



CASE STUDY

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Giving Arizona Children Better Opportunities in Education: A Case Study of the Nation's Oldest Tax Credit Scholarship Program

By Jonathan Butcher

INTRODUCTION

Gabe Alba-Rivera used pieces of brick that fell from the ceiling of his school in León, Guanajuato, Mexico, and drew squares to play hopscotch at recess.¹ At the time, he did not think it was unusual to play with broken bricks, and he did not find it unusual that he had to carry a bucket of water as his bathroom pass. The water was to flush the toilet.

After Gabe and his mom moved to Phoenix, Ariz., he realized that U.S. schools had running water unlike his school in Mexico. In his senior speech last spring at Brophy College Preparatory, an all-boys Catholic school, Gabe said, "I still get 'pinch

me' moments when the toilets at Brophy just 'know' when to flush."

Gabe attended Brophy using a scholarship from the Brophy Community Foundation, one of Arizona's 57 school tuition organizations (STOs).² Individuals and corporations receive a dollar-for-dollar credit on their taxes for donations to STOs. The STOs use the donations to award scholarships for K-12 students. Since 1998, Arizona STOs have awarded more than \$500 million in scholarships.³

For 16 years, the awards have given thousands of Arizona students more choices. This case study will highlight research demonstrating that the scholarships give families

ADVANCING LIBERTY WITH RESPONSIBILITY
BY PROMOTING MARKET SOLUTIONS
FOR MISSOURI PUBLIC POLICY

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across the state, including low-income families, access to private schools.

This study will outline Arizona's three tax credit scholarship laws, one of which contains provisions for the nation's oldest such program:

- All children in the state are eligible for scholarships funded through contributions from individuals and married couples;
- Students from low-income families and active-duty military families are eligible for scholarships that donations from businesses and corporations fund;
- And special needs children are eligible for scholarships that businesses fund.

Next, this paper will provide descriptive data on contributions to STOs and the number of scholarships awarded. This paper will summarize research on the cost-savings that the scholarships provide to taxpayers. The cost-savings estimates vary, but if all scholarship students left private schools to attend public schools, taxpayers would have to pay approximately \$226 million more per year in taxes to pay for these students.⁴ By comparison, Arizona's tax credits resulted in \$71 million in foregone revenue to the state in fiscal year 2012.⁵ Thus, a reasonable estimate of the annual cost-savings to state taxpayers is \$155 million.

However, as explained later, this estimate is based on certain assumptions due to incomplete data that STOs provide to the Arizona Department of Revenue. Because STOs do not report how many students they award scholarships to each year, lawmakers and taxpayers cannot calculate a precise figure for the savings.

Empirical research on student achievement is also absent. This paper will explain the longstanding disagreements

among legislators and advocacy organizations on academic transparency that have prevented lawmakers from adding testing requirements to state law.

This study will also summarize the lawsuits that the Arizona teachers' union and other interest groups have filed, one against scholarships that individual contributions fund and the other against scholarships that corporate donations fund. Courts settled both suits in favor of the scholarships.

Lawmakers have revised Arizona's scholarship law over time to meet public and legislative demands for more financial transparency. As a result, the law contains several provisions that serve as a model for other states to follow and provide valuable lessons for lawmakers around the country.

Tax credit scholarships, along with education savings accounts, charter schools, and school vouchers, are changing the way parents think about their children's future. School assignment is being replaced by flexibility, innovation, and multiple options. Arizona's tax credit scholarships are a model for other states as lawmakers look for ways to give all children the chance at a great education.

The purpose of this case study is to help parents and lawmakers understand how Arizona's tax credit scholarships work and how children and families benefit from the educational choices the scholarships offer.

ARIZONA'S TAX CREDIT SCHOLARSHIP LAWS

Individual Donations

In 1997, Arizona Gov. Fife Symington III signed legislation enacting the nation's first K-12 private school scholarships funded through

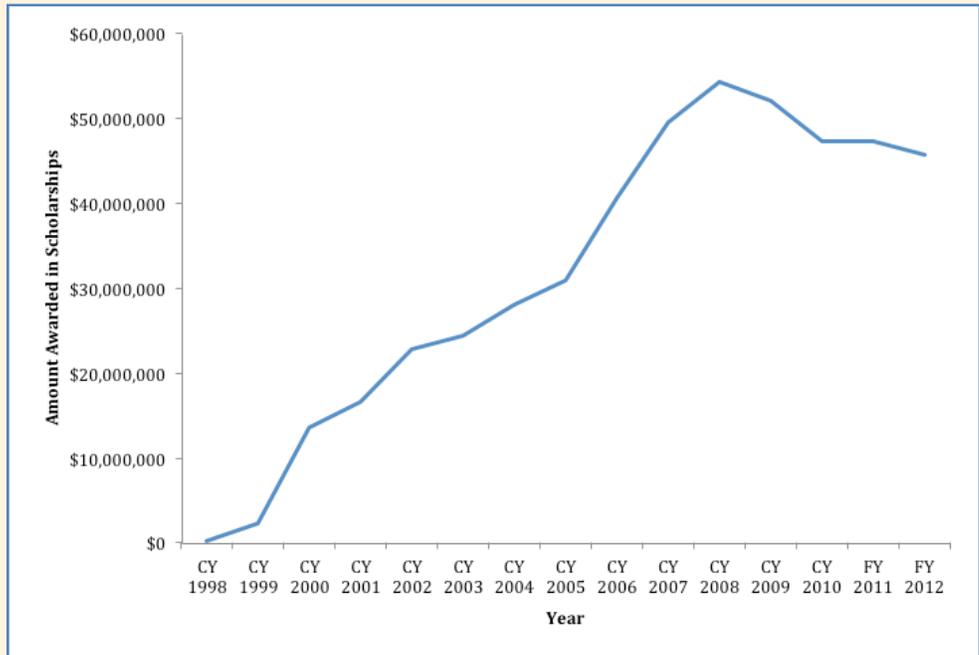
contributions to scholarship organizations.⁶ Individuals and married couples received a dollar-for-dollar tax credit for donations worth up to \$500 to scholarship-granting organizations, which in turn used the contributions to award K-12 private school scholarships to students.

Since 1997, the scholarship law has been expanded so that married couples filing jointly can contribute more than individuals. Legislators also increased the limit on tax credit awards for donations. Today, individuals receive a tax credit for donations worth up to \$1,000, and STOs can use the first \$500 to provide scholarships to any student who meets organizations' award guidelines, including students already attending a private school. The next \$500 that an individual contributes in a given year must be used for students switching from a public school to a private school.⁷

Married couples receive a credit on their taxes for donations worth up to \$2,000, and, again, STOs can use the first half of the donation for any student, while STOs must use any contribution over \$1,000 for students switching from public to private school.

As explained later, some STOs' guidelines include an emphasis on helping students from families that cannot afford private school to attend a private school of their choice.

FIGURE 1: Total Arizona Tax Credit Scholarship Awards Funded by Contributions from Individuals/Married Couples, CY 1998-FY 2012



Source: Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity FY 2012." P. 3. View online here: <http://www.azdor.gov/Portals/0/Reports/FY2012%20private%20schl%20tuition%20org%20crdt%20rept.pdf>. Note that Arizona Department of Revenue Data for fiscal year 2011 is incomplete, so this data point assumes no change from calendar year 2010.

STOs must use at least 90 percent of their revenue for scholarship awards.⁸ STOs that receive contributions from businesses (described in the following section) also operate under this requirement. In 2012, STOs awarded nearly \$46 million in scholarships that contributions from individuals/married couples funded (Figure 1).⁹

STOs are not required to use these contributions for low-income students, but Arizona law says STOs "shall consider the financial need of applicants" in evaluating applications.¹⁰ However, a Hispanic Council for Reform and Educational Options report finds that four of the largest STOs are giving at least 70 percent of their scholarships to students from

If all scholarship students left private schools to attend public schools, taxpayers would have to pay approximately \$226 million more per year in taxes to pay for these students.

TABLE 1: STOs that Awarded at Least \$200,000 in Scholarships Funded by Individual/Married Couple Donations and Gave More than 70 Percent of their Scholarship Awards to Low-Income Students

STO	Scholarship Dollars Awarded	Percent of Scholarships for Poor Students
Arizona School Choice Trust	\$1.2 million	73
Brophy Community Foundation	\$1.1 million	90
BEST Student Fund	\$233,361	94
Pappas Kids Schoolhouse Foundation	\$222,352	100

Source: Hispanic Council for Reform and Educational Options, "2nd Annual Grading Arizona's Scholarship Organizations," July 2013. View online here: http://www.hcreo.com/Portals/115649/docs/STO_REPORT.pdf.

Tax credit scholarships, along with education savings accounts, charter schools, and school vouchers, are changing the way parents think about their children's future. School assignment is being replaced by flexibility, innovation, and multiple options.

low-income families (Table 1).¹¹ More information on how STOs are helping low-income students is provided in the "Arizona Tax Credit Scholarship Research" section.

Corporate Donations

In 2006, Arizona lawmakers added a scholarship program that awards tax credits to businesses and corporations that donate to STOs.¹² STOs must use the contributions for students from families with household incomes that do not exceed 185 percent of the income limit for students eligible for the federal reduced-priced lunch program. Children of active duty military members stationed in Arizona are also eligible.¹³ New scholarship recipients must have attended a public school in the prior school year. The program was limited to \$10 million in total tax credit awards annually when first enacted, but this cap increases by 20 percent annually. The cap now stands at approximately \$35.8 million.¹⁴

The scholarship awards are restricted to \$4,900 for students in elementary and middle school grades (K-8) and \$6,200

for high school students.¹⁵ These amounts increase by \$100 annually.

The law governing corporate donations originally included a provision requiring that students take a national norm-referenced achievement test every year. However, near the end of the 2012 legislative session, lawmakers removed this provision.¹⁶ Because the scholarship laws governing individual contributions and Lexie's Law (see below) do not have any academic transparency provisions, no academic data on scholarship students are available. Arizona Lawmakers, researchers, and advocacy organizations disagree about the level of academic transparency to require in the scholarships. More information is available in the "Academic Transparency" section.

In 2012, STOs awarded \$11.4 million in scholarships that corporate donations funded (Figure 2).¹⁷

Lexie's Law

In 2009, the Arizona Supreme Court ruled that a state voucher program for special needs children and children in the state foster care system was unconstitutional.¹⁹

Student Testimonial: Joseph

Joseph, a fourth grader at Bethany Christian School, benefits from the corporate tax credit scholarship program.¹⁸ Arizona School Choice Trust awarded Joseph's scholarship and reports that his favorite subject is math and he "loves learning."

"His parents are thrilled with the skills that he is learning," says the STO's feature on Joseph, and his parents "are confident that he is being equipped for success no matter what his eventual career path."

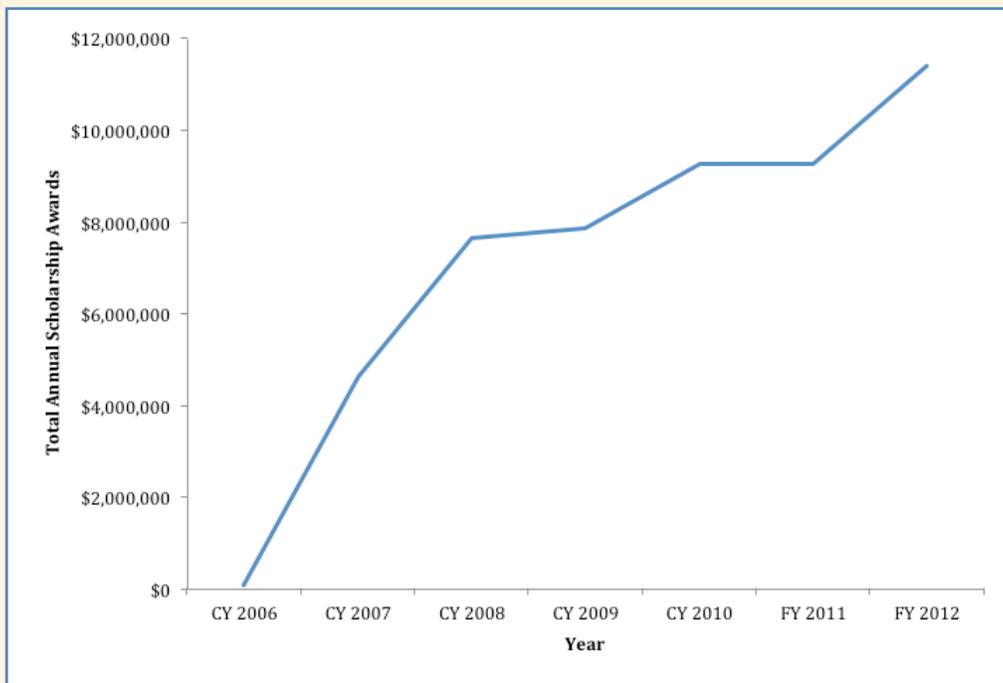
After the decision, lawmakers convened for a special session and enacted "Lexie's Law." This law provides corporate tax credit scholarship awards for students who were receiving vouchers.²⁰ The law was named for Lexie Weck, a 7-year-old girl diagnosed with multiple needs, including autism.²¹ Lexie "relied on the voucher program" to attend a private school that was designed to help students with autism.

Scholarship awards are restricted to the lesser of 90 percent of the state aid that would have funded the scholarship student in a public school or the cost of tuition.²²

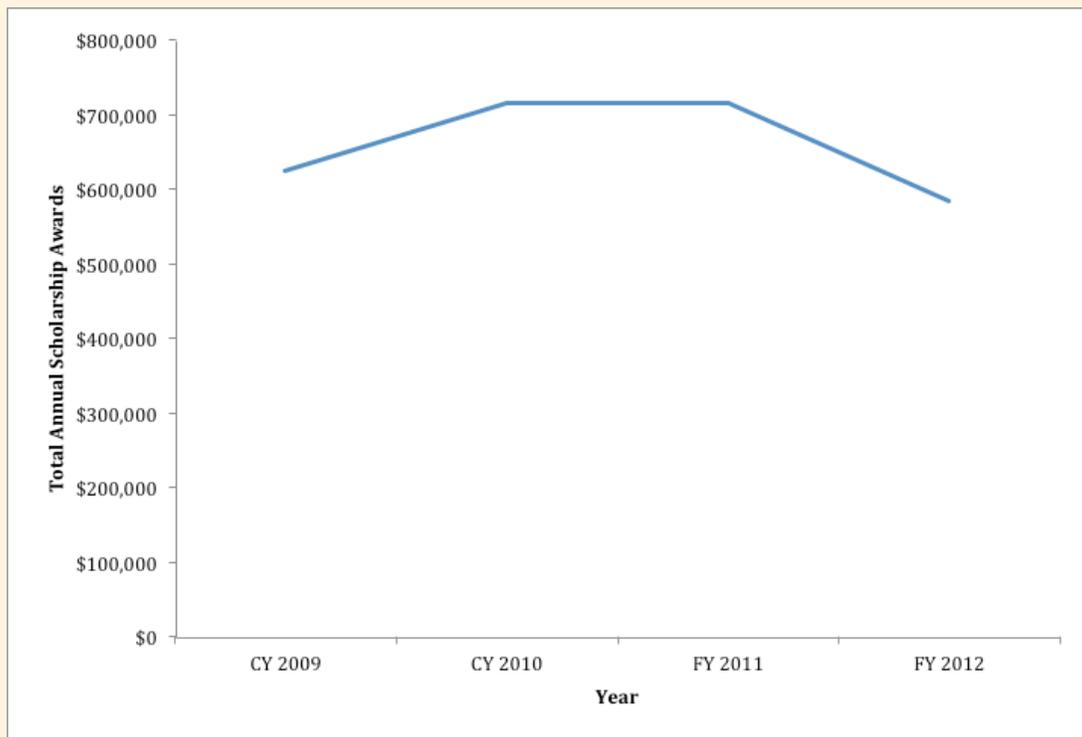
As Figure 3 indicates, Lexie's Law is the smallest of Arizona's three scholarship programs, both in terms of the amount of funds STOs have raised and the number of scholarships awarded. In fiscal year

Today, individuals receive a tax credit for donations worth up to \$1,000, and STOs can use the first \$500 to provide scholarships to any student who meets organizations' award guidelines, including students already attending a private school.

FIGURE 2: Arizona Tax Credit Scholarship Awards That Corporate Contributions Funded, CY 2006-FY 2012



Source: Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity FY 2012." P. 3. View online here: <http://www.azdor.gov/Portals/0/Reports/FY2012%20private%20schl%20tuition%20org%20crdt%20rept.pdf>. Note that Arizona Department of Revenue Data for fiscal year 2011 is incomplete, so this data point assumes no change from calendar year 2010.

FIGURE 3: Lexie’s Law Awards Funded by Corporate Contributions, Years

Source: Arizona Department of Revenue. “Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity FY 2012.” P. 3. View online here: <http://www.azdor.gov/Portals/0/Reports/FY2012%20private%20schl%20tuition%20org%20crdt%20rept.pdf>. Note that Arizona Department of Revenue Data for fiscal year 2011 is incomplete, so this data point assumes no change from calendar year 2010.

STOs are not required to use these contributions for low-income students, but Arizona law says STOs “shall consider the financial need of applicants” in evaluating applications.

2012, STOs awarded nearly \$600,000 in scholarships to special needs students.

In 2011, Lexie was featured in an *Arizona Republic* editorial where Lexie’s mom, Andrea, reported, “She is thriving. There are not enough wonderful things I can say about where she is now.”²³

ARIZONA TAX CREDIT SCHOLARSHIP RESEARCH

Arizona Department of Revenue

Since 2007, the Arizona Department of Revenue has produced an annual scholarship summary.²⁴ The department’s report includes data on how much money STOs raise and award in scholarships, the number of scholarships awarded, and information

on participating private schools (see Table 2 for quick facts about Arizona’s Tax Credit Scholarships).

According to Goldwater Institute data from 2005, the average scholarship awards for the individual tax credit and corporate tax credit programs are less than the state’s average private school tuition.²⁵ The Institute’s private school survey found that private schools’ average tuition was \$3,700 for schools serving grades K-8 and \$5,500 for high schools.

Eighty-nine percent of the private schools surveyed in 2005 offered financial aid, helping parents make up the difference between scholarship awards and tuition levels. Arizona’s scholarship laws also allow for students to use more than one scholarship

TABLE 2: Arizona Tax Credit Scholarships: FY 2012 Quick Facts

Total Number of STOs in Arizona	57
Total Contributions Collected	\$71.4 million
Total Amount of Scholarships Awarded	\$57.7 million
Total Number of Scholarships Awarded	29,914 (23,959 funded by individual donations; 5,836 from corporate contributions for low-income students; and 119 scholarships for special needs students)
Average Scholarship Award Amounts	Individual: \$1,900 Corporate: \$1,949 Lexie's Law: \$4,921
Number of Private Schools Receiving Scholarship Students Funded by Donations from Individuals/Married Couples	347
Number of Private Schools Receiving Scholarship Students Funded by Corporate Donations	206
Number of Private Schools Receiving Scholarship Students Under Lexie's Law	38

Source: Arizona Department of Revenue, "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity, FY 2012." View online here: <http://www.azdor.gov/Portals/0/Reports/FY2012%20private%20schl%20tuition%20org%20crdt%20rept.pdf>.

award. This statutory provision makes it impossible to track precisely the number of students using scholarships (see "Economic Impact Studies") but helps families to cover tuition costs that would otherwise be out of reach.

Schools designed to serve students with special needs, the children benefitting from Lexie's Law, have higher tuition levels. These schools offer more comprehensive, and expensive, services. For example, Lauren's Institute for Education enrolls students with developmental disabilities and charges \$26,000 per year.²⁶ Pieceful Solutions helps children diagnosed with autism and has set tuition at \$23,000 annually.²⁷ As Table 3 shows,

no single STO awarded scholarships of this size, though one STO awarded 34 scholarships under Lexie's Law at an average award of nearly \$11,000.

Economic Impact Studies

Since 2009, three studies have analyzed Arizona's scholarships to determine the cost or cost-savings to state taxpayers. All of the studies are based on certain assumptions because key details are missing in the available data.

First, *The Arizona Republic* released a series of articles in 2009 that were critical of STOs and Arizona's scholarship laws.²⁸ The *Republic* reported that "Arizona officials have no way of knowing how many students receive tax-credit scholarships

In 2011, Lexie was featured in an Arizona Republic editorial where Lexie's mom, Andrea, reported, "She is thriving. There are not enough wonderful things I can say about where she is now."

TABLE 3: Arizona Department of Revenue FY 2012 Statistics for STOs Participating in Lexie's Law

School Tuition Organizations	Number of Scholarships	Total Scholarship Awards	Average Scholarship
Arizona School Choice Trust	8	\$45,085	\$5,635.63
Financial Aid for Independent Schools	22	\$78,368	\$3,562
Institute for Better Education	48	\$68,955	\$1,436.56
School Choice Arizona	7	\$32,961	\$4,708.71
Tuition Organization for Private Schools	34	\$360,203	\$10,594.21

Source: Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity, FY 2012." P. 18. View online here: <http://www.azdor.gov/Portals/0/Reports/FY2012%20private%20schl%20tuition%20org%20crdt%20rept.pdf>.

Eighty-nine percent of the private schools surveyed in 2005 offered financial aid, helping parents make up the difference between scholarship awards and tuition levels.

because the law doesn't require tuition groups to report the number." Because lawmakers and taxpayers do not know how many students are served, it is impossible to determine the exact cost or cost-savings to the state.

The *Republic's* analysis of tax credit scholarships that donations from individuals/married couples fund estimated that the scholarships saved taxpayers \$8.3 million between 1999 and 2007.²⁹ The paper's cost-savings figure is based on the assumption that 7,530 students—the total growth in the Arizona private school population during this period—would return to public schools without the scholarships.

In response to the *Republic's* reports, lawmakers convened a special committee to review the individual/married couple tax credit scholarship law. In November 2009, Baylor University Professor Charles M. North, Ph.D., presented his analysis of the economic impact of the scholarships before the ad hoc legislative committee (similar to the *Republic's* analysis, North did not review the impact of scholarships funded through corporate donations to STOs).³⁰

North's report said that if all students using scholarships funded through individual/married couple donations attended public schools, the cost to Arizona taxpayers would have been \$241.5 million in 2008. North arrived at this figure using Arizona Joint Legislative Budget Committee data that reported the average per student expenditure from state, county, and local governments in Arizona was \$8,528. North assumed that all 28,321 scholarships awarded in 2008 went to unique students. He multiplied the average per-student spending figure by the number of scholarships.

Using North's analytical methods and updating the per-student funding figures and scholarship awards to fiscal year 2012, the current cost to state taxpayers if all scholarship students returned to public schools would be \$226 million per year. Arizona Department of Revenue data show that the tax credit awards to donors, which are forgone state revenue, only totaled \$71 million last year.

North also estimated the savings to Arizona taxpayers under the

Student Testimonial: Jaime and Hector

Brenda Portillo, mother of Jaime (age 12) and Hector (age 8), says, “Without the support of the scholarships, we just couldn’t afford St. Matthew’s Catholic School.”³¹ Brenda was concerned about her sons’ safety at their local traditional school, and she says, “Kids in the local school, they already have issues with drugs, using and selling.” She explains that the scholarships allow her to use more of her own income each month to cover bills and other expenses.

The scholarships have provided the two brothers with excellent opportunities inside and outside of the classroom. Jaime plays football, and Brenda says, “I can see his self-esteem improving and he’s growing up so much through activities like these.”

On Tuesdays and Thursdays, students from Brophy Prep visit St. Matthew’s to tutor Hector and his classmates.

“I come from a big family,” Brenda says, “and education is a gift that no one can take away from you. We feel like a family at St. Matthew’s.”

assumption that certain students would not be able to afford private school tuition without a scholarship. According to data from 14 STOs that emphasize “financial need” in their scholarship awards, North said that more than 11,000 students would return to public schools without the scholarships, costing taxpayers \$99.8 million.³²

Central to the debate between the *Republic* and North are the assumptions on how many different scholarships a single child uses and how many students would return to public schools without a scholarship. The Arizona Department of Revenue only reports the total number of scholarships awarded, not the total number of students served, so North’s findings have a margin of error that is difficult to calculate. Likewise, the *Republic’s* analysis does not account for unobserved changes to Arizona’s private school population, such as student transfers between public and private schools. Both North’s report and the *Republic’s* estimates are limited due to limited data (see Table 4 for comparison.)

On the heels of the ad hoc legislative committee, Vicki E. Murray, Ph.D., found that Arizona’s scholarships that individual donations fund (again, the law does not require these scholarships be awarded to low-income students) were helping low-income students.³³ Murray surveyed Arizona’s STOs and collected data representing 80 percent of scholarship recipients. She found that scholarship recipients’ median income was nearly \$5,000 below the U.S. Census Bureau’s statewide median income level. Murray also reported that recipients’ median income was approximately \$5,000 lower than the median income in the students’ neighborhoods. Her findings indicate that families that would otherwise be unable to send their children to private schools without the scholarships are benefitting from scholarships.

This study also found that 67 percent of students using scholarships that individuals/married couples fund would meet the income qualifications for scholarships that corporate donations fund. Murray’s findings refuted the *Republic’s* claim that Arizona scholarships are disproportionately awarded to students from wealthy families.

North’s report said that if all students using scholarships funded through individual/married couple donations attended public schools, the cost to Arizona taxpayers would have been \$241.5 million in 2008.

TABLE 4: Competing Estimates on Taxpayers’ Cost-Savings from Tax Credit Scholarships Funded with Donations from Individuals/Married Couples

	Number of Scholarship Students	Estimated Per Student Average Funding	Cost-Savings Calculation
Baylor University Prof. Charles North	28,321	\$8,528	$28,321 \times \$8,528 = \$241,521,488$
<i>Arizona Republic</i>	7,530	<ul style="list-style-type: none"> • \$4,868 from the general fund, \$3,674 from local taxpayers; • \$56 million in state revenue forgone because of tax credits in 2009 	<ol style="list-style-type: none"> 1) $\\$4,868 \times 7,530 = \\37 million saved from the general fund because of student transfers 2) $\\$56$ million - $\\$37$ million = $\\$19$ million cost to the general fund 3) $\\$3,674 \times 7,530 = \\27.6 million saved by local taxpayers 4) $\\$27.6$ million - $\\$19$ million = $\\$8$ million (approx.) net saved by state taxpayers

Source: Hansen, Ronald J., “Private-school tax credits save \$8.3 million.” *The Arizona Republic*, October 20, 2009. View online here: <http://www.azcentral.com/news/articles/2009/10/20/20091020taxcredits1020.html#protected>; and North, Charles M., Ph.D., J.D. “Estimating the Savings to Arizona Taxpayers of the Private School Tuition Tax Credit,” white paper. View online here: http://acsto.org/_media/uploaded/e/0e1832055_estimating-the-savings.pdf.

Central to the debate between the Republic and North are the assumptions on how many different scholarships a single child uses and how many students would return to public schools without a scholarship.

Data limitations prevent a precise cost-savings analysis to Arizona taxpayers. However, these studies conducted in the wake of the *Republic’s* investigation agree that Arizona’s scholarships are less expensive than the cost of traditional public schools. Research also demonstrates that the scholarships are helping low-income students select private schools.

ACADEMIC TRANSPARENCY

The Arizona Republic’s series was also critical of the state’s scholarship laws because the individual tax credit scholarship law does not require students to take either the state test used for state and federal accountability purposes or a national norm-referenced test.³⁴ As mentioned previously, lawmakers would remove testing

language from the corporate tax credit scholarship law in 2012.

The Goldwater Institute contends that academic transparency in the scholarships as well as in the state’s other private school choice option, education savings accounts, will benefit students and taxpayers.³⁵ Today, lawmakers and taxpayers still do not know how Arizona scholarships affect student achievement. Students and parents benefit from regular assessments because test results help students and their families know how well a child is learning.³⁶

Opponents of academic transparency say that parents hold private schools accountable for student achievement through their choice to enroll their child or choose a different school. “Private schools are accountable to parents and when parents have true school choice, good schools will succeed and bad schools

will fail,” says the Center for Arizona Policy, a state-based research institute.³⁷ The Center says the potential for “government interference” in private school operations if there was a required testing provision threatens private schools’ ability to direct their instructional practices.

Yet the *Republic’s* series is evidence that a dearth of available data causes observers to question scholarships’ effectiveness, regardless of whether parents can show their approval or disapproval through school selection. Without test scores, advocates of the scholarship laws could not use test results to assure the public that students are succeeding. As a result, critics can point to certain activities among STOs that, at best, give the appearance of not following the law and, at worst, are breaking the law.³⁸ Opponents then cast doubt on whether the scholarships help students, and advocates have no evidence to use in order to refute them.

Academic transparency laws can be designed to protect private school autonomy while still providing regular reports on student progress. States could construct policies modeled after Florida’s provision, which requires a third-party researcher to collect student test scores and produce a report. State agencies do not have to intrude on private school activities in order to fulfill this requirement. Private schools must cooperate with the researcher’s data-gathering activities, but the researcher’s responsibility will be to document student progress and report findings apart from any state agency’s operation. In the private school survey the Goldwater Institute conducted in 2005, 93 percent of Arizona private schools reported that they annually administer standardized tests. With so many schools testing their students, a state law that requires an

analysis of student achievement would not force the majority of private schools to change classroom activities.

Academic reporting does not have to threaten private schools’ independence. Transparency measures should be used to give the public more information on student performance and help lawmakers adjust legislation as necessary in order to better serve students.

LEGAL VICTORIES

Shortly after Gov. Symington’s signature in 1997, the National Education Association, a teachers’ union, and its local affiliate, the Arizona Education Association (AEA), sued to shut down the individual-contribution tax credit law. Opponents argued that the scholarships unconstitutionally promote religious practices because parents can send their children to religious schools.³⁹ The scholarship opponents’ position cited what is commonly known as Arizona’s “Blaine Amendment,” discriminatory language also found in 37 other state constitutions.⁴⁰

These amendments were added to state constitutions at the turn of the 20th century to prevent Catholic families from starting their own public schools. Public schools, at the time, still reflected non-denominational Protestant beliefs in their teaching practices. Catholic families had little recourse, and U.S. Sen. James Blaine limited their options even further by using his influence with state leaders to amend state constitutions. The amendments prevent public money from being used for sectarian or private purposes under certain conditions.

The Arizona Supreme Court rejected the argument and upheld the law in 1999.

Murray also reported that recipients’ median income was approximately \$5,000 lower than the median income in the students’ neighborhoods. Her findings indicate that families that would otherwise be unable to send their children to private schools without the scholarships are benefitting from scholarships.

Data limitations prevent a precise cost-savings analysis to Arizona taxpayers. However, these studies conducted in the wake of the Republic's investigation agree that Arizona's scholarships are less expensive than the cost of traditional public schools.

The American Civil Liberties Union sued in 2000, this time in federal court. On April 4, 2011, the U.S. Supreme Court in *Arizona Christian School Tuition Organization v. Winn* dismissed the legal challenge.⁴¹ The 5-4 ruling said that taxpayers do not have standing to challenge tax credit programs because private contributions, not the government, fund the scholarships. If the parents of scholarship students use the money at religious schools, that action does not use public funds to promote religious causes.⁴²

The U.S. Supreme Court victory arrived the year *The Wall Street Journal* called “the Year of School Choice.”⁴³ The *Journal* cited new or expanded school voucher and scholarship laws in North Carolina, Louisiana, Ohio, and Wisconsin, along with the first voucher program enacted by a county school board in Douglas County, Colorado.

“Unions defend the monopoly to protect jobs for their members, but education should above all serve students and the larger goal of a society in which everyone has an opportunity to prosper,” wrote the *Journal's* editors.

The ACLU of Arizona and the Arizona School Boards Association challenged the scholarships that corporate donations fund in 2006. Their argument was nearly identical to the position outlined in the *Kotterman* lawsuit.⁴⁴ Three years later, after the Arizona Court of Appeals upheld the program, the Arizona Supreme Court refused to review the case, ending this challenge.⁴⁵

Fortunately for students, there is strong legal precedent from Arizona courts and the U.S. Supreme Court that the scholarships do not violate Arizona's constitution or the U.S. Constitution.

POLICY RECOMMENDATIONS

Arizona's tax credit scholarship laws give students more options than just an assigned traditional school—a lifeline for students assigned to failing public schools. Children in other states would benefit from Arizona's provisions, but lawmakers should heed the lessons from Arizona's experience and design legislation accordingly.

- **Eligibility.** Every child should have the chance at an excellent education. Tax credit scholarships should not be limited to certain student groups, otherwise lawmakers risk exacerbating the achievement and opportunity gaps between students from families with different income levels and academic or physical needs.
- **Tax credit amounts.** Donors should receive a dollar-for-dollar tax credit for donations to scholarship organizations. Partial tax credits will limit scholarship organizations' ability to raise sufficient funds to help parents cover the costs associated with private school tuition. If lawmakers set annual limits on the amount of tax credits given to taxpayers statewide, this cap should be set to automatically increase each year.
- **Academic transparency.** Lawmakers should require private schools to report standardized test results to an independent researcher. Researchers should report on student achievement at regular intervals. Also, a state agency should conduct regular parent surveys to measure satisfaction levels. The results will serve as indicators to taxpayers and lawmakers on how the scholarships benefit students.

- **Fiscal transparency.** State agencies such as departments of revenue and education should coordinate data collection to count the number of children using scholarships. Precise student counts will help researchers determine how much tax money is saved through the scholarships.

STOs should be required to award scholarships to students attending at least two schools. This prevents an STO and a private school from colluding in an effort to benefit one private institution.

Arizona STOs are required to spend at least 90 percent of their revenue on scholarships. STOs do not have to meet this specification each year, so Arizona's law is not as specific on this issue as it should be. STOs should be required to spend, on average, at least 90 percent of their revenue on scholarships. A state agency such as the department of revenue should provide information on annual trends for this statistic.

- **Prevent “swapping.”** Donors must not be allowed to specify the student that will benefit from a donation. State law should require that STOs determine criteria for scholarship awards and not allow contributors to swap donations to benefit each other's children. Arizona STOs faced intense public scrutiny for allowing this practice until lawmakers abolished it in response to *The Arizona Republic's* reports in 2009.⁴⁶

CONCLUSION

Gabe Alba-Rivera, the student who appreciated the little things at Brophy Prep, like running water, enrolled at MIT in September 2013. He has already been offered an internship with a company that specializes in 3-D printers. “I’ve done so much here already, and not just academically,” Gabe told the Brophy Community Foundation in October 2013.

Gabe's story, like those of Joseph, Brenda and Lexie, bring context to the nearly 30,000 scholarships that Arizona STOs award each year. Their stories demonstrate that the scholarships are helping students from disadvantaged backgrounds take advantage of opportunities that otherwise would not be available to them.

But the law still has its limitations. STOs are not required to report how many students they serve each year, which prevents a precise determination of the cost-savings to Arizona taxpayers. Debate has simmered since 2009, but the research question is not resolved. In 2012, lawmakers struck the lone testing requirement for students using scholarships that corporate donations fund. After 16 years, taxpayers and legislators do not know if scholarship students are realizing achievement gains.

Still, Arizona's laws have been models for other states around the U.S. As of January 2013, 10 other states have passed scholarship tax credit laws. Arizona STOs have awarded more than \$500 million in scholarships since 1998 and given students like Gabe the chance at an excellent education.

In the private school survey the Goldwater Institute conducted in 2005, 93 percent of Arizona private schools reported that they annually administer standardized tests. With so many schools testing their students, a state law that requires an analysis of student achievement would not force the majority of private schools to change classroom activities.

Jonathan Butcher is the education director at the Goldwater Institute.

NOTES

¹ The Hispanic Council for Reform and Educational Options featured Gabe's story in the "2nd Annual Grading Arizona's Scholarship Organizations: Private School Tuition Organizations Changing Lives One Student at a Time," released in July 2013 (view online here: http://www.hcreo.com/Portals/115649/docs/STO_REPORT.pdf). The author conducted the original interview.

² Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity, FY 2012." P. 3. View online here: <http://www.azdor.gov/Portals/0/Reports/FY2012%20private%20schl%20tuition%20org%20crdt%20rept.pdf>.

³ Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity, FY 2012." P. 3.

⁴ Author calculations based on the number of scholarships awarded and the average per-student expenditure at Arizona public schools. See Arizona Joint Legislative Budget Committee, "All Funding," August 30, 2013. View online here: <http://www.azleg.gov/jlbc/allfunding.pdf>.

⁵ Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity, FY 2012." P. 2.

⁶ Forty-third Arizona Legislature, First Regular Session, HB 2074. View online here: http://www.azleg.gov/FormatDocument.aspx?in-Doc=/legtext/43leg/1r/bills/hb2074s.htm&Session_ID=50.

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⁸ See Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona." P. 10.

⁹ Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona: A Summary of Activity FY 2012." P. 3.

¹⁰ Arizona Revised Statutes, 43-1603 D. 2. View online here: <http://www.azleg.gov/FormatDocument.aspx?inDoc=/ars/43/01603.htm&Title=43&DocType=ARS>.

¹¹ Hispanic Council for Reform and Educational Options. "2nd Annual Grading Arizona's Scholarship Organizations," July 2013. View online here: http://www.hcreo.com/Portals/115649/docs/STO_REPORT.pdf.

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¹⁶ Fiftieth Arizona Legislature, Second Regular Session, SB 1047. View online here: http://www.azleg.gov/FormatDocument.aspx?in-Doc=/legtext/50leg/2r/laws/0004.htm&Session_ID=107.

¹⁷ Arizona Department of Revenue. "Private School Tuition Organization Income Tax Credits in Arizona." P. 3.

¹⁸ Arizona School Choice Trust. "ASCT Student Spotlight: Joseph." View online here: <http://www.asct.org/student-spotlight/>.

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²⁰ Forty-ninth Arizona Legislature, Second Special Session, HB 2001. View online here: http://www.azleg.gov/DocumentsForBill.aspx?Bill_Number=HB2001&Session_ID=90.

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