wishes were only getting in the way.

"Train up the child in the way he should go," Solomon wrote, "and when he's old he will not depart from it." That is the God-given responsibility of each parent, the compact with each teacher and the trust of every child. (Applause.)

This city of Chicago is a good example of the strength that pluralism and freedom of choice have provided our people. Chicago has long been a magnet for immigrants who have come to this country to make a better life. For them, education was not simply another part of American society -- it was the key that opened the golden door. It was the best path to progress for their families. And it's been an indispensable part of the growth of our nation and the prosperity of all our people. (Applause.)

Many of your Catholic schools were first opened to serve these new Americans. Today, generations later, they serve other Americans who find themselves at a disadvantage. The nation's largest black Catholic school stands in the middle of one of Chicago's poorest neighborhoods. It imposes strict academic and religious requirements, and yet it still receives 1,000 more applicants a year than it can accept. (Applause.)

Such statistics explain why Americans at every economic level believe education is still something to sacrifice for. It still offers the promise of a better life. It's still the hope of our people.

Who will really benefit from tuition tax credits? According to the Most Reverend James P. Lyke of Cleveland, "the people who will benefit most are minorities and the poor." (Applause.)

Reverend Lyke said that inner city parents desperately need to be told by this government, "You may educate your children in the schools of your choice as guaranteed by the Constitution, and you will be able to do so even though you may be poor, whether or not you live in the city or the suburbs or the rural areas of this country.

Those Americans have not forgotten what education and freedom can do. They know that freedom is the only truly essential possession we have, and education is freedom's guide. These are not easy times for a great many Americans, but the future looks dark only for those who have lost faith in our people and in the promise of individuals who are educated and free. The rest of us should welcome the future knowing that with God's help it is ours to shape.

Together with your colleagues in other independent and public schools you are molding each rising generation. You are working with parents to fill young minds with the knowledge and young hearts with the morality, the understanding, and the compassion they will need to live unhappiness and fulfillment. In the meantime, we in Washington must make sure that freedom, the other half of education, is still secure when your students graduate. (Applause.) We must make sure that the incentives to use their education are not destroyed by an oppressive taxation. We must be sure that the federal government doesn't soak up the lion's share of our Gross National Product, that regulations don't choke off technology and that interest rates don't ruin the dream of self-employment.

As your boys and girls become adults and they marry, we must have an economy which will permit them to own their own homes. (Applause.) The values of work and family and neighborhood must not become things of the past. A job must be there for every American who wants one, and inflation must be controlled so that wages have real meaning.

After your students have spent their lives turning your theories into reality, earning a living and providing for their families, we must have a society that will reward them with security. In short, we must end the excessive taxes and spending that has wrecked our economy and mocks the ambition of our poor and middle classes. We must open the way for more productivity and more employment. We must generate new jobs and new opportunities for all our citizens. At the same time we must realize that there are some among us who cannot help themselves. Our hungry must be fed, our elderly must be cared for -- (applause) -- and those who are cold must be clothed and given shelter. No one must be left behind in our drive for progress. (Applause.)

Such a commitment from this administration may come as somewhat of a surprise to you. If I didn't know better and believed all the wailing going on in Washington, I'd be as confused as well. But let me set the record straight. Our massive budget cuts have only reduced the size of the increase in federal spending to less than it was the previous year. Or I should say, forgive me, we have never proposed reducing federal spending to less than it was the previous year.

Let me give you a few examples of the level of human services that we've proposed in the 1983 budget. The federal government will subsidize approximately 95 million meals per day, or 14 percent of all the meals served in the United States. About 3.4 million American households will receive subsidized housing assistance at the beginning of 1983. And by the end of 1985 under our proposals, 400,000 more households will be added to the list.

In all, federal programs will provide over \$12 billion to education aid to students. And this amount will provide for seven million grants and loans -- giving assistance to almost half of all the students in the country who will enroll in college during the next school year.

Through Medicaid and Medicare, the federal government will pay for the medical care of 99 percent of those Americans over the age of 65 and a total of 20 percent of our population -- approximately 47 million aged, disabled and needy people.

Twenty-eight percent of all federal spending will go to the elderly -- an average of \$7,850 per senior citizen in payments and services. About \$2.8 billion will be spent on training and employment programs for almost one million low-income people, nearly 90 percent of whom will be below the age of 25 or recipients of Aid to Families with Dependent Children.

Now, these are just some examples of what is in the 1983 budget that some are charging is an inhumane denial of help to America's needy. Perhaps our greatest program for the poor, the needy and those on fixed incomes, however, has not been a subsidy, it has not been more welfare and it didn't arrive in the form of a government check. We have increased the purchasing power of our people.

After an unprecedented two years of back-to-back double-digit inflation, we achieved in the first year of this administration an inflation rate of -- single digit -- 8.9 percent. But during the last six months, inflation has averaged only 4.5 percent. (Applause.)

Now what does that mean in purchasing power? If inflation had kept running at the rate it was before the 1980 election, a family of four on a fixed income of \$15,000 would be \$1,000 poorer in purchasing power than they are today.

Now, I don't think Americans value a handout nearly so much as a hand up. (Applause.) Past policies have locked

millions of our people in place on the bottom rung of our economic ladder.

We must be sure that our government never again stands in between our families and prosperity. We must aid those who need us but we must not hinder those who need only a chance.

Years ago, the Secretary of the Massachusetts Board of Education, Horace Mann, said, "Education, beyond all other devices of human origin is a great equalizer of the conditions of men the balance wheel of the social machinery."

The immigrants who came to Chicago, the poor in our inner cities the middle classes struggling to make ends meet, these Americans still believe the American dream. They still yearn for prosperity and still sacrifice so that their children will enjoy it. They mark progress by the level of education reached by members of their families. Parents who never finished high school send their children to college. Each generation stands upon the shoulders of the one before as our nation and our people reach for the stars.

We must keep those dreams alive. We must provide the learning, shape the understanding and encourage the spirit each generation will need to discover, to create and to improve the lot of man.

But we must also preserve the freedom they will need both to pursue that education and to use it.

Together, with God's help, we must insure that in Abraham Lincoln's words, our children and our children's children to a thousand generations will continue to enjoy the benefits that have been conferred upon us. It is a sacred trust. Thank you. God bless you. (Applause.)

END

11:04 P.M. CST

THE WHITE HOUSE

WASHINGTON

May 12, 1982

MEMORANDUM FOR:
Mr. William Bentley Ball

FROM: Morton C. Blackwell *MB*
SUBJECT: Tuition Tax Credit Language

I really appreciate the close communications which you and your staff have afforded us. We are moving closer toward feasible wording for the tuition tax credit bill.

Enclosed are three items on which I would appreciate your comments. They are:

1. Draft Bill Option A, which Rocky Rees read to you and, I believe, dictated to your office.
2. Option B which was an attempt to retain the wording of the lamented Bob Jones tax exempt status bill but so defining the terms as to properly limit the role of the Internal Revenue Service.
3. Four pages of questions and answers which we believe would apply equally to Option A or Option B.

It is never safe to estimate just when a final decision on language will work itself through the gears, but it may be soon.

Enclosure

May 10, 1982

To: Morton Blackwell

From: Grover Rees

Re: Tuition Tax Credits: Antidiscrimination provision and
Limitations on Examination of schools.

1) I am enclosing two drafts of antidiscrimination language. One draft is similar to the one I sent you earlier except that it is in no way similar to the Bob Jones language, so that nobody could accuse the Administration of "watering down" said language in a different context.

A second version preserves the Bob Jones language intact, except that it then defines that language in a separate section to exclude requirements of racial goals, quotas, etc.

Both versions handle the rhetorical problem of not wanting to be against "affirmative action" by stating that neither a school's use of an affirmative action plan nor its failure to have such a plan will result in the denying of credits under this section. This is more than just a rhetorical problem, since most antidiscrimination language would seem on its face to forbid "reverse" discrimination as well as what I suppose should be called "forward" discrimination.

2) I am also enclosing a draft of language proposed by Bill Ball and Philip Murrin which would make clear what the Secretary can and cannot do in ascertaining whether a school discriminates. This is a separate problem from the problem of what constitutes discrimination.

Religious schools will object to any attempt by the Federal government to participate in the management of their operations, or to inspect their records except in the course of judicial proceedings during which constitutional and other procedural safeguards against "fishing expeditions" may be asserted.

Oddly enough, the Supreme Court would probably agree with the religious schools on this one. In *Lemon v. Kurtzman*, 403 U.S. 602 (1971), the Court struck down state statutes providing for direct aid to private schools for secular educational services on the ground that the program would require continuing state inspection of religious schools' financial and other records, which would be an impermissible "entanglement" of church and state.

The problem is compounded by the dubious constitutionality of laws that actually discriminate between religious and secular institutions. The safest thing to do, therefore, is to provide a procedure that minimizes the possibility of "entanglement," and to apply it across the board to religious as well as secular schools.

The attached language is an attempt to deal with this problem.

THE WHITE HOUSE

WASHINGTON

May 10, 1982

MEMORANDUM FOR ELIZABETH H. DOLE

THRU: DIANA LOZANO

FROM: MORTON C. BLACKWELL 

SUBJECT: Getting Specific on Presidential Initiatives

As we have discussed, the time is at hand to pry wording from the decision-making process on some key Presidential initiatives.

The President's announcement last week of support for a constitutional amendment to allow voluntary school prayer was marred by our failure to announce the specific language of an amendment.

We did hand out a helpful background paper and a well-worded set of questions and answers, but we are losing precious time and credibility by each day of delay.

While we delay issuing specific wording, opponents of the President's proposal know the general outline and are free to attack us. Many major supporters of the President, on the other hand, are hesitating to commit themselves fully to the battle for our voluntary school prayer amendment until they see the exact language. Experience makes them cautious. To them, even nuances of wording may determine how hard or even whether they will fight for our proposal.

The fact that the Attorney General and Mr. Meese had signed off on an amendment last Wednesday afternoon was apparently not sufficient. Later objections by lower Justice Department officials to issuing the approved amendment text caused us to conclude "our act was not together" in time for the Rose Garden announcement. This raises the familiar question of who is in charge here.

I realize that our easy-going, consensus method of decision making has its advantages. It makes us less likely to err in haste. There are times, however, when deadlines must be met, when opportunities can be lost, when our allies need tools to work with, when the President's interests require that we not satisfy every last minute objection raised anywhere in this big, diverse Administration.

The background paper we distributed at the Rose Garden on Thursday specified that the President would issue the text of his proposed amendment by the end of this week. As surely as there are foes of voluntary school prayer employed by this government, they will be working to raise additional objections which would delay issuance of the proposed text beyond our self-imposed Friday deadline.

I urge you to use every means to urge at Senior Staff meetings that we must act as promised on or before Friday. We do not serve the President's interest by denying our allies on this issue the specificity they need to organize support while according our foes time to organize opposition.

Similarly, we are sure to be hampered by delays in reaching agreement on tuition tax credit legislation.

That discussion is not yet ripe. The major alternatives are being hammered out now, and one acceptable to the major supporters of tuition tax credit will in the next few days be ready to submit to Mr. Meese per his request to see all options.

Those in the Treasury Department, for example, who have not yet shown any sensitivity to the President's intentions on this issue, may very well delay the process to the extent of their ability. This could be accomplished either by delay in submitting alternative language or by delay in commenting on language we submit as acceptable to the major supporters of the President on this issue.

Either way, we must be prepared to goad and prod those whose purpose or effect is to delay a decision.

Another analogous case is the Balanced Budget-Tax Limitation Amendment. The President has announced himself in support of such an amendment but has not thrown his weight behind the specific proposal which has generated immense support in and out of the Congress.

Again, we lose most of the benefit of Presidential leadership on the issue. The process of delay on specifics saps the enthusiasm of our supporters for this amendment and it dilutes the effect a serious, anti-inflationary move toward balanced budgets would have on the financial markets. Large, effective groups are poised to act when the President takes the lead.

One reason for these delays may be a lack of appreciation of the good which will come to us as these proposals are advanced in Congress.

Opponents would be smoked out by record votes. Liberal elites which oppose one or more of these proposals would have to face increased unrest from their grassroots members whom all the polls show side with the President on these issues. Far better to fight and lose on these issues than not to fight at all.

If you asked the average Republican challenger to a liberal Democratic incumbent this year about these three matters, our candidate would almost surely say, "Let's force as many record votes as possible, as soon as possible. We need to get my opponent on record early and often."

Time is running out on this Congress. Even with televised Presidential messages urging specific votes in this Congress, the legislative wheels will turn slowly.

If we do not "get our act together" soon on these and other issues, the President will be forced to explain to leaders of his winning coalition why he did not act. These leaders waited patiently through the economic issue battles last year on the promise that the President would provide leadership on social issues this year.

Our supporters are ready for action. Are we? We don't want the President to have to say to these vital supporters, "Gee, fellows, my legal advisors couldn't get their act together on these issues until it was too late to get votes in this Congress."

THE WHITE HOUSE

WASHINGTON

May 10, 1982

MEMORANDUM FOR ELIZABETH H. DOLE

THRU: DIANA LOZANO

FROM: MORTON BLACKWELL 

SUBJECT: Criteria for Proposed Statute for Tuition
Tax Credit

As you know, I am serving on the working group to develop language for this bill. Our first meeting was not productive. Here are my current thoughts.

Rather than start from rival, complete drafts of this bill, I think it might be helpful first to establish clearly in our minds the requirements any such bill must meet. Once we accept the requirements, we can have a clear look at some of the necessary consequences which must then flow.

Here are the requirements I see:

1. Mr. Meese has made clear the Administration's position that schools which use race as a criterion, such as the Bob Jones ban on interracial dating, ought not to receive the benefit of tax exempt status and, derivatively, ought not to benefit from tuition tax credits. Therefore, the President's bill must exclude not only segregated schools but schools with policies like the Bob Jones dating ban.
2. The bill must be acceptable to the major organized supporters of the concept of tuition tax credit. Specifically, both the Roman Catholics and the Protestant activists in the Christian school movement must, in the main, support the bill. To propose a bill strongly opposed by either group would suggest that the President's announcement was a mere public relations ploy and not a serious proposal.
3. The bill must conform to the description of it in the President's enthusiastically received speech to the National Catholic Education Association.

From these basic requirements flow the following specifics:

1. The anti-discrimination ban must not be retroactive. This point has been forcefully made by Catholic education leaders. In years past, parochial and other schools in the South were clearly segregated. Now the same schools, which have strong anti-discrimination policies, should not be penalized for their practices in a past era. Current policies of schools must be the basis for their eligibility.
2. The President's bill must in clear language limit the ability of the Internal Revenue Service to harass religious schools on the pretext of determining their status as eligible institutions. The fundamentalist community is already outraged over what they see as I.R.S. excesses in the area of church tax exempt status. One cause of this concern is a March 22 letter from the North Atlantic I.R.S. Regional Commissioner Charles H. Brennan to the large Bangor Baptist Church in Maine in which, under threat of declaratory judgment against its tax exempt status, the church was ordered to make available "all books, records, papers, or other information including, but not limited to: your books of account, bank records, minutes of your meetings, correspondence files, and names and addresses of substantial contributors."
3. The language of the bill must not open the way for the courts or the I.R.S. to require schools to institute preferential treatment of any students, faculty, directors, etc. based on race as a criterion. Church-related-school leaders will oppose any bill that does not prohibit Federal imposition of racial quotas, goals, timetables, or other devices involving preferential treatment by race which amount to affirmative action.
4. The bill must clearly state that tuition tax credits to parents sending their children to private schools will not thereby classify those schools as federally funded institutions. The Grove City College case is a hot issue in the private education community, and any bill which would place private schools under the pervasive regulations of the Education Department or other Federal agencies will be strongly opposed.

Before adopting any language for the President's bill, there should be full consultation with the supporters of tuition tax credits. This would include the Catholic, Protestant, and secular private schools as well as selected leaders of the conservative, pro-family movement on whom will fall much of the burden of lobbying the Congress in behalf of the President's bill.

As we proceed, however, we should realize that nothing we produce, given the initial requirements, will be supported by everyone.

The professional civil rights activists will oppose any effective tuition tax credit legislation because private education runs contrary to their institutional biases. Second, there is a body of opinion to the effect that religious schools should be totally exempt from anti-discrimination requirements.

To minimize the ardor of objections from these two quarters, our bill must be explicit and effective both as to anti-discrimination and as to limiting the regulatory role of the Federal government.

May 25, 1982

TUITION TAX CREDIT BILLS WITH WIDE SUPPORT

Attached are two additional options on a tuition tax credit bill.

Option C is a letter and draft bill received last week from William Ball.

Option M is a draft bill including a modified version of the "Government Enforcement Option: submitted to Mr. Meese on Friday by OPD.

Both Option C and Option M would have support of the Catholic school community and the majority of the Protestant Christian School Movement, according to the best estimate at the Office of Public Liaison.

A small but militant minority of fundamentalist school leaders will not support any tuition tax credit bill which applies anti-discrimination requirements to private schools. As you can see from Mr. Ball's draft bill (Option C), he and the major segment of the Christian school movement which rely on him are prepared to support effective anti-discrimination provisions, provided the opportunities for I.R.S. abuse are eliminated.

OPTION M

Option M is clearly the best vehicle. It is a version of OPD's "Government Enforcement Option" modified in a few places in response to suggestions by law professor Grover Rees and private school attorney Ball.

Jack Burgess, White House liaison to the Catholic groups, has reviewed Option M with Catholic school leaders, whom he believes will support it.

The changes from the Government Enforcement Option to Option M are these:

1. Deletion of the term "eligible" from linkage with the definition of educational institution. Ball and Rees argue that the term "eligible" provides a hook on which to hang an argument that the aid is to the institution and not to the individuals getting the tax credit.
2. deletion of reference to the Elementary and Secondary Education Act as defining an educational institution

for the purpose of tuition tax credits. There are major battles going on in several states between Christian schools and state credentialing authorities. Application of the above mentioned Act would give states the authority to cut off tuition tax credits to Christian schools of which they disapproved. For that reason, any definition of this sort would cause much of the Christian school community to oppose a tuition tax credit bill.

3. deletion of (B) (i) (c). This is redundant of (B) (i) (b).
4. deletion of (B) (ii) (b). Ball and Rees felt this protection for religious schools was not necessary, given the rest of the text. They believe this explicit exemption would only raise red flags among foes of tuition tax credit.
5. changes in subsection (C) which make more clear the role of the Attorney General in enforcing anti-discrimination under this section. This would prevent the I.R.S. from using its general powers under the act to harass private schools with a view toward finding a plaintiff who might then apply to the Attorney General for relief. In this respect, Option M affords the same protection as Options A, B, and C.

The major Protestant activists in the Christian school movement will vigorously oppose any bill which does not preclude the use of tuition tax credit as a vehicle for harassment by I.R.S. zealots burning with desire to impose affirmative action requirements on private schools.

6. an addition to subsection C to provide that the three years during which parents may not claim tuition tax credits for payments to a discriminating school begin upon judicial determination that a school is racially discriminatory.

OPTION C

This draft bill by Mr. Ball is close to other options under consideration. Its protections against I.R.S. abuse, like those in Options A and B, are more explicit and complex than those in Option M. Most Catholic school leaders, as well as most Protestant school leaders, will support Option C, say Jack Burgess and Morton Blackwell at OPL.

PRIVATE ENFORCEMENT OPTION

Christian school activists prefer the Government Enforcement Option to this option because a Private Enforcement Option would put their schools at the mercy of harassing suits by Legal Services Corporation activists or other advocacy groups hostile to private education. They prefer to have an additional screen, even a screen provided by the Civil Rights Division of the Justice Department.

THE 42 USC 1981 TRIGGER OPTION

While this option has the advantage of simplicity, it would be opposed by most Protestant school activists on the ground that it affords no protections against I.R.S. enforcement of affirmative action requirements against private schools. Moreover, the actual effect of 42 USC 1981 is still too unclear to be relied upon as a trigger by the gun-shy Christian School Movement.

TAX STATUS LINKAGE

It is interesting to note that every option at hand, including Option C which was drafted by Mr. Ball, includes the requirement that schools for payment to which tax credit is claimed must be exempt from taxation under section 501 (a) as organizations described under section 501 (c) (3). Thus if Bob Jones University loses its tax status case in the Federal courts, not only segregated schools but schools with inter-racial dating bans could not qualify as recipients for payments for which tuition tax credit is claimed.

CONCLUSION

We are very close to agreement on a tuition tax credit bill which will be enthusiastically greeted by all supporters of the idea except a small sector which will oppose any anti-discrimination requirement. Option M comes the closest to the simplicity and effectiveness desired by those most interested in anti-discrimination and by those most interested in preventing government harassment of private schools.

One note of caution must be sounded. With so many draft bills and fractions of draft bills on hand, we must be careful not

to presume that the Catholic or the Protestant supporters of tuition tax credit will fight hard for any bill they have not reviewed in its entirety in advance of its submission to the Congress.

We would poorly serve the President if we blindly launched a proposal not knowing exactly how it would be greeted by those to whom the President has promised a tuition tax credit bill.

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A RATIONAL TUITION TAX CREDIT BILL

As we write, major national campaigns for "a tuition tax credit bill" have been initiated by the Reagan Administration, U.S. Catholic Conference, and by other groups. Further, the tuition tax credit concept is under furious attack by a large coalition of religious and educational groups.

What is fascinating, in this whole picture is this fact: "the" tuition tax credit bill does not exist. Several bills have been introduced, and many drafts are floating about. But there is no one measure which is the common subject of the Reagan and U.S. Catholic Conference campaigns, or the common object of attack.

On the side of proponents of tuition tax credit legislation is the following major division:

(a) U.S. Catholic Conference and CAPE apparently fear that, unless IRS is given broad powers under the legislation, the tuition tax credit legislation will end up as a support for segregationist academies.

(b) Those fundamentalist Christian organizations which favor tuition tax credits fear that the legislation may contain IRS, federal or state governmental controls which will far outweigh the benefit of any tax break for parents.

Politically, it is clear that passage of any tuition tax credit bill will be very difficult; secondly, that if fundamentalist Christians oppose a certain bill that bill will not pass. We think that there is no need, however, for conflict among any who support the tuition tax credit concept.

Two sorts of harmful provisions need pointing out: (a) provisions which would, expressly or impliedly, give the state educational bureaucracies any powers over private schools, (b) provisions which would, expressly or impliedly, give IRS powers of surveillance, investigation, or affirmative action impositions with respect to private schools (here, in particular, with respect to religious schools since religious schools are ministries with unique constitutional status). As to the state bureaucracies, this tax measure should in no sense be the occasion for awarding them any powers over private schools. As to IRS, the record of that agency's attempted transgressions against private education under its Proposed Revenue Procedures of 1978 and 1979, stands as a warning for all the future. A tax credit bill must not, and need not, be the occasion for any such powers being awarded to IRS.

The legislation which is needed must be protective of two kinds of civil rights: racial civil rights and religious civil rights. To accomplish these, it must assure that racial havens will not be conduits for tax credits, and that neither IRS or any other federal or state agency will be allowed powers to entangle themselves in the affairs of religious schools.

The enclosed bill fully responds to those concerns:

1. It requires every school (for payment of tuition to which a tax credit is claimed) to file with IRS a sworn statement that it does not discriminate on account of race. Enforcement: the signer is liable in a criminal perjury action for a knowingly false statement. This is not only a completely effective enforcement provision but one which has the needed deterrent effect. It can be expected that few if any school administrators will venture to submit a sworn statement which they know to be false.

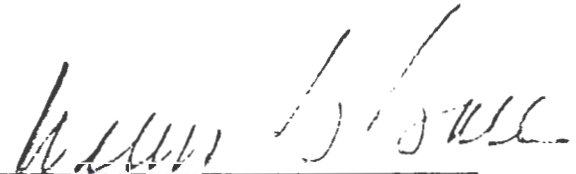
2. It provides administrative simplicity:

- (a) The taxpayer simply claims the tuition credit on his annual tax form (naming the school).
 - (b) If IRS finds that the school is not one which has filed the above sworn

statement, the credit is denied. If some complainant tells IRS that the statement is false, IRS is empowered to bring a declaratory judgment action in federal court against the school. This is infinitely preferable to imposing of the clumsy and complex IRS administrative machinery upon private schools - with interminable proceedings and all manner of surveillance, entanglement and other unconstitutional activity.

3. IRS is denied any power to require affirmative action programs or to conduct investigations of religious schools.

The above three features render the bill completely "safe" from the points of view both of non-racial discrimination and religious liberty. Further, it is easy to administer. And it gives the state public education bureaucracies no powers (as indeed it should not) in reference to this tax matter.



William E. Ball

May 18, 1982

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.

SECTION 1. SHORT TITLE.

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

SECTION 2. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that --

(1) diversity and freedom of choice have been major strengths of the American educational system;

(2) families should not be denied the opportunity to select for their children the formal education which they deem most beneficial to their children and which best reflects the intellectual, moral, and cultural values that they wish to instill in their children;

(3) lower income families are increasingly denied the ability to choose among diverse educational opportunities for their children;

(4) diversity and personal choice in American education can be enhanced through the income tax structure with a minimum of governmental interference in the lives of individuals and in the operation of private educational institutions.

(b) It is therefore declared to be the policy of this Act to enhance equality of educational opportunity for all American families through facilitating the attendance of their children at the elementary and secondary schools of their choice.

SECTION 3. CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL. 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. 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 him 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 yet attained the age of 20 at the close of the taxable year in which the tuition expenses are paid.

"(b) LIMITATIONS.

(1) MAXIMUM DOLLAR AMOUNT PER INDIVIDUAL. The amount of the credit allowable to a taxpayer under subsection (a) with respect to amounts paid on behalf of each dependent on whose behalf a credit claimed 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 or after January 1, 1985.

(2) MARRIED INDIVIDUALS. In the case of a husband and wife who file a joint return under Section 6013, the maximum dollar amounts specified under this subsection (b) shall apply to the joint return. In the case of a married individual filing a separate return, subsection (b) shall be applied by reducing the maximum dollar amount for each taxable year by 50 percent.

(3) PHASE-OUT OF CREDIT ABOVE CERTAIN ADJUSTED GROSS INCOME AMOUNTS. Notwithstanding any other provisions of this section, the credit allowable under this subsection (b) 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 the first taxable year of the taxpayer ending on or after December 31, 1985.

(4) PART-TIME STUDENTS. Tuition expenses paid with respect to any individual who is not a full-time student at an eligible educational institution shall not be taken into account under subsection (a).

"(c) SPECIAL RULES.

(1) ADJUSTMENT FOR SCHOLARSHIPS AND FINANCIAL ASSISTANCE. The amounts deemed paid by the taxpayer under subsection (a) as tuition expenses shall not include any amounts which were received by the taxpayer or his dependent as

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

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

(iii) 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 DEPRECIATION. 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.

(3) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER. No credit shall be allowed to a taxpayer under subsection (a) for amounts paid during the taxable year for tuition expenses of the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning with or within the taxable year of the taxpayer.

(4) TAX CREDIT NOT ALLOWED FOR AMOUNTS PAID TO RACIALLY DISCRIMINATORY EDUCATIONAL INSTITUTIONS. No credit shall be allowed under this section for amounts paid to any educational institution which fails to file the annual statement referred to in subsection (f) of this section or which has been determined, in accordance

with the procedures prescribed in subsection (f) of this section, to have a racially discriminatory policy as to students.

"(d) DEFINITIONS. For purposes of this section --

(1) EDUCATIONAL INSTITUTION. The term 'educational institution' means an elementary or secondary school which is a privately operated, not-for-profit, day or residential school which is exempt from taxation under section 501(a) as an organization described in section 501(c)(3).

(2) RACIALLY DISCRIMINATORY POLICY AS TO STUDENTS. An educational institution has a "racially discriminatory policy as to students" if it maintains a policy (whether written or as evidenced by a pattern of conduct) the purpose of which is to exclude persons from admission as students, or from participation in school programs, benefits or activities, on the basis of their race, color, or national or ethnic origin. Such term shall not be construed to require any educational organization to recruit or grant preferences to students on the basis of race, color, or national or ethnic origin, or to meet any quotas as to students.

(3) TUITION EXPENSES. The term 'tuition expenses' means tuition and fees required for the 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; or

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

"(e) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL FINANCIAL ASSISTANCE TO INSTITUTION. No educational institution which enrolls a student for whom a tax credit is claimed under the amendments made by this Act shall be considered to be a recipient of Federal financial assistance solely because a tax credit is claimed for such student under this Act.

"(f) LIMITATION ON EXAMINATION OF SCHOOLS. Any other provision of this Act notwithstanding, in determining whether a particular elementary or secondary school is an educational institution, or maintains a racially discriminatory policy as to students, the Secretary shall have authority solely:

(1) to ascertain whether the school is operated or controlled by a church, or by a convention or association of churches, and, if not, to ascertain whether the school has applied for and been accorded recognition of exemption under section 501(a) as an

organization described in section 501(c)(3);

(2) to require that the school annually submit a statement, under oath or affirmation, and subject to penalties for perjury, that the school does not exclude persons from admission as students or from participation in any school program, benefit, or activity on the basis of race, color, or national or ethnic origin, and does not have any written policy providing for such exclusion; and

(3) where there is probable cause therefor, to institute an action for declaratory judgment in the federal district court for the district in which the school is located in order to establish that the school maintains a racially discriminatory policy as to students. Where it is finally determined that a school maintains a racially discriminatory policy as to students, no credit shall be allowed under this section for amounts paid to such school for three years thereafter, and until the school demonstrates to the same court that it no longer maintains a racially discriminatory policy as to students.

No credit claimed by any taxpayer under this section shall be disallowed unless, prior to the beginning of the taxable year for which a credit is claimed, the school for payment to which the credit is claimed has either (a) failed

to file a statement in accordance with paragraph (2) of this subsection, or (b) been finally determined, in accordance with section (3) of this subsection, to maintain a racially discriminatory policy as to students."

SECTION 4. CONFORMING AMENDMENT.

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."

SECTION 5. EFFECTIVE DATE.

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

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.

SECTION 1. SHORT TITLE.

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

SECTION 2. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that --

(1) diversity and freedom of choice have been major strengths of the American educational system;

(2) families should not be denied the opportunity to select for their children the formal education which they deem most beneficial to their children and which best reflects the intellectual, moral, and cultural values that they wish to instill in their children;

(3) lower income families are increasingly denied the ability to choose among diverse educational opportunities for their children;

(4) diversity and personal choice in American education can be enhanced through the income tax structure with a minimum of governmental interference in the lives of individuals and in the operation of private educational institutions.

(b) It is therefore declared to be the policy of this Act to enhance equality of educational opportunity for all American families through facilitating the attendance of their children at the elementary and secondary schools of their choice.

SECTION 3. CREDIT FOR TUITION EXPENSES.

(a) IN GENERAL. 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. 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 him 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 yet attained the age of 20 at the close of the taxable year in which the tuition expenses are paid.

"(b) LIMITATIONS.

(1) MAXIMUM DOLLAR AMOUNT PER INDIVIDUAL. The amount of the credit allowable to a taxpayer under subsection (a) with respect to amounts paid on behalf of each dependent on whose behalf a credit claimed 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 or after January 1, 1985.

(2) MARRIED INDIVIDUALS. In the case of a husband and wife who file a joint return under Section 6013, the maximum dollar amounts specified under this subsection (b) shall apply to the joint return. In the case of a married individual filing a separate return, subsection (b) shall be applied by reducing the maximum dollar amount for each taxable year by 50 percent.

(3) PHASE-OUT OF CREDIT ABOVE CERTAIN ADJUSTED GROSS INCOME AMOUNTS. Notwithstanding any other provisions of this section, the credit allowable under this subsection (b) 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 the first taxable year of the taxpayer ending on or after December 31, 1985.

(4) PART-TIME STUDENTS. Tuition expenses paid with respect to any individual who is not a full-time student at an eligible educational institution shall not be taken into account under subsection (a).

"(c) SPECIAL RULES.

(1) ADJUSTMENT FOR SCHOLARSHIPS AND FINANCIAL ASSISTANCE. The amounts deemed paid by the taxpayer under subsection (a) as tuition expenses shall not include any amounts which were received by the taxpayer or his dependent as

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

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

(iii) 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 DEPRECIATION. 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.

(3) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER. No credit shall be allowed to a taxpayer under subsection (a) for amounts paid during the taxable year for tuition expenses of the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning with or within the taxable year of the taxpayer.

"(d) DEFINITIONS

(1) EDUCATIONAL INSTITUTION.

(A) The term 'educational institution' means an elementary or secondary school which is a privately operated, not-for-profit, day or residential school which

(i) is exempt from taxation under 501(a) as an organization described in section 501(c)(3), and

(ii) has not during the calendar year for which a tax credit is claimed or the two immediately

preceding calendar years been declared in an action brought by the United States pursuant to this section, to follow a 'racially discriminatory policy'.

(B) (i) For purposes of this Act, an institution follows a 'racially discriminatory policy' if: (a) it refuses to admit applicants as students on account of race; or (b) it excludes students, on account of race, from the rights, privileges, programs, and activities generally made available to students by that institution.

(ii) A 'racially discriminatory policy' does not include: (a) using a bona fide plan to increase enrollment of a disadvantaged minority group, provided that no institution shall be required to use such a plan as a prerequisite or condition for payments for which deductions will be allowed under this section; or (b) failing to pursue or achieve any racial quota, proportion or representation in the student body. The proportionate racial composition of a student body shall not constitute a basis for presumption that a school pursues a 'racially discriminatory policy'.

(iii) The term 'race' shall include color or national origin.

(C) (i) Notwithstanding any other provisions of this Act, this section shall be enforced only by the Attorney General, who shall, upon petition by a person who has been discriminated against under a policy as described in paragraph (B) (i) of this subsection, and

upon finding good cause, bring an action against an institution in the federal district court in the district in which such institution is located, seeking a declaratory judgment that the institution (a) is following a 'racially discriminatory policy' and (b) has discriminated against the person filing the petition under such policy.

(ii) The petition must be filed with the Attorney General within one year of the act of racial discrimination alleged to have been committed against the person filing the petition. Upon receipt of the petition, the Attorney General shall promptly notify the affected institution 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. An action may be filed by the Attorney General no later than two years after receiving the petition.

(iii) A judicial judgment that an institution follows a 'racially discriminatory policy' as described in paragraph (B) (i) of this subsection shall not become final until all parties to the action have exhausted all appellate review.

(iv) Notwithstanding anything in this section or in any other provision of law, no agency of the United States is authorized to conduct any audit or investigation of school policies or programs in order to determine whether the school has engaged in any acts which would disqualify any person from claiming the credit allowed by this section.

(vi) No credit claimed by any taxpayer under this section shall be disallowed unless, prior to the beginning of the taxable year for which a credit is claimed, the school for payment to which the credit is claimed has been finally determined, in accordance with subsection (C) (i) of this section, to maintain a 'racially discriminatory policy' as to students.

(2) TUITION EXPENSES. The term 'tuition expenses' means tuition and fees required for the 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; or

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

"(e) TAX CREDIT NOT TO BE CONSIDERED AS FEDERAL FINANCIAL ASSISTANCE TO INSTITUTION. No educational institution which enrolls a student for whom a tax credit is claimed under the amendments made by this Act shall be considered to be a recipient of Federal financial assistance solely because a tax credit is claimed for such student under this Act. "

SECTION 4. CONFORMING AMENDMENT.

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."

SECTION 5. EFFECTIVE DATE.

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