[COMPARATIVE COMMITTEE PRINT]

CONFERENCE COMPARISON

ON

H.R. 12050

TUITION TAX CREDIT

Prepared for the Use of the House and Senate Conferees
By the Staff of the
Joint Committee on Taxation

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COMPARISON OF HOUSE AND SENATE TUITION TAX CREDIT PROVISIONS (H.R. 12050)

A. TAX PROVISIONS

Item	Present Law	House Bill	Senate Bill	Conference Action
1. Credit for educational expenses (sec. 2(a) of House bill and sec. 102 (a) of Senate bill)				
a. General	No tax credit provision for personal educational expenses.	A non-refundable tax credit is provided for certain educational expenses paid by an individual for: (1) himself; (2) his sponse; or (3) his dependents.	Same as House bill.	
b. Rate of credit		25 percent.	50 percent.	
c. Eligible educational institutions		(1) Institutions of higher education (except graduate schools); (2) postsecondary vocational schools; (3) secondary schools; (4) elementary schools; and (5) schools offering education for physically or mentally handicapped individuals as a substitute for public elementary or secondary education. (Floor amendment by Mr. Vanik, adopted by a vote of 209 to 194 extended the credit to private elementary and secondary school tuition.)	(1) Institutions of higher education (except graduate schools); and (2) postsecondary vocational schools. (Floor amendment by Senator Hollings, adopted by a vote of 56 to 41, eliminated the Committee provision for a credit for private elementary and secondary school tuition.)	
d. Requirements for elementary and secondary schools		Elementary and secondary schools must be: (1) privately operated; (2) accredited or approved under State law (or meet requirements of State law relating to compulsory school attendance); and (3) exempt from taxation under Code sec. 501(a) as an organization described in Code sec. 501 (c)(3).	Not applicable.	

Item	Present Law	House Bill	Senate Bill	Conference Action
2. Maximum amount of credit (sec. 2 (a) of House bill and sec. 102(a)of Senate bill)				
a. Institutions of higher education and postsecondary vocational schools		\$100 for calendar year 1978. \$150 for calendar year 1979. \$250 for calendar year 1980.	\$250 with respect to expenses allocable to education furnished before October 1, 1980. \$500 with respect to expenses allocable to education furnished after September 30, 1980. \$500 with respect to expenses allocable both to education furnished before October 1, 1980, and after September 30, 1980, but only \$500 of the amount paid for education furnished before October 1, 1980, may be taken into account.	
		Expenses paid 1 month before or after a calendar year may be treated as paid in that calendar year.	No provision.	
b. Elementary and secondary schools		\$50 for calendar year 1978. \$100 for calendar years 1979 and 1980.	Not applicable.	
3. Educational expenses (sec. 2(a) of House bill and sec. 102(a) of Senate bill)				
a. Eligible expenses		Tuition and fees required for the enrollment or attendance of a full-time or half-time student at an eligible educational institution, including required fees for courses.	Same as House bill, except for half-time students, only expenses paid or incurred after September 30, 1980, may be taken into account.	
b. Half-time students		To be eligible, half-time students must be enrolled for 8 calendar months of a calendar year.	To be eligible, half-time students must be enrolled for 4 calendar months of a calendar year.	
c. Ineligible expenses		Amounts paid directly or indirectly for books, supplies, and equipment for courses of instruction, or for meals, lodging, transportation, or similar personal, living, or family expenses. Athletic fees, newspaper fees, and student association fees.	Same as House bill.	

Item	Present Law	House Bill	Senate Bill	Conference Action
4. Offsets (sec. 2(a) of House bill and sec. 102(a) of Senate bill)	Under present law, individuals generally may exclude from income amounts received as scholarships and fellowships (Code sec. 117).			
a. Reduction of eligible expenses		The expenses against which the credit applies must be reduced by: (1) all scholarships, fellowship grants, or similar awards, excludible from gross income; and (2) any educational assistance received pursuant to chapter 32, 34, or 35 of title 38 of the U.S. Code (relating to Veterans' benefits).	Same as House bill except certain Federal grants are offset directly against credit.	
b. Reduction of credit amount		No provision.	The credit must be reduced by any amounts received under the Basic Educational Opportunity Grant program (BEOG) or the Supplemental Educational Opportunity Grant program (SEOG).	
c. Allocation rules		Eligible expenses are reduced only by tax-free amounts which are allocable to tuition. The amount allocable to tuition is determined by allocating the tax-free award between tuition and all other expenses for which the award can be spent on a pro rata basis.	Any allocation of tax-free amounts between tuition and other expenses is to be disregarded.	

Item	Present Law	House Bill	Senate Bill	Conference Action
5. Disallowance of expenses as deduction or credit (sec. 2(a) of House bill and sec. 102(a) of Senate bill)	Certain "job-related" educational expenses are deductible (Code sec. 162).	No deduction or credit is allowed under any other section of the Code for any educational expenses to the extent that such expenses are taken into account in determining the amount of tuition tax credit allowed. However, a taxpayer may elect not to claim a tuition tax credit and may claim any other deduction or credit to which he or she is entitled for educational expenses.	Same as House bill.	
6. Taxpayer who is a dependent of another taxpayer (sec. 2(a) of House bill and sec. 102(a) of Senate bill)	A taxpayer is entitled to a $750 personal exemption deduction for each dependent who has less than $750 gross income for the taxable year. This gross income limitation however does not apply if the dependent is the taxpayer's child and is under 19 or is a student (Code sec. 151).	An individual may not claim a credit for his tuition if the individual himself is a dependent of another taxpayer.	Same as House bill.	
7. Relationship of credit to other educational assistance (secs. 2(c) and 2(e) of House bill and sec. 102(d) of Senate bill)				
a. Federal assistance to educational institutions		The tuition tax credit is not to be considered as Federal assistance to an educational institution.	No provision.	
b. Effect of reduction in tax liability		A reduction in an individual's tax liability due to the credit is not to be taken into account in determining the individual's eligibility (or any other individual's eligibility) for benefits or assistance under any Federal educational assistance program or under any State or local educational assistance program financed in whole or in part with Federal funds.	Same as House bill.	

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8. Examination of books and records (sec. 2(b) of House bill and sec. 102 (b) of Senate bill)	An examination of the religious activities of an organization may be made only to the extent necessary to determine whether such organization is a chuch or a convention or association of churches (Code sec. 7605(c)).	The books and records of a school operated in conjunction with a church may be examined by the Internal Revenue Service only to the extent necessary to determine whether the school is an eligible educational institution.	Same as House bill.	
9. Judicial review (sec. 2(d) of House bill and sec. 102(c) of Senate bill)				
a. Certification of questions of constitutionality		In any action brought in a U.S. district court concerning the constitutionality of the tuition tax credit, the district court must certify immediately all constitutional questions to the U.S. Court of Appeals for the circuit involved, which shall hear the matter en banc.	Same as House bill.	
b. Appeal to Supreme Court		An appellate court decision is reviewable by appeal directly to the Supreme Court within 20 days after the decision of the appellate court.	Same as House bill.	
c. Expedited Court consideration		The appellate courts and Supreme Court are charged with the duty of advancing on the docket and expediting to the greatest extent possible the resolution of constitutional issues.	Same as House bill.	
d. Separability	If any provision of the Code or the application of any of its provisions to any person or circumstances is held invalid, the remainder of the Code and the application of such provision to other persons or circumstances is not affected. (Code sec. 7852(a).)	No provision.	A judicial decision holding any provision of the tuition tax credit to be invalid will not affect the remainder of the credit provisions.	

Item	Present Law	House Bill	Senate Bill	Conference Action
10. Statement of policy (sec. 101(b) of Senate bill)		No provision.	The bill provides that it is to be the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. The Congress finds that the constitutionality of tuition tax credits for students attending nonpublic schools can only be determined by the enactment of a law providing such credits, which in turn will provide the Supreme Court with an opportunity to rule in a decisive and determinative manner. (Floor amendment by Senator Packwood, adopted by a vote of 56 to 42.)	
11. Report to the Congress (sec. 103 of Senate bill)		No provision.	The Attorney General and the Secretaries of the Departments of the Treasury, and of Health, Education, and Welfare, are required to report jointly to the Congress on the effectiveness of the Internal Revenue Service's enforcement of policies against racial and other discrimination in private education. The first report must be submitted by June 1, 1980, and an additional report must be filed by June 1, 1982.	
12. Withholding exemption (sec. 102 (e) of Senate bill)	A taxpayer with unusually large itemized deductions, an alimony deduction, or credits for child and dependent care expenses, earned income, or the credit for the elderly, may claim additional withholding allowances (Code sec. 3402).	No provision.	No amount may be taken into account for purposes of determining withholding exemptions before October 1, 1980, if such amount is allowable as a tuition tax credit on or after that date.	

Item	Present Law	House Bill	Senate Bill	Conference Action
13. Effective date (sec. 3 of House bill and sec. 104 of Senate bill)		The bill applies to taxable years ending on or after August 1, 1978, with respect to amounts paid on or after such date for education furnished on or after such date.	Same as House bill.	
14. Termination date (sec. 2(a) of House bill and sec. 106 of Senate bill)		No credit will be allowed for any taxable year beginning after December 31, 1980.	No credit will be allowed for any taxable year beginning after December 31, 1983. (Floor amendment by Senator Glenn, adopted by voice vote.)	
15. Revenue estimate		It is estimated that the House bill will result in revenue reductions of: (Millions of dollars) Fiscal: 1979 ---------- $660 1980 ---------- 1,134 1981 ---------- 1,206 Total ---------- $3,000	It is estimated that the Senate will result in revenue reductions of: (Millions of dollars) Fiscal: 1979 ---------- $603 1980 ---------- 947 1981 ---------- 1,446 1982 ---------- 1,950 1983 ---------- 1,988 1984 ---------- 1,711 Total ---------- $8,645	

B. NONTAX PROVISION

Item	Present Law	House Bill	Senate Bill	Conference Action
Participation of private school children in Elementary and Secondary Education Act (ESEA) programs (Title II of Senate bill)	Title I of ESEA requires that local public schools which receive title I funds extend the services provided from those funds to children in non-public schools who live within the attendance area served by the public school. When a public school system fails to include such children as the law requires, or is prohibited from doing so by State law, then the U.S. Commissioner of Education must by-pass the public agency and arrange for appropriate services to the nonpublic school children. Title IV of ESEA provides funds to state and local education agencies for such purposes as acquisition of instructional materials and library resources; improvement of educational practices; guidance, counseling, and testing; and special programs for gifted and talented children.	No provision.	The bill increases the participation of private school students in programs under titles I and IV of ESEA; expands the by-pass mechanism; and directs the Comptroller General to conduct a study of the impact of current Federal assistance on private schools, and an analysis of the potential impact on public schools of a tuition tax credit for private elementary and secondary school students. (Floor amendment by Senator Domenici, adopted by a vote of 85 to 10.)	

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