Document No. 175108CS

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/14/83 **ACTION/CONCURRENCE/COMMENT DUE BY:** 10:00 a.m. MONDAY

SUBJECT: TUITION TAX CREDITS --DRAFT LETTER TO SENATOR DOLE AND DRAFT PRESIDENTIAL MEMO ATTACHED

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	HERRINGTON	☐	☐
MEESE	☐	☑	HICKEY	☐	☐
BAKER	☐	☑	JENKINS	☐	☐
DEAVER	☐	☑	McMANUS	☐	☐
STOCKMAN	☑	☐	MURPHY	☐	☐
CLARK	☐	☐	ROGERS	☐	☐
DARMAN	☐P	☑SS	ROLLINS	☐	☐
DUBERSTEIN	☑	☐	SPEAKES	☐	☐
FELDSTEIN	☑	☐	SVAHN	☐	☑
FIELDING	☑	☐	VERSTANDIG	☑	☐
FULLER	☐	☐	WHITTLESEY	☑	☐
GERGEN	☑	☐	______	☐	☐

REMARKS:

The attached drafts were prepared by the Office of Policy Development. May we have your comments/clearance by 10:00 a.m. Monday, October 17. Thank you.

RESPONSE:

Richard G. Darman
Assistant to the President
Ext. 2702

DRAFT

October 11, 1983

The Honorable Robert Dole
United States Senate
Washington, D.C. 20510

Dear Bob:

Since receiving your memorandum of September 22 concerning the tuition tax credit legislation, we have been soliciting the views of the leaders of the tuition tax credits coalition, on what form of legislation they desire.

After what I take to be intensive discussions among the coalition leaders, we received a letter from Virgil Dechant, reporting that the Committee for Private Education -- which comprises the Catholic leaders of the coalition -- are united behind S.528 in the form you reported out of Finance Committee in May. Mr. Dechant noted that he has received assurances that the United States Catholic Conference will work wholeheartedly toward passage of S.528 in its present form.

As you know, the leaders of the Christian school movement have been behind S.528 all along, and I am convinced we now have our forces sufficiently marshalled to proceed with the legislative battle.

I understand that this week the Knights of Columbus are sending out packets to 9,000 Catholic elementary and secondary schools, encouraging students and their parents and friends to make their views known to their Senators on this issue. The coalition is clearly ready do its part, and I believe it is time for a vote.

The only remaining question, as you have discussed with the President, is the proper vehicle for that vote. I hope you will feel free to discuss any problematic considerations with me concerning the identification of that vehicle. In any case, I think we need to settle on an answer within the first days after Congress returns from recess.

I can assure you the President deeply appreciates your fine and effective leadership on this issue. At a time when we are doing so much to encourage improvements in public education, it is fitting for the Congress to recognize the contributions of our nonpublic schools as well.

Sincerely,

Edwin Meese III

DRAFT

Dear Catholic School Administrator:

I am writing to share with you the progress we are making in enacting a tuition tax credit bill. As you know, tuition tax credit legislation is one of the foremost priorities of my Administration, and we have been working to arrange a winning vote in the Senate.

On September 16, I met with representatives from the National Catholic Education Association, the U.S. Catholic Conference, and the Knights of Columbus, among others. At that meeting, I informed them that I had requested -- and Senators Dole and Baker had agreed -- that the Administration's bill, S. 528, be brought to a vote in the Senate this Fall.

I know that you and the parents who patronize your school are most interested in this proposed legislation. We agree that the primary authority over a child's education rests with his or her family. Parents have the right and duty to have their children educated in accordance with their own values. A tuition tax credit will greatly assist parents to exercise this right by giving more equitable federal treatment to private as well as to public schools.

As the leader of your school, you may wish to share this progress report with your students and their parents. You deserve great credit for your longstanding efforts to complement our public school system, and your expressed concern for equitable tax treatment for private schooling has already played a crucial role in getting a tuition tax credit bill to the point where we can have a congressional vote.

You have my best wishes for a most successful school year. God bless you.

Sincerely,

Ronald Reagan

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, D.C. 20510

September 22, 1983

M E M O R A N D U M

TO: EDWIN MEESE, COUNSELOR TO THE PRESIDENT

FROM: SENATOR BOB DOLE

SUBJECT: UPDATE ON TUITION TAX CREDITS

A broad spectrum of groups supporting tuition tax credits has endorsed a proposal to expand tax credits to public school tuition and expenses. The groups include the U.S. Catholic Conference and the Council for American Private Education (CAPE), an umbrella group representing most of the secular private schools, mainstream church related and Jewish schools, and military schools. The conservative Christian schools have not as yet endorsed such a proposal.

Spokesmen for these organizations concede that a public-private bill would be too expensive to pass, unless the credit were limited to less than $50 per student, instead of the $300 authorized by the President's bill. They would support such a limited tax credit for public and private school expenses.

At $50 per student, the bill would cost around $2 billion per year. At $25 per student, the loss could be limited to $1 billion per year, slightly more than the $800 million loss estimated for the President's bill.

The Catholic Conference and CAPE advise us that Senators Durenberger, Packwood, Moynihan, and Bradley will support their proposal.

A $25 or $50 tax credit for public and private school expenses would clearly be of value only as a precedent for funding public and private education by a "voucher system" operated through the Federal tax system. As such, it may be perceived as having broader appeal than a private-only tuition tax bill.

On the other hand, such a precedent could be perceived as a more serious threat to the public schools than a private-only

Attachment A

tuition tax bill. It could lead to a total restructuring of the existing system of public school financing, which many would view as an improvement, but which also might have unforeseen consequences. In addition, civil rights groups like the NAACP oppose allowing a tax credit for public school expenses, because it could operate to permit individuals to "buy" their way out of an integrated school system.

DS:c

Knights of Columbus
NEW HAVEN, CONN. 06507

October 4, 1983

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D. C. 20500

Dear President Reagan:

On Wednesday afternoon, September 28, the Committee for Private Education met at the NCEA offices in Washington, D. C.

Mr. Steven Galebach from the White House Office of Policy Development was present with us on that occasion and he shared valuable information on the current status of the bill which will be beneficial to our Committee in pushing for it's swift passage.

Please be assured that our Committee is united in its effort to collaborate with you and your Administration in securing the passage of the Educational Opportunity and Equity Act of 1983 in its present form. I have been informed that the United States Catholic Conference will work with us wholeheartedly toward this objective.

With best wishes and regards, I am,

Sincerely and respectfully,

Virgil C. Dechant

Virgil C. Dechant
Supreme Knight

VCD/pb

cc: Rev. Msgr. Daniel F. Hoye
Members of the Committee for Private Education

Attachment B

THE WHITE HOUSE

WASHINGTON

June 16, 1982

TO CICCONI 6/18 MDT

MEMORANDUM FOR RICHARD DARMAN

FROM: ELIZABETH H. DOLE

SUBJECT: Tax Tuition Credit -- Staffing Memorandum

The language in the circulated draft is excellent and consistent with that developed by the Working Group. The Working Group did and outstanding job (see attached).

I cannot stress strongly enough the potential for grassroots political problems if we forward the Tuition Tax Credit legislation to the Hill on Friday with no visible involvement by the President. The President is already under fire from social conservatives for what they perceive as an indifference to real progress on the key social issues. They think we are backsliding, and to push this "out the back door" on Friday would only confirm this feeling.

On the liberal side, Catholics feel we are being disingenuous -- saying we support their key issue while going nowhere. The liberal hierarchy of the Catholic community has made "hay" on this point and will use non-involvement by the President as a key instrument to argue this is not an administrative priority. This would be particularly painful on Friday since all U.S. Catholic Bishops, including our strongest supporters, are in a closed-door conference through Wednesday.

To launch this without benefit of our key supporters present to show our side to the media will give an undue edge to opposition from the civil rights groups. While we cannot exactly guage the intensity, we do know there is concern over the discrimination aspect.

Big or small, we need an event covered by the media to show the President as involved and committed and to give the President's supporters on this issue a chance to tell the national media their side of the story.

If we must go on Friday, I suggest the President surround himself with representatives of the key supporting organizations (14) that worked to craft the bill. He could thank the group for their effort and support and offer brief remarks from the

Cabinet Room table in front of press coverage. On his departure, the supporters could meet the press for interviews. While we would not have Catholic Bishops in attendance, we could have the other elements of Catholic community leadership on hand, i.e., Catholic educators, Black Catholic clergy, Catholic lay leaders, etc. This same scenario could be followed anytime the following week, or a larger event (like the School Prayer event) could be done in the Rose Garden.

I understand the Working Group is in unanimous agreement that we not go forward without visible Presidential involvement.

cc: Ed Meese
[redacted]
Michael Deaver
David Gergen

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

I am herewith transmitting to the House of Representatives 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,

The Honorable Thomas P. O'Neill, Jr.
Speaker of the
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

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,

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

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.

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.

THE WHITE HOUSE

WASHINGTON

June 9, 1982

MEMORANDUM FOR JIM CICCONI

FROM: THELMA DUGGIN td

SUBJECT: Tuition Tax Credit Meeting, OEOB Room 194
June 9, 1982, 3 p.m.

Approximately 240,000 Black children are enrolled in Catholic schools. Although only 1.5% of all Catholics are Black, almost 8% of all children in Catholic schools are Black. There is much interest in the Black Catholic Community on the issue of Tuition Tax Credit; however, there is no overall stated position. While many Black Catholics support the concept, they have raised the following concerns:

-- Will there by safeguards against those private schools that discriminate?

-- Since many Blacks who attend Catholic schools in the inner city are from low income families who have no tax debts, will there be any provisions to help them?

-- Will these tax credits redirect the Catholic schools from the traditional clients toward the children of the more affluent Catholic population?

-- Would such a shift initiate the closing of inner city schools which serve the low income minorities.

-- What will be the overall educational impact on Blacks?

Even though there have been some outspoken Black Catholics, such as Bishop Likes who are supporting this issue, the Black Catholic organizations have been very quiet.

<u>PARTICIPANTS</u>

Father Frederick Hinton, St. Joseph Seminary

Mr. Robert Robertson, Coordinator, National Black Lay Catholic Caucus

Mr. James Hnederson, Executive Director, National Office of Black Cahtolics

Ms. Jackie Wilson, Executive Secretariat for Black Catholics

Father Bruce Greening, St. Benedict the Moore Church

Dr. Catherine Cole (tentative), Superintendent Catholic Schools, Washington, D.C.

Dr. Sympram Rowe, Executive Director, National Black Catholic Clergy Caucus