

Nos. 09-987, 09-991

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**In The  
Supreme Court of the United States**

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ARIZONA CHRISTIAN SCHOOL  
TUITION ORGANIZATION,

*Petitioner,*

v.

KATHLEEN M. WINN, et al.,

*Respondents.*

GALE GARRIOTT, in his official capacity as  
Director of the Arizona Department of Revenue,

*Petitioner,*

v.

KATHLEEN M. WINN, et al.,

*Respondents.*

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**On Writs Of Certiorari To The  
United States Court Of Appeals  
For The Ninth Circuit**

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**PETITIONER GALE GARRIOTT'S  
BRIEF ON THE MERITS**

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**QUESTION PRESENTED**

Under Arizona Revised Statutes (A.R.S.) section 43-1089, individuals who contribute money to school tuition organizations (STOs) that provide scholarships to students wishing to attend private schools are entitled to an income tax credit. Respondents alleged that Section 1089's neutral language and the Legislature's stated secular purpose for enacting it were a pretense and that the tuition tax credit program had the primary effect of advancing religion because a majority of taxpayers who contributed to STOs chose to contribute to STOs that awarded scholarships to students attending religious schools. The question presented is the following:

Did the court of appeals err in holding that if most taxpayers who contributed to STOs contributed to STOs that awarded scholarships to students attending religious schools, Section 1089 has the purpose and effect of advancing religion in violation of the Establishment Clause even though Section 1089 is a neutral program of private choice on its face and the State does nothing to influence the taxpayers' or the STOs' choices?

## **PARTIES TO THE PROCEEDING**

A list of all parties to the proceeding in the court whose judgment is under review is as follows:

Petitioners are Defendant Gale Garriott, in his official capacity as Director of the Arizona Department of Revenue and Defendant-Intervenor Arizona Christian School Tuition Organization (ACSTO). Defendants-Intervenors who are Respondents in support of the Petitioners are Arizona School Choice Trust and two parents of children who received scholarships from Arizona School Choice Trust, Glenn Dennard and Luis Moscoso (collectively “School Choice”).

Respondents, who were Plaintiffs-Appellants below, are Arizona taxpayers, Kathleen M. Winn, Diane Wolfthal, Maurice Wolfthal, and Lynn Hoffman.

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## **OPINIONS BELOW**

The court of appeals' opinion (Garriott Pet. App. 1a-46a) is reported at 562 F.3d 1002 (9th Cir. 2009). The court of appeals' order and opinions on denial of rehearing en banc (Garriott Pet. App. 64a-116a) are reported at 586 F.3d 649 (9th Cir. 2009). The district court's opinion granting Intervenors-Defendants School Choice's motion to dismiss (Garriott Pet. App. 47a-63a) is reported at 361 F. Supp. 2d 1117 (D. Ariz. 2005).



## **JURISDICTION**

The court of appeals entered judgment on April 21, 2009. It denied Petitioner's timely petition for rehearing en banc on October 21, 2009. On January 15, 2010, Justice Kennedy extended the time within which to file a petition for writ of certiorari to and including February 18, 2010. Petitioners filed timely Petitions on February 18, 2010. This Court has jurisdiction under 28 U.S.C. § 1254(1).



## **CONSTITUTIONAL AND STATUTORY PROVISIONS**

The Establishment Clause of the First Amendment of the United States Constitution provides that "Congress shall make no law respecting an establishment of religion." Arizona Revised Statutes § 43-1089 (2009) is reproduced at Garriott Pet. App. 117a-120a.

In 2010, the Arizona Legislature enacted a minor change to A.R.S. § 43-1089. 2010 Ariz. Sess. Laws, ch. 188, § 1. Later in 2010, the Legislature enacted more substantial amendments to A.R.S. § 43-1089 and added A.R.S. §§ 43-1501 to -1505; these amended provisions go into effect December 31, 2010. 2010 Ariz. Sess. Laws, ch. 293, §§ 1, 2. The text of A.R.S. § 43-1089 as amended is set forth in the appendix to this brief. App. 1-17.



## INTRODUCTION

In *Zelman v. Simmons-Harris*, 536 U.S. 639, 649 (2002), the Court reiterated that “neutral government programs that provide aid directly to a broad class of individuals, who, in turn, direct the aid to religious schools or institutions of their own choosing” do not violate the Establishment Clause. Arizona’s private-school-tuition-tax-credit program is a neutral government program that provides tax credits to individuals who contribute to charitable organizations that provide scholarships to students who wish to attend private schools. The court of appeals therefore erred in holding that Respondents could prove that Section 1089 as applied has the purpose and effect of favoring religion. This Court should reverse because the court of appeals’ erroneous construction of *Zelman* would invalidate not only Section 1089 but many other tax credit and deduction programs that allow taxpayers to choose to contribute to religious organizations.



## STATEMENT OF THE CASE

### A. Factual and Statutory Background.

For at least the last seventeen years, the Arizona Legislature has demonstrated its interest in expanding the options available to Arizona students. In 1993, the Legislature recognized that parents have the primary obligation and right to “choose education and training for the child,” 1993 Ariz. Sess. Laws, ch. 83, § 1, and allowed parents to fulfill the requirements of mandatory school attendance by providing instruction at home, *id.* § 4 (codified at A.R.S. § 15-802). In 1994, the Legislature authorized the establishment of charter schools to provide “additional academic choices for parents and pupils.” 1994 Ariz. Sess. Laws, 9th Spec. Sess., ch. 2, § 2 (codified at A.R.S. § 15-181(A)).<sup>1</sup> In 1995, the Legislature required Arizona school districts to establish open-enrollment policies so that, subject to classroom availability, students could attend any school located outside their school district without paying tuition. 1995 Ariz. Sess. Laws, ch. 1, § 5 (codified at A.R.S. § 15-816.01).

In 1997, the Arizona Legislature enacted the Arizona Tuition Tax Credit (Section 1089). 1997 Ariz. Sess. Laws, ch. 48, § 2 (originally codified at A.R.S.

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<sup>1</sup> As of October, 2009, there were 502 charter schools in Arizona providing parents with a multitude of different education choices. See Ariz. State Bd. for Charter Schs.: School Search, [http://www.asbcs.az.gov/parent\\_resources/school\\_search.asp](http://www.asbcs.az.gov/parent_resources/school_search.asp) (last visited July 25, 2010).

§ 43-1087 and renumbered as § 43-1089).<sup>2</sup> Section 1089 allows taxpayers to reduce their state income tax liability by claiming a credit for the amounts that they have paid to a school tuition organization (STO). Any individual owing \$500 or more in Arizona income taxes receives a credit against state tax liability by the amount, not to exceed \$500, that he or she contributes to an STO. A.R.S. § 43-1089(A)(1) (2009). Since 2006, married couples may receive a credit of up to \$1,000 for contributions to an STO. A.R.S. § 43-1089(A)(3) (2009).

An STO is a charitable organization that is exempt from federal taxation under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code. A.R.S. § 43-1089(G)(3) (2009).<sup>3</sup> It must “allocate[] at least ninety percent of

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<sup>2</sup> The text of A.R.S. § 43-1089 (2009) is set forth at *Garriott Pet. App.* 117a-120a. In 2010, the Legislature amended Section 1089 and added A.R.S. §§ 43-1501-1505. 2010 Ariz. Sess. Laws, ch. 293, §§ 1, 2 at App. 1-17. Although the latest changes to Section 1089 affect the validity of some of Respondents’ factual allegations, the amendments do not affect the core components of the program that Respondents alleged, and that the court of appeals found, violated the Establishment Clause.

<sup>3</sup> Under 26 U.S.C. § 501(c)(3), nonprofit organizations “organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes” are entitled to a corporate tax exemption. To be eligible for Section 501(c)(3) status, the organization must “establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.” 26 C.F.R. § 1.501(c)(3)-1(d)(ii.)

its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their choice” and it cannot limit its educational scholarships or grants to students of one school. *Id.*<sup>4</sup>

Originally, Section 1089 provided that a qualified school is a nongovernmental primary or secondary school that does not discriminate “on the basis of race, color, sex, handicap, familial status or national origin” and that satisfies Arizona’s requirements for private schools. 1997 Ariz. Sess. Laws, ch. 48, § 2. The definition of qualified school now includes “a pre-school for handicapped students” and no longer prohibits discrimination based on sex. A.R.S. § 43-1089(G)(2) (2009).

In urging enactment of Section 1089, its primary sponsor explained that allowing a tax credit instead of a deduction would enhance the STOs’ ability to

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<sup>4</sup> The 2010 amendments clarify that the phrase “to allow them to attend any qualified school of their choice” describes the purpose for STOs and not a limitation on STOs’ ability to choose the schools for which they will provide scholarships. Thus, A.R.S. § 43-1503(A) (2010) provides that “[a] certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under Section 43-1089 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their choice.” App. 11-12. And newly enacted A.R.S. § 43-1503(B)(2) provides that “[t]o be eligible for certification and retain certification, the school tuition organization: . . . shall not limit the availability of educational scholarships or tuition grants to only students of one school.” *Id.* at 12.

raise funds, that the credit was “an encouragement and incentive for citizens to donate to an organization they believe in,” and that the program would be consistent with one of the legislators’ main concerns that year of “equalizing opportunities for Arizona’s children; allowing the children in low-wealth districts to have the same opportunities as those in high-wealth districts.” Joint Appendix (J.A.) 226, 227. In an earlier hearing on the bill that became Section 1089, the Chairman of the legislative hearing noted that the tax-credit program may encourage students to choose private schools over public schools, which would save the State money and relieve overcrowding in the public schools. *Id.* at 213. There are no statements in the legislative history that suggest any religious motivation. *Id.* at 209-246.

When it enacted Section 1089, the Legislature also provided a tax credit to individuals and married couples for contributions or payments to an Arizona public school for the support of the school’s extra-curricular activities or character-education programs. 1997 Ariz. Sess. Laws, ch. 48, § 3 (currently codified at A.R.S. § 43-1089.01). When the Legislature enacted Section 1089, Arizona law provided many other individual income tax credits. A.R.S. §§ 43-1071 to -1090.01 (1996). Arizona law also allowed deductions for contributions to religious organizations. *See* A.R.S. § 43-1042(A) (1996) (permitting taxpayers to take “the amount of itemized deductions allowable” under the Internal Revenue Code). And Arizona law provided a tax exemption for property “used or held

primarily for religious worship.” A.R.S. § 42-271(A)(7) (1996). (This exemption is currently contained in A.R.S. § 42-11109(A).)

Shortly after the Legislature enacted Section 1089, eleven Arizona taxpayers brought a facial challenge directly in the Arizona Supreme Court, claiming that it violated the Establishment Clause and the Arizona Constitution. *Kotterman v. Killian*, 972 P.2d 606 (Ariz.), *cert. denied*, 528 U.S. 810, 921 (1999). The Arizona Supreme Court held that Section 1089 served the secular purpose of providing additional educational choice and encouraging quality private schools, which furthered the State’s educational goals for all children and stimulated public schools “by relieving tax burdens and producing healthy competition.” *Id.* at 611. Relying on *Mueller v. Allen*, 463 U.S. 388, 396-99 (1983), the court also held that Section 1089 did not have the principal effect of furthering religion because (1) the credit was one of many tax benefits that the state and the federal governments offer for contributions to charitable organizations, including those made directly to churches and religious schools; (2) the credit was available to a broad class of recipients – all taxpayers; and (3) private citizens – the taxpayers who chose to contribute to STOs and parents who chose to apply for scholarship aid – determined whether any money reached religious schools. *Kotterman*, 972 P.2d at 612-14.

After Section 1089 went into effect, the Arizona Department of Revenue prepared annual reports about the Section 1089 program and summarized the



data that it had received in prior years. (The Arizona Department of Revenue Reports on the Individual Income Tax Credit for Donations to Private School Tuition Organizations for 1998, 2003, and 2004 [Section 1089 Reports] are reproduced at J.A. 85 to 206; the Section 1089 Report for 2008 is reproduced at School Choice Pet. App. 208-236; the Section 1089 Report for 2009 is reproduced at App. 18-49.) The Section 1089 Reports show the fluctuations in donations, the STOs, and the private schools that receive donations, as well as the diversity of the STOs and the private schools that are involved in the Section 1089 program.

The number and aggregate amount of donations to STOs increased each year until 2009. App. 21-22. In 2009, there was an eight percent decrease in the total amount of donations – that is, from \$55 million in 2008 to \$51 million in 2009. *Id.* The number of STOs has also fluctuated from six in 1998, to as many as fifty-six in 2006, to fifty-three in 2009. *Id.* Most of the STOs reflect their mission in the name of their organization and the STOs' listing itself demonstrates the STOs' diversity. *See id.* at 30-31. For example, there are four STOs that include “Montessori” in their name, indicating that they provide scholarships to students attending Montessori schools. *Id.* The names of other STOs indicate their focus on parental choice (such as Arizona School Choice Trust), certain cities (such as Pinetop Tuition Support Organization), or certain religious schools (such as Higher Education for Lutheran Program). *Id.*; *see also* Brief of Amici

Curiae Jewish Tuition Organization and New Way Learning Academy in Support of Petitioners in *ACSTO v. Winn*, Nos. 09-987, 09-988, 09-991, at 14-17 (March, 2009) (describing the diversity of Arizona STOs and explaining that STOs must solicit contributions and persuade donors to contribute to their organization).

The relative size of the different STOs has also fluctuated. For example, in 1998, the three largest STOs as measured by the amount of contributions were Catholic Tuition Organization, Arizona Christian School Tuition Organization, and Brophy Community Foundation. J.A. at 89-91. In 2009, the third largest STO was the Arizona Scholarship Fund, which provided scholarships to students attending 171 different schools. App. 30, 35. And of the ten largest STOs in 2009, six have no apparent religious affiliation. App. 30-31. Of the fifty-three STOs listed in 2009, thirty have no apparent religious affiliation. *Id.*

The number of private schools with students who have received scholarships from the Section 1089 program also steadily increased until 2009, when the number decreased slightly from 373 private schools in 2008 to 370 in 2009. App. 19. The list of the private schools that have Section 1089 scholarship students includes a wide diversity of both secular and religious schools. App. 39-47.

In 2006, the Arizona Legislature enacted a corporate tax credit for contributions to STOs that give

scholarships to students in low- and middle-income families who transfer from public to private schools. 2006 Ariz. Sess. Laws, ch. 14, § 5 (codified at A.R.S. § 43-1183). The Arizona Court of Appeals held that this corporate-tuition-tax-credit program did not violate the Establishment Clause in *Green v. Garriott*, 212 P.3d 96 (Ariz. App. 2009), *review denied*. After the Arizona Supreme Court found a direct tuition grant program enabling disabled students and foster children to attend private schools invalid under the Arizona Constitution in *Cain v. Horne*, 202 P.3d 1178, 1185 (Ariz. 2009), the Legislature enacted a corporate tax credit program that gives a credit to corporations that contribute to STOs that give scholarships to disabled students and children in foster care. A.R.S. § 43-1184 (2010).

In September 2009, the Speaker of the Arizona House of Representatives established a five-member Ad Hoc Committee on Private School Tuition Tax Credit Review (Committee) to determine whether the Legislature should add measures to improve STOs' accountability and transparency. Ariz. H.R. Ad Hoc Comm. on Private Tuition Tax Credit Review on HB 2664, 49th Leg. 1 (April 29, 2010). The Committee made twenty-two recommendations that were encompassed in House Bill 2664. *Id.* The Legislature passed HB 2664; some of the significant amendments include the following:

- All STOs must apply to the Department of Revenue for certification, and the Department may not certify an STO if it (1) does not

allocate at least ninety percent of its annual revenue for scholarships, (2) limits the availability of scholarships to only one school, (3) awards scholarships based solely on donor recommendations, or (4) allows donors to designate student beneficiaries as a condition of any contribution, A.R.S. § 43-1503 (2010) (App. 11-12);

- STOs must consider the financial need of applicants and report the amount of scholarships awarded to students whose family income is below certain statutorily prescribed amounts, A.R.S. §§ 43-1503(D)(2), -1504(7) (2010) (App. 13-15);
- A tax credit is not allowed if the taxpayer designates a student beneficiary as a condition of the taxpayer's contribution to the STO or if the taxpayer agrees with other taxpayers to designate each taxpayer's contribution for the direct benefit of the other taxpayer's dependent, A.R.S. § 43-1089(F) (2010) (App. 6).

## **B. Proceedings Below.**

In 2000, Respondents filed their complaint alleging that Section 1089 violates the Establishment Clause on its face and as applied. ACSTO Pet. App. 116a-128a. Demonstrating Respondents' understanding of Section 1089's language, they alleged as follows: "STOs must make tuition grants of State funds available to students at more than one non-public school. As long as they do so, STOs may (and most do)

restrict their grants to students attending religious schools.” *Id.* at 119a. Respondents further alleged that “75% of the scholarship funds granted by STOs in 1998 were granted to students attending religious schools, and 79% of the schools receiving scholarships were religious schools.” *Id.* at 122a. Respondents alleged that Section 1089 violates the First Amendment by authorizing STOs “to make tuition grants to students attending only religious schools or schools of only one religious denomination or to students of only one religion.” *Id.* at 125a-126a. Respondents requested an injunction prohibiting Petitioner Garriott “from allowing taxpayers to utilize the tax credit authorized by A.R.S. § 43-1089 for payments made to STOs that make tuition grants to children attending religious schools, to children attending schools of only one religious denomination, or to children selected on the basis of their religion.” *Id.* at 127a. Respondents also requested a declaration that Section 1089 violates the First and Fourteenth Amendments. *Id.*

The district court dismissed Respondents’ complaint under the Tax Injunction Act for lack of federal subject-matter jurisdiction. *Winn v. Killian*, No. CV-00-00287-EHC (D. Ariz. Feb. 27, 2001). The court of appeals reversed and remanded. *Winn v. Killian*, 307 F.3d 1011 (9th Cir. 2002), *reh’g denied*, 321 F.3d 911 (9th Cir. 2003). This Court affirmed the court of appeals’ decision. *Hibbs v. Winn*, 542 U.S. 88 (2004).

On remand, Petitioner Garriott moved for judgment on the pleadings based on res judicata and

failure to state a claim and School Choice and ACSTO moved to dismiss based on standing, res judicata, and failure to state a claim. Garriott Pet. App. 52a. The district court granted School Choice's motion to dismiss, finding that the complaint did not state a claim under the Establishment Clause. *Id.* at 62a. The court found that Section 1089 was "part of a secular state policy to maximize parents' choices as to where they send their children to school." *Id.* at 54a (citing *Kotterman*, 972 P.2d at 611). It also found that because Section 1089 was a "program of 'true private choice,'" it did not implicate the Establishment Clause even though a majority of the donations thus far had ultimately gone to religious schools. *Id.* at 55a (quoting *Zelman*, 536 U.S. at 649).

On appeal, Respondents relied on the Department's Section 1089 Report for 2003 to assert that approximately thirty of the fifty-five STOs restricted scholarship awards to religious schools and that STOs that awarded scholarships to students attending religious schools awarded eighty-two percent of the scholarships awarded under Section 1089. Appellants' Opening Brief in No. 05-15754 at 7, 12. Respondents further asserted that religion-specific STOs awarded seventy-nine percent of the Section 1089 scholarships in 2004. *Id.* at 12.

A panel of the court of appeals reversed the district court's decision because Respondents' allegations were "sufficient to state a claim that Arizona's private school scholarship tax credit program, as applied, violates the Establishment Clause." Garriott Pet. App. 3a. Relying on *McCreary County v. ACLU*, 545 U.S.

844 (2005), the court held that Respondents' allegations that Section 1089 permitted STOs to provide scholarships only to students attending religious school would, "if accepted as true, leave open the possibility that plaintiffs could reveal the legislature's stated purpose in enacting Section 1089 to be a pretense." *Id.* at 20a.

The court also held that Section 1089 had the primary effect of advancing religion. *Id.* at 22a. The court rejected Petitioners' argument that the tax credit that Section 1089 permits is not constitutionally distinct from the tax exemptions and deductions to religious organizations that this Court has upheld because unlike deductions that encourage charitable giving, "Section 1089 . . . offers narrowly targeted, dollar-for-dollar tax credits designed to fully reimburse contributions to STOs, most of which restrict recipients' choices about how to use their scholarships." *Id.* at 25a-26a. The court determined that Section 1089 differed significantly in structure from the educational assistance programs that this Court has held to be programs of true private choice. *Id.* at 29a. It deduced this because the State does not provide aid directly to parents under Section 1089 but instead "the aid is mediated first through taxpayers, and then through private scholarship programs" and the taxpayers' choices to provide a majority of their contributions to religious STOs constrained parental choice. *Id.* at 29a. The court concluded that a reasonable observer would perceive Section 1089 as government support for the advancement of religion

because in Section 1089, the State had delegated to taxpayers “a choice that, from the perspective of the program’s aid recipients, ‘deliberately skew[s] incentives toward religious schools.’” *Id.* at 22a (quoting *Zelman*, 536 U.S. at 650).

Petitioners moved for rehearing en banc, which was denied. Garriott Pet. App. 65a.

Eight judges dissented from the denial of rehearing en banc because the panel decision could not be squared with this Court’s mandate in *Zelman*. Garriott Pet. App. 87a-88a. The dissent disagreed with the panel’s conclusion that Section 1089 had the effect of advancing religion because it determined that no reasonable observer informed about the Section 1089 program could conclude that the *government itself* had endorsed religion through the program, given the at least four levels of “private, individual choice” that separated the State from “any aid to religious organizations.” *Id.* at 94a. Because “[t]he system Arizona created could just as easily have resulted in a total dearth of funding for religious organizations as opposed to the surfeit allegedly available,” the dissent concluded that “[i]t simply cannot be, as the panel claims, that the ‘scholarship program . . . skews aid in favor of religious schools.’” *Id.* at 96a (quoting *Winn*, 562 F.3d at 1013).

The dissent also disagreed with the panel’s belief that *Zelman* supported its decision, concluding instead that the panel’s decision relied on Justice Souter’s dissent in *Zelman*. *Id.* at 97a-106a. The



dissent concluded that the panel had erred in failing to recognize that, like *Zelman*, this case involved constraints on access to private, secular options, and this Court had not found that such constraints unduly constrained parental choice. *Id.* at 101a. Instead, the dissent noted that “the Court said that the availability of a private secular education, ‘in a particular area, at a particular time,’ was irrelevant to the constitutional inquiry.” *Id.* (quoting *Zelman*, 536 U.S. at 656-60). The dissent also found that the panel decision “directly conflicts with *Zelman*” because, in evaluating the constitutionality of the Section 1089 program, it looked only at the choices available within the program and ignored “the host of options available to Arizona parents.” *Id.* at 105a-106a.

Finally, the dissent disagreed with the panel’s holding that Respondents had alleged facts suggesting that Section 1089 was not enacted for a valid secular purpose. *Id.* at 111a-112a. The dissent rejected the panel’s apparent assertion that *McCreary* supports a finding that “the very enactment of Section 1089 ‘bespoke’ a religious purpose.” *Id.* at 112a (quoting *Winn*, 562 F.3d at 1012). And it discredited the panel’s reliance on the manner in which Section 1089 had been implemented to show that the stated secular purpose was a sham. *Id.* The dissent noted that the Respondents’ allegation that “‘in practice STOs are permitted to restrict the use of their scholarships to use at certain religious schools’” was not a result of faulty implementation; instead, “that result is apparent from the statute itself, which is satisfied

so long as STOs provide scholarships to two or more schools . . . , a fact that plaintiffs themselves recognize in their complaint.” *Id.* at 113a (quoting *Winn*, 562 F.3d at 1012).

Petitioners Garriott (No. 09-991) and School Choice (No. 09-987) petitioned this Court to review the court of appeals’ determination that Section 1089 violates the Establishment Clause, and Petitioner ACSTO (09-988) sought review of the court of appeals’ determination that Respondent taxpayers have standing to bring an Establishment Clause challenge to Section 1089. The Court granted certiorari in Nos. 09-987 and 09-991 and consolidated the cases for argument. 78 U.S.L.W. 3687 (May 24, 2010).



### **SUMMARY OF ARGUMENT**

The court of appeals held that Section 1089’s private-school-tuition-tax-credit program had the purpose and effect of advancing religion because the State allowed taxpayers to donate to STOs that limit scholarships to religious schools and this would constrain parents’ ability to choose a secular private school. Garriott Pet. App. 20a, 22a. The court erred in concluding that the Arizona Legislature could have had an improper religious motive for enacting Section 1089 because Section 1089’s language, legislative history, and implementation reveal only secular purposes and there are no external signs that the Legislature had any religious motivation for enacting it. The court also erred in concluding that Section 1089

had the primary effect of advancing religion because its conclusion that the effect of a neutral program of private choice will be attributed to the State cannot be squared with this Court's decision in *Zelman*.

1. Section 1089's language is neutral; it does not mention religion. Its language, which provides an income tax credit to individuals and married couples who contribute to STOs that provide scholarships to students who attend private schools, supports several secular purposes. These purposes include furthering parents' ability to choose the appropriate education for their child and encouraging the continued health of private schools that educate some of the State's children, provide healthy competition to public schools, and relieve the State from the cost of educating the students who attend them.

Section 1089's legislative history reflects secular purposes that are consistent with its neutral language. These purposes include providing additional educational options to students in low- and middle-income families who might not be able to afford private schools without financial assistance and providing assistance to *all* parents who choose to send their children to private schools.

And Section 1089's implementation is consistent with its language that requires STOs to provide scholarships to two or more schools and therefore permits STOs to provide scholarships only to religious schools. This implementation does not suggest a religious purpose because the State is not involved in

the STOs' decisions concerning the schools that they will support.

Although the court of appeals noted that Section 1089's language was neutral and that its legislative history suggested a valid secular objective, it nonetheless accepted Respondents' argument that they could demonstrate that Section 1089's design and scope revealed that the stated legislative purpose was a sham. Garriott Petition App. 19a-20a. Because Respondents have not shown that any legislator, much less the entire legislative body, had an improper religious motive for enacting Section 1089, the court's holding is contrary to this Court's precedent. This Court has found the government's stated purpose to be a sham only when the challenged statute's text, legislative history, or implementation shows that it has tried to cover up obviously religious motives or when its actions can be explained only by a religious motivation. *See McCreary*, 545 U.S. at 845, 864-65. The court of appeals' holding is also directly contrary to this Court's admonition that it defers to the State's secular purpose when it can be determined from the statutory language. *See Mueller*, 463 U.S. at 394-95.

2.a. This Court's decisions "have drawn a consistent distinction between government programs that provided aid directly to religious schools, and programs of true private choice, in which government aid reaches religious schools as a result of the genuine and independent choices of private individuals." *Zelman*, 536 U.S. at 649 (citations omitted). Section 1089 is a program of true private choice because any

state aid that reaches religious schools is separated by four levels of private, individual choice. In his dissent from the denial of rehearing en banc, Judge O’Scannlain aptly described the program: “First, an individual or group of individuals must choose to create an STO. Second, that STO must then decide to provide scholarships to religious schools. Third, taxpayers have to contribute to the STO in question. Finally parents need to apply for a scholarship for their student.” Garriott Pet. App. 94a. No objective observer would attribute the decisions of the private individuals who participate in the Section 1089 program to the State.

The court of appeals held that Section 1089 was not a “neutral program of private choice” because a majority of taxpayers who contributed to STOs chose to contribute to STOs that provided scholarships to religious schools, which in turn could constrain parental choice. Garriott Pet. App. at 23a. But in *Zelman*, this Court rejected the argument that the amount of indirect aid provided to religious schools in a given year either created the imprimatur of government endorsement of religion or indicated that the government program must be favoring religion. 536 U.S. at 656.

b. The court of appeals’ decision also conflicts with *Zelman* because it focuses narrowly on the Section 1089 program in finding that a reasonable observer would believe that Section 1089 constrains parental choice and encourages parents to choose religious schools. Under *Zelman*, the court should

have determined if Section 1089 would be perceived as favoring religion when viewed by an objective observer who was aware of its full history and context and of all of the educational options available to Arizona parents and students. An objective observer who was familiar with Section 1089's history, Arizona's educational history of encouraging parental choice, and the host of educational options available to Arizona students would reasonably view Section 1089 as one aspect of a broader undertaking to provide Arizona students with a full spectrum of educational options.

The court of appeals also erred in concluding that the public would perceive that the State is endorsing religion when it permits taxpayers to contribute to any STO, including those that provide scholarships only to religious schools. Because Section 1089 is one of many tax benefits that are available to all taxpayers who contribute to charitable organizations and is indistinguishable from tax benefits that are provided directly to religious organizations, the public will not perceive that Section 1089 is fostering religion when it allows taxpayers to choose the organizations that will receive their donations.



## ARGUMENT

### **I. Section 1089’s Language, Legislative History, and Implementation Reflect Its Secular Purpose.**

The court of appeals held that Respondents could prove that the Legislature was hiding its true motive if “in practice STOs are permitted to restrict the use of their scholarships to use at certain religious schools.” (Garriott Pet. App. 19a.) The court of appeals erred because Section 1089’s plain language permits STOs to provide scholarships “without limiting availability to only students of one school” and neither that language nor Section 1089’s legislative history indicates that the Legislature had a religious motivation in enacting Section 1089. The court of appeals distorted this Court’s secular-purpose inquiry by failing to give appropriate deference to the State’s obvious secular purpose and allowing Respondents’ claim that the Legislature had a religious motive to survive when they had alleged no objective facts to support this claim.

In evaluating a challenge to a statute under the Establishment Clause, the Court determines whether the legislature had a secular purpose for enacting it. *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971). The reason for the inquiry is to ensure that the government does not act “with the ostensible and predominant purpose of advancing religion,” because acting with a religious purpose “violates the central Establishment Clause value of official religious neutrality.” *McCreary*, 545 U.S. at 845. To determine purpose, the

Court looks through the eyes of “an objective observer, one who takes account of the traditional external signs that show up in the text, legislative history, and implementation of the statute.” *Id.* at 862 (internal quotation marks omitted). Here, Section 1089’s language and legislative history reveal only secular purposes; there are no external signs of any religious motivation.

Section 1089’s language is neutral; it does not mention religion. By providing an income tax credit to individuals and married couples who contribute to STOs that provide scholarships to students who attend private schools, its language supports several secular goals. As the district court correctly found, Section 1089 is “part of a secular state policy to maximize parents’ choices as to where they send their children to school.” Garriott Pet. App. 54a. In *Kotterman*, the Arizona Supreme Court found that in addition to furthering parental choice, Section 1089 furthered the State’s valid interest in encouraging the continued health of private schools that educate some of the State’s children and “serve to stimulate public schools by relieving tax burdens and producing healthy competition.” 972 P.2d at 611 (relying on *Mueller v. Allen*, 463 U.S. at 395).

Section 1089’s legislative history does not reflect a religious purpose either; it instead reflects secular purposes that are consistent with Section 1089’s neutral language. These purposes include providing additional educational options to low- and middle-income students who might not be able to afford



private schools without financial assistance and providing assistance to *all* parents who choose to send their children to private schools.

Since at least 1993, the Legislature has demonstrated its interest in expanding the educational options available to Arizona students. *See, e.g.*, A.R.S. § 15-802 (permitting home schooling to all parents to choose their children's education); A.R.S. § 15-181(A) (establishing charter schools to provide "additional academic choices for parents and pupils"); A.R.S. § 15-816.01 (requiring school districts to establish open-enrollment policies to enable students to attend schools located outside of their school district). By encouraging donations to organizations that provide scholarships to students who attend private schools, Section 1089 assists parents who want to send their children to private schools instead of public schools.

In urging enactment of the tuition tax credit, the bill's primary sponsor explained that it allowed a tax credit for contributions to tuition scholarship organizations that award scholarships to low-income students and that allowing a credit instead of a deduction would enhance these organizations' ability to raise funds. J.A. 226. He also stated that the credit was "an encouragement and incentive for citizens to donate to an organization they believe in" and was consistent with one of the legislators' main concerns that year of "equalizing opportunities for Arizona's children; allowing the children in low-wealth districts to have the same opportunities as those in high-wealth districts." *Id.* at 226-27. And he noted that

middle-income children may also benefit from the program. *Id.* at 227.

Although Section 1089 supports parents' ability to choose private schools, its legislative history since its original enactment – which is consistent with its neutral language – shows that the Legislature did not intend to limit its benefits *only* to students who could not afford to attend private schools without a Section 1089 scholarship. After Section 1089 was in effect, the Legislature enacted the corporate tuition tax credit. 2006 Ariz. Sess. Laws, ch. 14, § 5 (codified at A.R.S. § 43-1183). Under this program, STOs may provide scholarships only to students who have previously attended public schools and whose “family income does not exceed one hundred eighty-five per cent of the income limit required to qualify a child for reduced price lunches under the national school lunch and child nutrition acts.” A.R.S. § 43-1183(J), (K). Thus, the Legislature tailored the corporate-tuition-tax-credit program only to students who met the statutory financial criteria and who were not already attending a private school. In contrast, although it has amended Section 1089 many times, the Legislature has never required STOs to follow specified income criteria when awarding scholarships under Section 1089. *Compare* 1997 Ariz. Sess. Laws, ch. 48, § 2 *with* 2010 Ariz. Sess. Laws, ch. 293, §§ 1, 2 at App. 1-17. Instead, the Legislature allowed the STOs – which must be exempt from federal taxation under § 501(c)(3) – to determine the appropriate scholarship

criteria and to choose the schools to which they would award scholarships.<sup>5</sup>

Allowing charitable organizations to determine not only whom they will help but also the criteria for giving help is hardly a novel concept and certainly does not indicate a religious motive. And the Legislature recognized that allowing STOs to specify their mission would encourage more taxpayer contributions, which would enable more students to obtain scholarships. For example, if an STO awards scholarships to students who attend Montessori schools, it can attract contributions from parents, grandparents, and friends of children attending Montessori schools as well as from alumni of Montessori schools.

In practice, some STOs have provided scholarships only to students attending religious schools. *See* ACSTO Pet. App. 119a (Respondents allege that most

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<sup>5</sup> Most recently, the Legislature amended Section 1089 to require STOs to consider their applicants' financial need and to report (1) the amount of scholarships awarded to students whose family income meets the economic eligibility requirements for free or reduced-price lunches under the national school and child nutrition acts and (2) the amount of scholarships awarded to students whose family income exceeds that threshold but does not exceed 185% of the economic eligibility requirements under those acts. A.R.S. §§ 43-1503(D), -1504(7) at App. 13-15. This amendment reflects the Legislature's intent that STOs continue to determine their scholarship criteria but to require STOs to report the income levels of their scholarship recipients, so that contributors can evaluate whether they are willing to contribute to STOs that do not provide scholarships to students from low-income families.

STOs limit their scholarships to students attending religious schools). But this Court has recognized that the government has a neutral purpose when it allows religious organizations to receive tax benefits as part of a neutral taxing scheme that neither favors one religion over another nor favors religious organizations over nonreligious organizations. *Walz v. Tax Comm'n*, 397 U.S. 664, 672 (1970) (upholding a property tax exemption to religious organizations, finding that “[t]he legislative purpose of a property tax exemption is neither the advancement nor the inhibition of religion; it is neither sponsorship nor hostility”).

Although Respondents alleged no facts demonstrating that the Legislature acted with a religious motive when it enacted Section 1089, the Ninth Circuit nevertheless held that they could prove that the Legislature’s stated purpose was a sham based on their claim that Section 1089 did not further the Legislature’s parental-choice objective. Garriott Pet. App. 18a-20a. That holding perverts this Court’s secular-purpose inquiry.

The Ninth Circuit acknowledged that Section 1089’s language “[o]n its face . . . could have been interpreted to permit STOs to provide scholarships to a limited set of schools, so long as that set was greater than one.” *Id.* at 4a-5a. Given that statutory language, the Legislature clearly intended to allow STOs to limit their scholarships to certain schools when it enacted Section 1089. The Ninth Circuit nonetheless found that the secular purpose of providing “Arizona students with equal access to a wide

range of schooling options” would be undermined if Section 1089 was interpreted to allow STOs to provide scholarships only to students attending certain religious schools. *Id.* at 19a-20a. But this plain-language interpretation of Section 1089 does not suggest a primary purpose of favoring religion because the neutral language does not permit the State to favor religious schools over secular schools; instead, it allows STOs to choose the particular schools – whether religious or secular – that they will support by providing scholarships to students that attend those schools. The Ninth Circuit’s finding must therefore be rejected because it is directly contrary to *Walz*, 397 U.S. at 672.

The court of appeals also accepted Respondents’ argument that they could demonstrate that Section 1089’s design and scope reveal the stated legislative purpose to be a sham. Garriott Pet. App. 19a-20a. This finding is wrong because Respondents have not shown that any legislator, much less the entire legislative body, had an improper religious motive. This Court has found the government’s stated purpose to be a sham only when it tries to cover up obviously religious motives by adding a secondary secular objective or when its actions can be explained only by a religious motivation. *See McCreary*, 545 U.S. at 864-65 (explaining that purported secular purposes have been found to be a sham in cases where they turned out to be implausible or to be secondary to a religious motivation); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (rejecting

the district's professed secular purpose for its policy of electing a single student to recite a pre-game prayer where its history indicated that the district "intended to preserve the practice of prayer before football games").

The court of appeals also erred in suggesting that the primary sponsor's expressed purpose is the only valid secular purpose for Section 1089. *See Bd. of Educ. v. Mergens*, 496 U.S. 226, 249 (1990) (O'Connor, J., plurality opinion) ("Even if some legislators were motivated by a conviction that religious speech in particular was valuable and worthy of protection, that alone would not invalidate the Act, because what is relevant is the legislative *purpose* of the statute, not the possibly religious *motives* of the legislators who enacted the law."). As noted above, both Section 1089's language and its legislative history demonstrate more than one secular purpose and neither demonstrates any religious purpose.

And the court of appeals erred in accepting Respondents' claim that Section 1089 does not further the secular purpose of encouraging parental choice. This Court has never required the State to prove that a facially neutral statute is narrowly tailored to meet only the expressed secular purpose. Instead, it has accorded substantial deference to the State's secular purpose, whether expressed in the statute or gleaned from the statutory language. *See Mueller*, 463 U.S. at 394-95 (Court will not attribute an unconstitutional motive to the States "when a plausible secular purpose for the state's program may be discerned

from the face of the statute”); *Lemon*, 403 U.S. at 613 (the “stated legislative intent must be accorded appropriate deference”); *see also Comm. for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 773 (1973) (Court did not doubt the validity of the State’s interest behind a statute that provided aid to private schools and income tax benefits to parents for private-school tuition expenses, which included “preserving a healthy and safe educational environment for all of its schoolchildren,” “promoting pluralism and diversity among its public and nonpublic schools,” and preventing an already overburdened public school system from suffering if “a significant percentage of children presently attending nonpublic schools should abandon those schools in favor of the public schools”).

In sum, Section 1089’s language, legislative history, and implementation reveal only secular purposes, and there are no external signs that indicate that the Legislature had any religious motivation for enacting it. Therefore, the court of appeals erred in holding that Respondents could demonstrate that the Legislature’s secular objectives were a sham. This Court should reverse.

## **II. Section 1089 Does Not Have the Effect of Advancing Religion.**

The court of appeals held that Section 1089 had the primary effect of advancing religion because the State allowed taxpayers to donate to STOs that limit

scholarships to religious schools and parents who wanted to send their children to secular private schools would perceive that the State was favoring religion if the majority of the taxpayers donated to religious STOs. *Garriott Pet. App.* 44a-45a. That holding is wrong because it attributes the effect of private decisions to the State, fails to acknowledge all the options available to Arizona parents and students, and ignores the similarities between Section 1089 and other well-established federal and state tax benefits available to charitable organizations, including religious organizations. The court purported to rely on *Zelman*, but its holding is directly contrary to *Zelman* and this Court's other precedents.

**A. Section 1089 Is a Neutral Program of Private Choice.**

This Court's decisions "have drawn a consistent distinction between government programs that provided aid directly to religious schools, and programs of true private choice, in which government aid reaches religious schools as a result of the genuine and independent choices of private individuals." *Zelman*, 536 U.S. at 649 (citations omitted). These programs of true private choice are permissible because "[t]he incidental advancement of a religious mission, or the perceived endorsement of a religious message, is reasonably attributable to the individual recipient, not the government, whose role ends with the disbursement of benefits." *Id.* at 652.



Section 1089 is a program of true private choice. In his dissent from the denial of rehearing en banc, Judge O’Scannlain aptly described the program:

First, an individual or group of individuals must choose to create an STO. Second, that STO must then decide to provide scholarships to religious schools. Third, taxpayers have to contribute to the STO in question. Finally parents need to apply for a scholarship for their student. In every respect and at every level, these are purely private choices, not government policy. Under such circumstances, “government cannot, or at least cannot easily, grant special favors that might lead to a religious establishment.”

Garriott Pet. App. 94a-95a (quoting *Zelman*, 536 U.S. at 652-53).

The Ninth Circuit held that Section 1089 was not a “neutral program of private choice” because a majority of taxpayers who contributed to STOs chose to contribute to STOs that provided scholarships to religious schools, which in turn could constrain parental choice. Garriott Pet. App. at 23a. But in *Zelman*, this Court rejected the argument that the amount of indirect aid provided to religious schools in a given year either created the imprimatur of government endorsement of religion or indicated that the government program must be favoring religion. 536 U.S. at 656 (rejecting the notion that “Cleveland’s preponderance of religiously affiliated

private schools” indicated that the “program itself must somehow discourage the participation of private nonreligious schools”); *id.* at 658 (rejecting the claim of respondents and Justice Souter that the fact that ninety-six percent of the scholarship recipients have enrolled in religious schools proves that parents lack genuine choice because “[t]he constitutionality of a neutral educational aid program simply does not turn on whether and why, in a particular area, at a particular time, most private schools are run by religious organizations, or most recipients choose to use the aid at a religious school”); *see also Mueller*, 463 U.S. at 401 (stating that the Court “would be loath to adopt a rule grounding the constitutionality of a facially neutral law on annual reports reciting the extent to which various classes of private citizens claimed benefits under the law”).

The yearly fluctuations in the number of religious STOs and the amounts contributed to them demonstrate the wisdom of this Court’s approach in *Zelman* and *Mueller*. The court of appeals expressed concern because the three STOs that received the most contributions in 1998 had religious missions. Garriott Pet. App. 5a, 69a. In 2009, the third largest STO was the Arizona Scholarship Fund, which provided scholarships to students attending 171 different schools, and six of the ten largest STOs had no apparent religious affiliation. App. 30-31, 35. Under the court of appeals’ analysis, a ruling on the

constitutionality of the program could vary depending on the year in which it was evaluated.<sup>6</sup> Instead, the inquiry must focus on whether the State is in any way influencing the private decision-making, and the answer to that inquiry is clearly no.

Further, any alleged limitations on parental choice resulting from the taxpayers' chosen beneficiaries under Section 1089 in any given year are not constitutionally distinct from the limitations inherent in the program that this Court upheld in *Zelman*. The parents who participated in the *Zelman* voucher program were limited by the schools that chose to participate in it. See 536 U.S. at 647 (noting that forty-six of the fifty-six private schools that participated in the program had a religious affiliation and that no public schools elected to participate). The Court refused to attribute constitutional significance to the percentage of religiously affiliated schools that chose to participate because "Cleveland's preponderance of religiously affiliated schools certainly did not

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<sup>6</sup> The court of appeals did not provide any guidance on what kind of numbers would be acceptable. If only ten percent of the donations were provided to religious STOs, would parents believe that the State was endorsing religion? Indeed, the Respondents alleged that allowing *any* money to go to a religious STO or to a religious school violated the Establishment Clause and asked the court to prohibit Petitioner Garriott from allowing a tax credit for contributions to an STO that provides scholarships to any religious school. ASCTO Pet. App. 125a-127a.

arise as a result of the program,” noting that eighty-one percent of private schools in Ohio were religious schools. *Id.* at 656-57. The same is true for the Section 1089 program. The majority of private schools in Arizona are religious. *See Kotterman*, 972 P.2d at 626 (Feldman, J., dissenting) (noting that at least seventy-two percent of Arizona’s private schools were religious); *see also* U.S. Department of Education, *Characteristics of Private Schools in the United States: Results from the 2007-2008 Private School Universe Survey 7* (March 2009), <http://www.nces.ed.gov/pubs/2009/2009313.pdf> (more than eighty percent of private school students in the United States in the 2007-2008 fiscal year were enrolled in schools that had a religious orientation or purpose).

Thus, the court of appeals’ holding, which based a finding of unconstitutionality on the private choices of private individuals, is contrary to this Court’s precedent. Instead, Section 1089 does not violate the Establishment Clause because “any ‘skew[ing]’ that occurs takes place because of private, not government action.” *Garriott* Pet. App. 96a (quoting *Winn*, 562 F.3d at 1013).

**B. No Objective Observer Familiar with Section 1089's History and Context Would Conclude that Arizona Has Endorsed Religious Education.**

**1. Section 1089 Does Not Encourage Parents to Choose Religious Schools.**

The court of appeals' decision also conflicts with *Zelman* because it focuses narrowly on the Section 1089 program in finding that a reasonable observer would believe that Section 1089 constrains parental choice and encourages parents to choose religious schools. Under *Zelman*, the court should have determined if Section 1089 would be perceived as favoring religion when viewed by an objective observer who was aware of its full history and context and of all of the educational options available to Arizona parents and students. An objective observer who was familiar with Section 1089's history, Arizona's educational history of encouraging parental choice, and the host of educational options available to Arizona students would reasonably view Section 1089 as one aspect of a broader undertaking to provide Arizona students with a full spectrum of educational options.

In *Zelman*, the Court rejected the argument that the voucher program failed to "provide genuine opportunities for Cleveland parents to select secular educational options for their school-age children":

The Establishment Clause question is whether Ohio is coercing parents into sending their

children to religious schools, and that question must be answered by evaluating *all* options Ohio provides Cleveland schoolchildren, only one of which is to obtain a program scholarship and then choose a religious school.

536 U.S. at 655; *accord id.* at 672-73 (O'Connor, J., concurring) (noting that the lower court's decision was incorrect because it failed to consider all of the options available to the Cleveland school children, including community and magnet schools). Because the Cleveland schoolchildren enjoyed a range of educational choices, the Court found no Establishment Clause violation. 536 U.S. at 660.

Section 1089 is just one of a broad range of educational options that Arizona provides to its schoolchildren. In addition to the neighborhood public school, Arizona parents may enroll their child in any other district public school that is better suited to their child's needs. *See* A.R.S. § 15-816.01(A) (requiring school districts to allow enrollment by students who do not live in the district). Arizona parents may also choose from a vast array of charter schools. Charter schools provide an alternative to traditional public schools because they are established by private entities, A.R.S. § 15-101(3), and may offer "curriculum with an emphasis on a specific learning philosophy or style or certain subject areas such a mathematics, science, fine arts, performance arts or foreign language," A.R.S. § 15-183(E)(3). Arizona is viewed as the leading charter school state. *See* William Haft, *Charter*

*Schools and the Nineteenth Century Corporation: A Match Made in the Public Interest*, 30 Ariz. St. L.J. 1023, 1060 n.214 (1998). As of October 2009, Arizona had 502 charter schools. See Ariz. State Bd. for Charter Schs.: School Search, [http://www.asbcs.az.gov/parent\\_resources/school\\_search.asp](http://www.asbcs.az.gov/parent_resources/school_search.asp). (last visited July 25, 2010).

Not only does Arizona provide a vast array of public school options, it also makes the public school option far more attractive from a financial standpoint. There is no tuition for an Arizona public school education, and the average per-pupil expenditure is \$7,810 for district schools and \$6,946 for charter schools. Tom Horne, Ariz. Dep't of Educ., *Superintendent's Annual Report for Fiscal Year 2008-2009*, Vol. 1, at 54 (2010), <http://www.azed.gov/AnnualReport/AnnualReport2009/Vol1.pdf>; see also Brief of Amici Curiae the Cato Institute and others in Support of Petitioners in *ACSTO v. Winn*, Nos. 09-987, 09-991 (March 2010) at 15 (noting that the average scholarship amount under Section 1089 is less than one-quarter of the per-pupil funding available for students attending charter schools and roughly one-fifth of the funding available to traditional public school students). And parents may receive an income tax credit for contributions to their child's school to pay for expenses related to extracurricular activities or character-education programs. A.R.S. § 43-1089.01 (2009) (providing a \$200 credit for individuals and a \$400 credit for married couples). Given these public school options, it is not surprising that only 4.5% of

Arizona students attended private schools in the 2007-2008 school year. *Compare* Arizona Department of Education, *Research and Evaluation Section, 2007-2008 Enrollment* (January 2008), <http://www.azed.gov/researchpolicy/azenroll/2007-2008/OctEnroll2008countygrade.pdf> (enrollment of 1,148,448 public school students) *with* U.S. Department of Education, *Characteristics of Private Schools in the United States: Results from the 2007-2008 Private School Universe Survey 20* (March 2009), <http://www.nces.ed.gov/pubs2009/2009313.pdf> (enrollment of 51,590 private school students in Arizona).<sup>7</sup>

Finally, as Judge O'Scannlain correctly noted, "Section 1089 itself offers parents yet another alternative: they can create their own STO and solicit donations for use at secular private schools." *Garriott Pet. App.* 104a. If all the parents who want to increase the availability of scholarship funding for a particular private secular school donate to an STO that provides scholarships to that school, there will be more scholarship money available for students who attend that school. It is difficult to imagine that parents and private secular schools have not grasped this simple logic.

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<sup>7</sup> Arizona also has a permissive home-schooling policy, A.R.S. §§ 15-802, -803, and it supports private school scholarships through its corporate-tuition tax-credit programs, A.R.S. §§ 43-1183, -1184.



Because the court of appeals did not consider the range of educational options available to Arizona schoolchildren in finding that the Section 1089 program could have the effect of favoring religion, its opinion conflicts with *Zelman*. This Court should reverse.

**2. Section 1089 Is Not a State Endorsement of Religion Because It Allows a Tax Credit for Contributions to Charitable Organizations that Provide Scholarships to Religious Schools.**

The court of appeals also erred in concluding that the public would perceive allowing taxpayers to contribute to any STO, including those that provide scholarships only to religious schools, as an endorsement of religion. Because Section 1089 is one of many tax benefits that are available to all taxpayers who contribute to charitable organizations and is indistinguishable from tax benefits that are provided directly to religious organizations, the public will not perceive that Section 1089 is fostering religion when it allows taxpayers to choose the organizations that will receive their donations.

This Court has long recognized that property tax exemptions for religious organizations do not violate the Establishment Clause when the benefits are part of a neutral tax scheme that does not favor religion. *See Walz*, 397 U.S. at 673 (upholding New York's property tax exemption because it had not "singled

out one particular church or religious group or even churches as such; rather, it granted an exemption to all houses of religious worship within a broad class of property owned by nonprofit [and] quasi-public corporations”); *cf. Hernandez v. Comm’r*, 490 U.S. 680, 689 (1989) (noting that federal taxpayers have been allowed to deduct the amount of contributions to charitable, religious, and other eleemosynary institutions for over seventy years).

In *Mueller*, 463 U.S. 388, 390 (1983), this Court upheld a tax deduction for actual expenses incurred for tuition, textbooks, and transportation of dependents attending elementary or secondary schools. In finding that the deduction did not have the primary effect of advancing religion, the Court found it significant that the tax deduction was one of many deductions that Minnesota’s tax scheme allowed and that the deduction was allowed to all parents, not just to parents of children who attended religious schools. *Id.* at 396-97.

In *Zelman*, Justice O’Connor explained why the Court’s holding that the voucher program did not violate the Establishment Clause did not “mark[] a dramatic break from the past.” 536 U.S. at 664 (O’Connor, J., concurring). She noted that the amount that would be spent on vouchers “pale[d] in comparison to the amount of funds that federal, state, and local governments already provided religious institutions” by granting them well-established tax deductions, credits, and exemptions. *Id.* at 665 (O’Connor J., concurring). And Justice O’Connor noted that “tax

exemptions have ‘much the same effect as [cash grants] . . . of the amount of the tax avoided.’” *Id.* at 666 (O’Connor, J., concurring) (quoting *Regan v. Taxation with Representation of Wash.*, 461 U.S. 540, 544 (1983) (alteration in original)).

Section 1089 easily passes Establishment Clause scrutiny under *Walz* and *Mueller*. Section 1089 is one of many individual income tax credits permitted under Arizona law. *See* A.R.S. §§ 43-1071 to -1090.01. (2009). These credits include a credit for cash contributions to qualifying charitable organizations – which include religious organizations – that provide services to low-income residents or chronically ill or physically disabled children, A.R.S. § 43-1088 (2009); for contributions or payments to an Arizona public school for the support of the school’s extracurricular activities or character-education programs, A.R.S. § 43-1089.01 (2009); and for the donation of real property and improvements to a public school, A.R.S. § 43-1089.02 (2009). Arizona law also allows many deductions, including one for contributions to religious organizations. *See* A.R.S. § 43-1042(A) (2009) (permitting taxpayers to take “the amount of itemized deductions allowable” under the Internal Revenue Code). And Arizona law provides many tax exemptions, including one for property “used or held primarily for religious worship.” A.R.S. § 42-11109. Accordingly, the Arizona Supreme Court correctly concluded that “the Arizona tuition tax credit is one of an extensive assortment of tax-saving mechanisms available as part of a ‘genuine system of tax laws.’”

*Kotterman*, 972 P.2d at 613 (quoting *Mueller*, 463 U.S. at 396 n.6).

And like the program upheld in *Mueller*, Section 1089 benefits a broad class of recipients. All taxpayers who choose to contribute to an STO receive a tax benefit, and all parents whose children receive scholarships receive financial assistance for private school tuition.

Although the court below acknowledged that this Court has upheld other “tax benefits to individuals who contribute to nonprofit, religious institutions,” *Garriott* Pet. App. 24a, it found Section 1089 constitutionally distinct from other tax deductions and exemptions (and thus, a delegation of governmental authority) because it “offers narrowly targeted, dollar-for-dollar tax credits designed to fully reimburse contributions to STOs” and its secular objectives are different “from those advanced by tax programs the Supreme Court has upheld.” *Id.* at 25a-26a. The court erred because the distinction between a credit and a deduction does not alter the outcome of the Establishment Clause analysis and Section 1089’s purpose is not substantially different from the secular purposes for other tax benefits that this Court has upheld.

This Court has noted that “a tax exemption has much the same effect as a cash grant to the organization of the amount that the organization would have to pay on its income.” *Regan*, 461 U.S. at 544. And “[d]eductible contributions are similar to cash

grants of the amount of a portion of the individual's contributions." *Id.* Like a tax exemption and a tax deduction, a tax credit has much the same effect as a cash grant to an individual in the amount of the credit. As Judge O'Scannlain observed, the distinction between a tax credit and a tax deduction that the court tried to draw has no constitutional significance:

Both [credits and deductions] result in a reduction of the money paid by the taxpayer to the government, with the amount of the reduction going to the designated STO. The only practical difference is that with a deduction the taxpayer must make a copayment of his own, whereas with a credit there is no copayment. Of course, this favors richer taxpayers over poorer ones, as the former are more able to afford a personal contribution. Moreover, in a progressive tax system, deductions most favor the taxpayers with the greatest income. Not only does the value of the deduction increase with the taxpayer's marginal rate, but so does the amount of government revenue that is diverted at the taxpayer's behest. It is difficult to see why such a regressive scheme (deductions) is constitutionally superior to the egalitarian tax credit.

Garriott Pet. App. 89a n.3. The Arizona Supreme Court also found no constitutional distinction between tax credits and tax deductions: "Though amounts may vary, both credits and deductions ultimately reduce state revenues, are intended to serve policy goals, and clearly act to induce 'socially beneficial behavior' by

taxpayers.” *Kotterman*, 972 P.2d at 612 (quoting Elizabeth A. Baergen, Note, *Tuition Tax Deductions and Credits in Light of Mueller v. Allen*, 31 Wayne L. Rev. 157, 173 (1984)). Because there is no legal or logical basis for distinguishing between tax credits and other tax benefits for purposes of the Establishment Clause, the lower court erred in finding the distinction significant.

The court also erred in holding that the secular purpose for Section 1089 differs from the secular purposes for other tax benefit programs. In allowing a deduction for contributions to a § 501(c)(3) organization, Congress chose to subsidize activities “that non profit organizations undertake to promote the public welfare.” *Regan*, 461 U.S. at 544; *see also Walz*, 397 U.S. at 673 (upholding New York’s tax exemption that included houses of religious worship within a broad class of other nonprofit and quasi-public corporations because such organizations were beneficial and stabilizing influences in community life and the classification was in the public interest). Section 1089 encourages contributions to STOs that promote the public welfare by providing financial assistance to parents who wish to send their children to private schools. This valid secular purpose is not substantially different from the secular interests that other tax programs that this Court have upheld have advanced.

Relying on *Larkin v. Grendel’s Den, Inc.*, 459 U.S. 116 (1982), the court also found that the public would perceive Section 1089 as government endorsement of

religion because the State delegated its authority to taxpayers by allowing their choices to affect parents' opportunities to select secular educational options for their children. Garriott Pet. App. 43a-44a. *Larkin* does not support the court's finding, and the court's assumption that parents would perceive that the State endorsed religious schools by allowing taxpayer contributions to fund STOs is illogical.

In *Larkin*, the Court invalidated a Massachusetts statute that gave *churches* the authority to veto a business's application for a liquor license if the business was located within a five-hundred-foot radius of the church because the statute permitted the church and the State to jointly exercise legislative authority. 459 U.S. at 126. The public may perceive that the State is favoring religion when it allows churches to veto an application for a liquor license because the government has thereby provided churches with a right that is has not provided to other institutions and the right it has provided – denying a permit – is a right traditionally reserved to the government. In contrast, the public would not perceive that Arizona was endorsing religion when it allowed taxpayers a credit for contributing money to any STO, including STOs that provide scholarships only to students attending religious schools, because this country has a long history of providing tax benefits to religious institutions. See *Zelman*, 536 U.S. at 665 (O'Connor, J., concurring) (noting that the amount that Cleveland provided to religious schools in vouchers paled in comparison “to the amount of funds that

federal, state, and local governments already provide religious institutions” through well-established tax policies).

The court also relied on *Larkin* to find that parents will perceive government endorsement because delegating the choice to taxpayers instead of to parents does not promote the program’s secular purpose when there is no guarantee that taxpayers will refrain from using the program for sectarian purposes. Garriott Pet. App. at 44a-45a. Again, *Larkin* is inapt because the statute that the Court invalidated in *Larkin* granted churches zoning authority – not a tax benefit. Because the Court has held that there is no perceived endorsement of religion when the government provides tax exemptions to houses of worship, *Walz*, 397 U.S. at 693, there can be no perceived endorsement when the State provides a tax credit to taxpayers who contribute to religious STOs.

Moreover, the court’s assumption that taxpayers’ motivation for contributing to an STO is more likely to be religious than parents’ motivation for choosing a private school for their child is pure conjecture. As Judge O’Scannlain noted, parents are often motivated by their religious beliefs when they choose to send their child to a private religious school. Garriott Pet. App. 109a. And it is likely that taxpayers are often motivated by the secular interest of helping children to receive a quality education when they provide financial assistance to STOs that give scholarships to private schools that they believe in. Regardless of the validity of the court’s assumption that there is a



“misalignment between parents’ interests and taxpayers’ desires” Garriott Pet. App. 44a, its reliance on private motivation to establish government endorsement is foreclosed by this Court’s private-choice precedent.

The Court should reverse the court of appeals’ decision because it is directly contrary to established precedent. Section 1089 is a neutral program of true private choice, and an objective observer therefore would not perceive it as the State’s endorsement of religion. The district court therefore correctly dismissed Respondents’ complaint.



### CONCLUSION

For the foregoing reasons, this Court should reverse the court of appeals’ decision.

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**2010 Ariz. Sess. Laws ch. 188 (S.B. 1274, approved April 27, 2010, eff. July 27, 2010, to be codified at A.R.S. § 43-1089):<sup>1</sup>**

A. A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~H~~I during the taxable year to a school tuition organization, but not exceeding:

1. Five hundred dollars in any taxable year for a single individual or a head of household.

2. Eight hundred twenty-five dollars in taxable year 2005 for a married couple filing a joint return.

3. One thousand dollars in taxable year 2006 and any subsequent taxable year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not

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<sup>1</sup> In each version of A.R.S. § 43-1089, the text that was deleted by the amendment is lined through and text that was added by the amendment is underlined.

## App. 2

used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

D. The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer.

F. A school tuition organization that receives a voluntary cash contribution pursuant to subsection A shall report electronically to the department, in a form prescribed by the department, by February 28 of each year the following information:

1. The name, address and contact name of the school tuition organization.

2. The total number of contributions received during the previous calendar year.

3. The total dollar amount of contributions received during the previous calendar year.

4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.

5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

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6. For each school to which educational scholarships or tuition grants were awarded:

- (a) The name and address of the school.
- (b) The number of educational scholarships and tuition grants awarded during the previous calendar year.
- (c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

G. For the purposes of this section, a contribution, for which a credit is claimed, that is made on or before the fifteenth day of the fourth month following the close of the taxable year may be applied to either the current or preceding taxable year and is considered to have been made on the last day of that taxable year.

G.-H. For the purposes of this section:

1. “Handicapped student” means a student who has any of the following conditions:

- (a) Hearing impairment.
- (b) Visual impairment.
- (c) Developmental delay.
- (d) Preschool severe delay.
- (e) Speech/language impairment.

2. “Qualified school” means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state,

that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

3. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates at least ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

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**2010 Ariz. Sess. Laws ch. 293, § 1 (H.B. 2664, approved May 10, 2010, eff. Dec. 31, 2010, to be codified at A.R.S. § 43-1089):**

A. A credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~H-I~~ during the taxable year to a school tuition organization, ~~but not exceeding~~ that is certified pursuant to chapter 15 of this title at the time of donation. Except as provided by subsection C of this section, the amount of the credit shall not exceed:

1. Five hundred dollars in any taxable year for a single individual or a head of household.

~~2. Eight hundred twenty-five dollars in taxable year 2005 for a married couple filing a joint return.~~

~~3. 2. One thousand dollars in taxable year 2006 and any subsequent taxable year for a married couple filing a joint return.~~

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. For each taxable year beginning on or after January 1, the department shall adjust the dollar amounts prescribed by subsection A, paragraphs 1 and 2 of this section according to the average annual change in the metropolitan Phoenix consumer price index published by the United States bureau of labor statistics, except that the dollar amounts shall not be revised downward below the amounts allowed in the prior taxable year. The revised dollar amounts shall be raised to the nearest whole dollar.

~~C. D.~~ If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

~~D. E.~~ The credit allowed by this section is in lieu of any deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

~~E. F.~~ The tax credit is not allowed if the taxpayer designates the taxpayer's contribution to the school tuition organization for the direct benefit of any dependent of the taxpayer or if the taxpayer DESIGNATES a student beneficiary as a condition of the taxpayer's contribution to the school tuition organization. The tax credit is not allowed if the taxpayer, with the intent to benefit the taxpayer's dependent, agrees with one or more other taxpayers to designate each taxpayer's contribution to the school tuition organization for the direct benefit of the other taxpayer's dependent.

~~F. A school tuition organization that receives a voluntary cash contribution pursuant to subsection A shall report electronically to the department, in a form prescribed by the department, by February 28 of each year the following information:~~

~~— 1. The name, address and contact name of the school tuition organization.~~

~~— 2. The total number of contributions received during the previous calendar year.~~

~~— 3. The total dollar amount of contributions received during the previous calendar year.~~

~~— 4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.~~

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~~5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~6. For each school to which educational scholarships or tuition grants were awarded:~~

~~(a) The name and address of the school.~~

~~(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.~~

G. For the purposes of this section:

1. "Handicapped student" means a student who has any of the following conditions:

(a) Hearing impairment.

(b) Visual impairment.

(c) Developmental delay.

(d) Preschool severe delay.

(e) Speech/language impairment.

2. "Qualified school":

(a) Means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of



race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

(b) Does not include a charter school or programs operated by charter schools.

~~3. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates at least ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.~~

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**2010 Ariz. Sess. Laws ch. 293, § 2 (H.B. 2664, approved May 10, 2010, eff. Dec. 31, 2010, to be codified at A.R.S. §§ 43-1501 – 1505):<sup>2</sup>**

CHAPTER 15  
SCHOOL TUITION ORGANIZATIONS FOR  
INDIVIDUAL CONTRIBUTIONS  
ARTICLE 1. GENERAL PROVISIONS

43-1501. Definitions

In this chapter, unless the context otherwise requires:

1. “Allocate” includes reserving money for an award of a multiyear educational scholarship or tuition grant for a specific student.
2. “Fiscal year” means the fiscal year of the state as prescribed in section 35-102.
3. “Qualified school” has the same meaning prescribed in section 43-1089.

A.R.S. § 43-1502. Certification as a school tuition organization

A. A nonprofit organization in this state that is exempt or has applied for exemption from federal taxation under section 501(c)(3) of the internal revenue code may apply to the department of revenue for certification as a school tuition organization, and the department shall certify the school tuition

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<sup>2</sup> The text of these provisions are not underlined but they are new statutory provisions.

organization if it meets the requirements prescribed by this chapter. An organization must apply for certification on a form prescribed and furnished on request by the department

B. The department shall:

1. Maintain a public registry of currently certified school tuition organizations.

2. Make the registry available to the public on request.

3. Post the registry on the department's official website.

C. The department shall send written notice by certified mail to a school tuition organization if the department determines that the school tuition organization has engaged in any of the following activities:

1. Failing or refusing to allocate at least ninety per cent of annual revenues for educational scholarships or tuition grants.

2. Failing or refusing to file the annual reports required by section 43-1504.

3. Limiting availability of scholarships to students of only one school.

4. Encouraging, facilitating or knowingly permitting taxpayers to engage in actions prohibited by this article.

5. Awarding, restricting or reserving educational scholarships or tuition grants for use by a particular student based solely on the recommendation of the donor.

D. A school tuition organization that receives notice from the department pursuant to subsection C of this section has ninety days to correct the violation identified by the department in the notice. If a school tuition organization fails or refuses to comply after ninety days, the department may remove the organization from the list of certified school tuition organizations and shall make available to the public notice of removal as soon as possible. An organization that is removed from the list of certified school tuition organizations must notify any taxpayer who attempts to make a contribution that the contribution is not eligible for the tax credit and offer to refund all donations received after the date of the notice of termination of certification.

E. A school tuition organization may request an administrative hearing on the revocation of its certification as provided by title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, a decision of the department is subject to judicial review pursuant to title 12, chapter 7, article 6.

A.R.S. § 43-1503. Operational requirements for school tuition organizations; notice; qualified schools

A. A certified school tuition organization must be established to receive contributions from taxpayers

for the purposes of income tax credits under section 43-1089 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety per cent of its annual revenue for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations.

4. Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of section 43-1089, subsection F.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website:

NOTICE

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

D. In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

1. Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors.

2. Shall consider the financial need of applicants.

E. A qualified school shall not accept an educational scholarship or tuition grant from a school tuition organization in an amount that exceeds the school's total cost of educating the student in whose name the scholarship or grant is received.

43-1504. Annual report

On or before September 30 of each year, Each school tuition organization shall report electronically to the department, in a form prescribed by the department, the following information, separately compiled and identified for the purposes of section 43-1089:

1. The name, address and contact person of the school tuition organization.

2. The total number of contributions received during the previous fiscal year.

3. The total dollar amount of contributions received during the previous fiscal year.

4. The total number of children awarded educational scholarships or tuition grants during the previous fiscal year.

5. The total dollar amount of:

(a) Educational scholarships and tuition grants distributed during the previous fiscal year.

(b) Money being held for identified students' scholarships and tuition grants in future years.

6. The cost of audits pursuant to section 43-1505 paid during the fiscal year.

7. The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to:

(a) Students whose family income meets the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches.

(b) Students whose family income exceeds the threshold prescribed by subdivision (a) of this paragraph but does not exceed one hundred eighty-five per cent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches.

8. For each school to which educational scholarships or tuition grants were awarded:

(a) The name and address of the school.

(b) The number of educational scholarships and tuition grants awarded during the previous fiscal year.

(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year.

9. The names, job titles and annual salaries of the three employees who receive the highest annual salaries from the school tuition organization.

#### 43-1505. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with



the fiscal requirements of this article. The audit must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

C. Within five days after receiving the audit or financial review the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.

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**STATE OF ARIZONA** [SEAL]  
*Department of Revenue*  
*Office of the Director*  
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Jan Brewer  
**Governor**

Gale Garriott  
**Director**

**INDIVIDUAL INCOME TAX CREDIT  
FOR DONATIONS TO PRIVATE  
SCHOOL TUITION ORGANIZATIONS:  
REPORTING FOR 2009  
EXECUTIVE SUMMARY**

- \$50,853,086 in donations to private school tuition organizations were reported to the Arizona Department of Revenue for 2009. This is a decrease of 8.0% over the \$55,261,284 reported for 2008.
- 73,391 donations to private school tuition organizations were reported, a decrease of 6.4% over 2008.
- The Department was aware of 53 school tuition organizations operating in Arizona in 2009, a decrease from the 55 STOs that participated in 2008.
- The average donation in 2009 was \$693. This is a decrease from the \$705 average in 2008.
- Scholarships paid by school tuition organizations in 2009 totaled \$52.1 million, a 3.7% decrease over the amount of scholarships paid in 2008.

- The number of scholarships paid in 2009 was 27,582, a 2.6% decrease from the 28,327 scholarships paid in 2008.
- 370 private schools in Arizona received scholarship money from school tuition organizations, 3 less than last year.
- Two school tuition organizations gave scholarships to only one private school.
- Four school tuition organizations gave scholarships to 100 or more private schools.
- The smallest average scholarship paid by a school tuition organization to a school was \$40, paid by the Arizona Scholarship Fund to Bethany Christian School in Lake Havasu City.
- The largest average scholarship paid by a school tuition organization to a school was \$21,500, paid by Arizona Scholarship Fund to the Ethos School.
- The majority of the scholarships (63%) and the scholarship money (66%) was paid to schools in Maricopa County.

**INDIVIDUAL INCOME TAX CREDIT  
FOR DONATIONS TO PRIVATE  
SCHOOL TUITION ORGANIZATIONS:  
REPORTING FOR 2009**

Arizona's individual income tax credit for contributions to school tuition organizations, referred to as the private school tax credit, is governed by A.R.S. §43-1089. School tuition organizations (STOs) must

report the following information to the Arizona Department of Revenue by February 28:

1. The name, address and contact name of the STO.
2. The number of contributions received in the previous calendar year.
3. The dollar amount of contributions received in the previous calendar year.
4. The number of children<sup>1</sup> awarded scholarships or grants during the previous calendar year.
5. The dollar amount of scholarships and grants awarded during the previous calendar year.
6. The name and address of each qualified school<sup>2</sup> receiving the scholarships or grant money, along with the number and dollar amount of scholarships or grants provided to each school.

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<sup>1</sup> The Department of Revenue has determined that “children” as identified in this statute would generally be 18 years or younger.

<sup>2</sup> Qualified school is defined in statute as a “nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin . . . ” The Department of Revenue has further clarified this by saying that these primary and secondary schools must educate children in a course of study that leads to promotion to the next class or to graduation.

The Arizona Department of Revenue was aware of 53 STOs operating in Arizona in 2009, two less than in 2008. (Three organizations stopped operating: Carden Schools Scholarship Fund, Classical Christian Scholarship Fund and Educare Scholarship Fund.) The number and amount of donations are set out in the following table. For calendar year 2009, \$50.9 million has been reported by 53 STOs, an 8.0% decrease over the donations reported for 2008.

Arizona Christian School Tuition Organization is the largest school tuition organization in terms of number and amount of donations received. Arizona Christian School Tuition Organization reported \$10.4 million in donations, 20.4% of the total. The Catholic Tuition Organization of the Diocese of Phoenix reported \$9.2 million in donations, 18.0% of the total reported. These two organizations received more than 38% of the total donations. Of the 52 STOs reporting in 2008 and 2009, 38 saw a decline in donations from 2008. To review the donations reported by each STO, see Appendix I at the end of this report.

<b>Calendar Year</b>	<b># of STOs</b>	<b># of Donations</b>	<b>Amount</b>	<b>% change in amount</b>
2009	53	73,391	\$50,853,086	(8.0%)
2008	55	78,407	\$55,261,284	1.8%
2007	55	76,065	\$54,303,282	6.5%
2006 <sup>3</sup>	56	73,617	\$51,011,815	20.9%

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<sup>3</sup> The maximum donation for married filing joint returns increased to \$1,000 from \$825.

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2005 <sup>4</sup>	53	69,239	\$42,194,898	32.5%
2004	53	63,830	\$31,846,070	8.2%
2003	51	58,122	\$29,445,494	11.2%
2002	43	52,161	\$26,482,993	6.3%
2001 <sup>5</sup>	43	46,755	\$24,924,656	40.8%
2000	36	38,249	\$17,701,284	28.4%
1999	33	32,023	\$13,781,341	
1998 <sup>6</sup>	16	4,248	\$1,815,798	

STOs reported 27,582 scholarships paid for \$52.1 million in 2009, an average of \$1,889 per scholarship<sup>7</sup>. This is a 2.6% decrease in the number of scholarships reported over calendar year 2008 and a 3.7% decrease in the total scholarship paid. The following table shows the history of scholarships and grants paid out by STOs, based on information reported to the Department of Revenue. The range of average scholarship amounts paid by the individual STOs is from \$180 (Montessori Centre School Tuition Organization) to \$20,850 (Life Development Institute Scholarship Fund). To review the scholarships paid by each STO, see Appendix II at the end of this report.

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<sup>4</sup> The maximum donation for married filing joint returns increased to \$825 from \$625.

<sup>5</sup> The maximum donation for married filing joint returns increased to \$625 from \$500.

<sup>6</sup> Activity in 1998 was artificially low due to a court case challenging the constitutionality of the credit based on separation of church and state. The credit was determined to be constitutional.

<sup>7</sup> This does not mean that 27,582 students received scholarships. One student may have received scholarships from more than one STO.

<b>Calendar Year</b>	<b># of STOs Reporting</b>	<b># of Scholarships</b>	<b>Amount</b>	<b>% chg in amount</b>	<b>Average scholarship</b>	<b>% chg in avg</b>
2009	52	27,582	\$52,091,718	(3.7)	\$1,889	(1.0)
2008	55	28,321	\$54,089,934	11.3	\$1,909	6.8
2007	55	27,153	\$48,561,687	19.7	\$1,788	8.8
2006	56	24,678	\$40,557,643	31.4	\$1,643	19.9
2005	54	22,529	\$30,863,153	9.4	\$1,370	2.7
2004	51	21,146	\$28,201,770	15.4	\$1,334	9.9
2003	49	20,134	\$24,437,877	7.1	\$1,214	4.1
2002	36	19,582	\$22,826,746	38.5	\$1,166	27.7
2001	32	18,049	\$16,484,958	21.6	\$913	1.6
2000	30	15,081	\$13,561,981	517.4	\$899	37.7
1999	17	3,365	\$2,196,734	2016.5	\$653	(19.5)
1998 <sup>8</sup>	4	128	\$103,790		\$811	

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<sup>8</sup> Activity in 1998 was artificially low due to a court case. See Footnote 6.



Average scholarship ranges and the number of STOs with scholarships falling in each range is shown in the following frequency distribution.

<b>Avg. Scholarship Range</b>	<b># of STOs</b>	<b>Avg. Scholarship Range</b>	<b># of STOs</b>
\$101 – \$1,000	6	\$3,001 – \$4,000	5
\$1,001 – \$1,500	8	\$4,001 – \$5,000	3
\$1,501 – \$2,000	16	\$5,001 – \$7,500	5
\$2,001 – \$2,500	3	\$7,501 – \$10,000	0
\$2,501 – \$3,000	5	\$10,000 and over	1

Of the 52 STOs that actually paid scholarships in 2009 (one newly formed STO, Just Friends of Education, paid no scholarships), 23 increased their average scholarship amount from the prior year. One STO paid scholarships for the first time, so its average scholarship amount neither increased nor decreased.

STOs provided scholarships and grants to 370 private schools throughout Arizona. There were 32 private schools that received scholarship money in 2008 year that did not receive any scholarship money in 2009.

Arizona Scholarship Fund provided scholarships and grants to 171 schools, more schools than any other STO. Appendix III, at the end of this report, lists the number of schools to which each STO provided scholarships and how many more or less schools received scholarships from the STO in the prior year. For example, Arizona Adventist Scholarships provided scholarships to 15 schools in 2009, which is one

less than last year. That information is aggregated in the following table.

<b># of private schools</b>	<b># of organizations giving to this number of private schools</b>
1	2
2	12
3	10
4	2
5	2
6-10	8
11-20	8
25-99	4
100 or more	4

As shown above, two STOs gave scholarships to only one private school. Those two STOs are Dynamite Montessori Foundation and Life Development Institute Education Fund. Not mentioned in the table above is one STO that did not pay any scholarships in 2009. Just Friends of Education is a new STO that will be making its first scholarship awards in 2010.

Two private schools, Christ Lutheran School and Northwest Christian School, received scholarship/grant money from eleven different STOs. Two private schools, Desert Christian Unified Schools and Valley Lutheran High School, received scholarship/grant money from ten different STOs. The following table shows the number of STOs contributing scholarship/grant money to the private schools.

<b>This many private schools received scholarships or grants from</b>	<b>This many STOs</b>
155	One STO
75	Two STOS
54	Three STOS
34	Four STOs
20	Five STOS
15	Six STOS
5	Seven STOs
6	Eight STOs
2	Nine STOs
2	Ten STOs
2	Eleven STOs

In other words, 155 private schools received scholarship/grant money from only one STO. There were 75 private schools that received scholarship/grant money from two STOs.

The *smallest* average scholarship paid by an STO to one private school was \$40 paid by the Arizona Scholarship Fund to Bethany Christian School in Lake Havasu City. Seven private schools received average scholarships from STOs for more than \$10,000. The *highest* average scholarship paid by an STO to one private school was \$21,500 paid by Arizona Scholarship Fund to Ethos School.

Eight private schools received more than \$1 million total from all STOs. The most scholarship/grant money received by one private school from all STOs was \$1,585,390 for 1,006 scholarships (\$1,576 average) to Northwest Christian School in Phoenix.

Appendix IV lists the 370 private schools that received scholarship/grant money, the number of scholarships, the amount and the average scholarship. This table also shows the percent change in amount of scholarship money received and the percent change in the average scholarship paid if the school also received scholarship money in 2008.

Highlighted schools received more scholarship money in total than in 2008 and had a higher average scholarship than in 2008. (The total number of scholarships shown on Appendix IV totals 27,658, 76 more than the number of scholarships shown on the table on page 3. Two STOs reported that 76 students received scholarships to two schools, meaning they switched schools at some point in the calendar year.)

The following table presents the distribution of average scholarships. For example, the average scholarship received by six private schools was between \$1 and \$250. The average scholarship received by 17 private schools was between \$251 and \$500.

<b>Avg. Scholarship Range</b>	<b># of Private Schools with Avg. Scholarships in this Range<sup>9</sup></b>	<b>Avg. Scholarship Range</b>	<b># of Private Schools with Avg. Scholarships in this Range</b>
\$1 – \$250	6	\$2,501 – \$3,000	27
\$251 – \$500	17	\$3,001 – \$4,000	19
\$501 – \$1,000	50	\$4,001 – \$5,000	10
\$1,001 – \$1,500	84	\$5,001 – \$7,500	12
\$1,501 – \$2,000	89	\$7,501 – \$10,000	2
\$2,001 – \$2,500	49	> \$10,001	5

Of the 370 private schools, 84 (22.7%) had increases in both total scholarship money and average scholarship money. In 2008, 153 (41.0%) private schools had increases in both total scholarship money and average scholarship money.

In terms of where the scholarship/grant money went within Arizona, the most money went to schools within the city of Phoenix. About 32% of the scholarships went to 76 private schools in Phoenix and almost 35% of the money. As would be expected, 63% of all scholarships granted went to schools in Maricopa County and 66% of the money, the same percentages as in 2008. The following table shows the number of scholarships the amount of scholarships and the average scholarship paid out by county.

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<sup>9</sup> The average scholarship tallied here is total scholarship on average from all STOs.

<b>County</b>	<b># of Scholarships</b>	<b>Scholarship \$</b>	<b>Avg. Scholarship</b>
Apache	340	\$408,395	\$1,201
Cochise	336	\$573,714	\$1,707
Coconino	162	\$436,966	\$2,697
Gila	315	\$564,199	\$1,791
Graham	23	\$24,833	\$1,080
Greenlee	0	\$0	\$0
La Paz	14	\$23,978	\$1,713
Maricopa	17,329	\$34,181,597	\$1,973
Mohave	223	\$303,536	\$1,361
<b>County</b>	<b># of Scholarships</b>	<b>Scholarship \$</b>	<b>Avg. Scholarship</b>
Navajo	399	\$694,271	\$1,740
Pima	6,412	\$11,553,491	\$1,802
Pinal	359	\$531,814	\$1,481
Santa Cruz	204	\$170,094	\$834
Yavapai	729	\$1,520,460	\$2,086
Yuma	812	\$1,104,386	\$1,360

Appendix V shows the cities within which the scholarship/grant money was received, the average scholarship and the percent change from 2008. It also shows the rank for 2009 and for 2008, which indicates the city or town with the highest average scholarship (Carefree #1 with an average scholarship of \$4,420) to the lowest average scholarship (Chinle #65 with an average scholarship of \$143).

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**APPENDIX I**

**2009 DONATIONS RECEIVED BY SCHOOL TUITION ORGANIZATION**

<b>SCHOOL TUITION ORGANIZATION</b>	<b># of 2009 donations</b>	<b>2009 donations</b>	<b>% chg in #<sup>10</sup></b>	<b>% chg in \$</b>
Alternative Schools Scholarship Fund	23	\$13,350	(20.7)	(21.2)
Arizona Adventist Scholarships	631	\$422,831	(5.1)	(4.6)
Arizona Christian School Tuition Organization	13,977	\$10,398,811	(10.0)	(10.0)
Arizona Episcopal Schools Foundation	1,116	\$693,618	(5.7)	(27.1)
Arizona Independent Schools Scholarship Foundation	1,091	\$778,033	(6.6)	(7.5)
Arizona International Academy Scholarship Fund	78	\$44,900	(9.3)	(30.7)
Arizona Lutheran Scholarship Organization	223	\$162,675	(17.1)	(16.6)
Arizona Native Scholastic & Enrichment Resources	64	\$38,510	12.3	(1.9)
Arizona Private Education Scholarship Fund	1,854	\$1,466,020	14.7	15.2
Arizona Scholarship Fund	6,872	\$5,159,220	(16.9)	(16.3)
Arizona School Choice Trust	1,354	\$1,022,823	(19.5)	(32.2)
Arizona Tuition Organization	1,702	\$1,237,877	(8.3)	(8.4)
Arizona Waldorf Scholarship Fund	236	\$141,014	11.9	15.0
BEST Student Fund	318	\$240,091	20.0	15.3
Brophy Community Foundation	1,394	\$969,744	(10.3)	(11.6)
Catholic Tuition Organization of the Diocese of Phoenix	13,712	\$9,170,855	(2.9)	(6.3)
Catholic Tuition Organization for the Diocese of Tucson	7,922	\$4,124,864	(7.1)	(5.6)
Chabad Tuition Organization	242	\$144,369	2.1	1.3
Chaparral Mission Scholarship Fund	215	\$147,107	(22.1)	(16.5)
Cheder Scholarship Organization	723	\$522,312	(17.6)	(33.3)
Children's Scholarship Network of Arizona	92	\$117,151	10.8	148.9
Christ Lutheran School Foundation	256	\$164,871	(15.2)	(20.5)
Christian Scholarship Foundation <sup>11</sup>	329	\$206,027	(14.8)	(13.0)
Christian Scholarship Fund of Arizona	506	\$300,387	(12.3)	(23.4)
Cochise Christian School Tuition Organization	624	\$351,389	8.3	2.2
Dynamite Montessori Foundation	56	\$40,589	14.3	21.8
Flagstaff Scholarship Fund	324	\$201,740	(14.3)	(14.2)
Foundation for Lutherans Interested in Funding Education	73	\$50,379	(8.7)	(5.9)
Foundation for Montessori Scholarships	80	\$52,350	(8.1)	(7.4)
Higher Education for Lutheran Program	1,421	\$936,844	(12.3)	(18.2)
Institute for Better Education	6,446	\$4,803,063	2.3	4.1
Jewish Tuition Organization <sup>12</sup>	2,340	\$1,591,486	(8.2)	(10.1)
Just Friends of Education	4	\$2,600	n/a	n/a
Life Development Institute Education Foundation	11	\$8,600	(56.0)	(50.3)
Lutheran Education Foundation	198	\$120,261	(18.5)	(19.7)
Maricopa County Schoolhouse Foundation	140	\$84,306	(44.7)	(45.9)
Montessori Centre School Tuition Organization	1	\$200	(99.0)	(99.7)
Montessori Scholarship Organization	508	\$403,916	23.6	22.9

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<sup>10</sup> NA indicates that the STO was not operational in the prior year.

<sup>11</sup> Formerly Prescott Christian School Scholarship Foundation.

<sup>12</sup> Formerly Jewish Community Day School Scholarship Fund.

New Valley Education Partners	484	\$347,661	63.0	30.3
Northern Arizona Christian School Scholarship Fund	466	\$358,314	(3.3)	19.2
Orme Primavera Schools Foundation	270	\$196,607	(11.5)	(8.6)
Pinetop Tuition Support Organization	13	\$11,950	(35.0)	(35.7)
School Choice Arizona	193	\$128,142	(31.8)	(29.0)
School Tuition Association of Yuma	372	\$287,403	(19.8)	(14.0)
Schools With Heart Foundation	424	\$288,385	(0.7)	(1.3)
Shepherd of the Desert Foundation	218	\$129,915	17.8	(6.5)
Southern Arizona Foundation for Education	471	\$298,803	(1.3)	(12.7)
Tempe Montessori's Parents Organization	187	\$137,219	(28.9)	(23.7)
Tuition Organization for Private Schools	1,990	\$1,474,937	15.5	16.1
Valley Lutheran Scholarship Organization	149	\$93,485	(8.0)	(4.9)
VVBC Christian Education Fund	36	\$23,270	(2.7)	(19.2)
White Mountain Tuition Support Foundation	220	\$135,053	11.1	2.1
Yuma's Education Scholarship Fund for Kids	742	\$606,758	21.0	24.5
<b>TOTAL</b>	<b>73,391</b>	<b>\$50,853,086</b>	<b>(6.4)</b>	<b>(8.0)</b>

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Arizona Department of Revenue, Office of Economic Research & Analysis, 4/21/10



**APPENDIX II**

**2009 SCHOLARSHIPS PAID BY SCHOOL TUITION ORGANIZATION**

<b>SCHOOL TUITION ORGANIZATION</b>	<b># of 2009 scholarships</b>	<b>2009 scholarships</b>	<b>% chg in #</b>	<b>% chg in \$</b>	<b>Average scholarship</b>	<b>% chg in average</b>
Alternative Schools Scholarship Fund	22	\$12,015	(12.0)	(18.3)	\$546.14	(7.1)
Arizona Adventist Scholarships	436	\$450,872	(45.0)	0.9	\$1,034.11	83.5
Arizona Christian School Tuition Organization	5,523	\$10,807,320	(1.1)	(1.4)	\$1,956.78	(0.3)
Arizona Episcopal Schools Foundation	142	\$741,216	(35.2)	(26.0)	\$5,219.83	14.1
Arizona Independent Schools Scholarship Foundation	114	\$816,769	2.7	1.6	\$7,164.64	(1.1)
Arizona International Academy Scholarship Fund	34	\$49,100	13.3	(16.3)	\$1,444.12	(26.2)
Arizona Lutheran Scholarship Organization	54	\$151,930	22.7	132.1	\$2,813.52	14.5
Arizona Native Scholastic & Enrichment Resources	11	\$30,180	120.0	250.9	\$2,743.64	59.5
Arizona Private Education Scholarship	677	\$1,156,630	41.0	48.4	\$1,708.46	5.2
Arizona Scholarship Fund	3,116	\$5,501,088	10.3	2.5	\$1,765.43	(7.1)
Arizona School Choice Trust	739	\$1,618,223	(38.5)	(36.0)	\$2,189.75	4.1
Arizona Tuition Organization	729	\$1,258,016	0.4	1.9	\$1,725.67	1.5
Arizona Waldorf Scholarship Fund	54	\$122,214	(14.3)	13.8	\$2,263.22	32.8
BEST Student Fund	124	\$202,618	29.2	(5.0)	\$1,634.02	(26.5)
Brophy Community Foundation	349	\$966,475	(11.7)	(26.7)	\$2,769.27	(17.1)
Catholic Tuition Organization of the Diocese of Phoenix	5,040	\$9,377,207	(11.0)	(9.7)	\$1,860.56	1.5
Catholic Tuition Support Organization for the Diocese of Tucson	2,588	\$4,330,366	(9.3)	(3.1)	\$1,673.25	6.9
Chabad Tuition Organization	23	\$129,938	(8.0)	29.9	\$5,649.48	41.2

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Chaparral Mission Scholarship Fund	107	\$165,677	(9.3)	(16.3)	\$1,548.38	(7.7)
Cheder Scholarship Organization	93	\$532,812	(6.1)	(20.9)	\$5,729.16	(15.8)
Children's Scholarship Network of Arizona	80	\$116,128	n/a	n/a	\$1,451.60	n/a
Christ Lutheran School Foundation	62	\$164,203	(8.8)	(3.2)	\$2,648.44	6.2
Christian Scholarship Foundation	141	\$235,032	16.5	7.1	\$1,666.89	(8.1)
Christian Scholarship Fund of Arizona	321	\$344,097	9.2	(27.2)	\$1,071.95	(33.3)
Cochise Christian School Tuition Organization	215	\$384,342	2.4	0.9	\$1,787.64	(1.5)
Dynamite Montessori Foundation	33	\$24,556	(28.3)	(6.6)	\$744.12	30.2
Flagstaff Scholarship Fund	72	\$221,325	(13.3)	23.4	\$3,073.96	42.3
Foundation for Lutherans Interested in Funding Education	58	\$59,181	5.5	(12.0)	\$1,020.36	(16.6)
Foundation for Montessori Scholarships	74	\$65,380	85.0	13.1	\$883.51	(38.9)
Higher Education for Lutheran Program	798	\$1,111,237	(2.7)	(5.1)	\$1,392.53	(2.4)
Institute for Better Education	2,626	\$4,207,154	14.7	11.2	\$1,602.12	(3.0)
Jewish Tuition Organization	435	\$1,705,941	11.8	(21.5)	\$3,921.70	(29.8)
Just Friends of Education	0	\$0	n/a	n/a	\$0	n/a
Life Development Institute Education Foundation	2	\$41,700	0.0	81.3	\$20,850.00	81.3
Lutheran Education Foundation	82	\$155,050	(5.8)	(25.9)	\$1,890.85	(21.4)
Maricopa County Schoolhouse Foundation	84	\$287,807	33.3	97.7	\$3,426.27	65.7
Montessori Centre School Tuition Organization	1	\$180	(98.7)	(99.8)	\$180.00	(81.8)
Montessori Scholarship Organization	197	\$336,612	40.7	15.0	\$1,708.69	(18.3)

New Valley Education Partners	89	\$372,254	206.9	54.8	\$4,182.63	(49.5)
Northern Arizona Christian School Scholarship Fund	165	\$284,742	10.0	9.1	\$1,725.71	(0.8)
Orme Primavera Schools Foundation	58	\$201,089	13.7	(5.4)	\$3,467.05	(16.8)
Pinetop Tuition Support Organization	13	\$22,820	44.4	154.7	\$1,755.38	76.3
School Choice Arizona	22	\$156,153	175.0	136.9	\$7,097.86	(13.8)
School Tuition Association of Yuma	278	\$265,145	(4.5)	(17.7)	\$953.76	(13.8)
Schools With Heart Foundation	65	\$275,121	(15.6)	(9.1)	\$4,232.63	7.7
Shepherd of the Desert Education Program	84	\$183,609	9.1	81.1	\$2,185.82	66.0
Southern Arizona Foundation for Education	172	\$318,856	(12.7)	0.8	\$1,853.81	15.5
Tempe Montessori's Parents Organization	52	\$173,400	8.3	34.6	\$3,334.62	24.2
Tuition Organization for Private Schools	829	\$1,200,833	6.6	4.0	\$1,448.53	(2.4)
Valley Lutheran Scholarship Organization	96	\$93,000	45.5	(23.1)	\$968.75	(47.2)
VVBC Christian Education Fund	8	\$33,329	(33.3)	6.0	\$4,166.13	59.0
White Mountain Tuition Support Foundation	44	\$116,250	12.8	19.2	\$2,642.05	5.7
Yuma's Education Scholarship Fund for Kids	351	\$514,526	33.0	18.1	\$1,465.89	(11.2)
<b>Total</b>	<b>27,582</b>	<b>\$52,091,718</b>	<b>(2.3)</b>	<b>(3.7)</b>	<b>\$1,888.61</b>	<b>(1.1)</b>

## APPENDIX III

**NUMBER OF SCHOOLS TO WHICH  
SCHOLARSHIPS/GRANTS WERE PROVIDED  
BY SCHOOL TUITION ORGANIZATION**

<b>SCHOOL TUITION ORGANIZATION</b>	<b># of schools to which scholarships/grants were provided</b>	<b># change from prior year</b>
Alternative Schools Scholarship Fund	3	0
Arizona Adventist Scholarships	15	(1)
Arizona Christian School Tuition Organization	119	(3)
Arizona Episcopal Schools Foundation	6	1
Arizona Independent Schools Scholarship Foundation	3	0
Arizona International Academy Scholarship Fund	4	(1)
Arizona Lutheran Scholarship Organization	2	(3)
Arizona Native Enrichment and Scholastic Resources	3	(1)
Arizona Private Education Scholarship Fund	51	6
<b>Arizona Scholarship Fund</b>	<b>171</b>	<b>14</b>
Arizona School Choice Trust	120	(4)
Arizona Tuition Organization	8	0

Arizona Waldorf Scholarship Fund	2	0
BEST Student Fund	2	0
Brophy Community Foundation	18	(2)
Catholic Tuition Organi- zation of the Diocese of Phoenix	39	1
Catholic Tuition Support Organization for the Diocese of Tucson	25	0
Chabad Tuition Organization	2	1
Chaparral Mission Scholarship Fund	3	0
Cheder Scholarship Organization	2	0
Children's Scholarship Network	2	n/a
Christ Lutheran School Foundation	3	0
Christian Scholarship Foundation <sup>13</sup>	2	0
Christian Scholarship Fund of Arizona	12	(3)
Cochise Christian School Tuition Organization	13	0
Dynamite Montessori Foundation	1	(3)
Flagstaff Scholarship Fund	4	1

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<sup>13</sup> Formerly Prescott Christian School Scholarship Foundation.

Foundation for Lutherans Interested in Funding Education	2	0
Foundation for Montessori Scholarships	5	1
Higher Education for Lutheran Program	14	0
Institute for Better Education	102	6
Jewish Tuition Organization	6	0
Life Development Institute Education Foundation	1	0
Lutheran Education Foundation	10	(2)
Maricopa County Schoolhouse Foundation	7	3
Montessori Centre School Tuition Organization	1	(3)
Montessori Scholarship Organization	13	0
New Valley Education Partners	3	1
Northern Arizona Christian School Scholarship Fund	5	1
Orme Primavera Schools Foundation	2	0
Pinetop Tuition Support Organization	2	0
School Choice Arizona	10	8
School Tuition Association of Yuma	9	0
Schools With Heart Foundation	3	0

Shepherd of the Desert Education Program	8	(4)
Southern Arizona Foundation for Education	3	(1)
Tempe Montessori's Parents Organization	3	(1)
Tuition Organization for Private Schools	72	1
Valley Lutheran Scholarship Organization	2	0
VVBC Christian Education Fund	3	(1)
White Mountain Tuition Support Foundation	2	(1)
Yuma's Education Scholarship Fund for Kids	13	0

**APPENDIX IV**

**NUMBER AND AMOUNT OF SCHOLARSHIPS RECEIVED BY SCHOOL**

<b>School</b>	<b># of Scholarships</b>	<b>Scholarship \$</b>	<b>% chg from 2008</b>	<b>Avg. Scholarship</b>	<b>% chg from 2008</b>
2nd Street Children's School	17	\$35,296	71.7	\$2,076	(9.1)
91st Psalms Christian School	76	\$95,166	(21.9)	\$1,252	5.0
Abbie Loveland Tuller	28	\$53,563	(64.9)	\$1,913	(39.9)
Abiding Savior School	21	\$29,613	10.8	\$1,410	(31.5)
ACCEL	44	\$37,860	(8.5)	\$860	12.3
Adobe Adventist Christian School	11	\$10,265	(11.0)	\$933	101.9
Adobe Montessori	1	\$1,563	n/a	\$1,563	n/a
Ahwatukee Foothills Montessori	7	\$14,400	107.8	\$2,057	11.0
Aldea Montessori	26	\$54,455	52.7	\$2,094	17.8
Aletheia Classical Christian School	16	\$15,106	(49.4)	\$944	(39.9)
Al-Huda School	20	\$61,900	31.0	\$3,095	24.4
All Saints Catholic School	69	\$164,000	n/a	\$2,377	n/a
All Saints Episcopal Day School	67	\$397,524	16.7	\$5,933	(18.1)
American Indian Christian School	76	\$127,786	(16.9)	\$1,681	(26.8)
Angels in Training Learning Center	3	\$2,546	(54.0)	\$849	(38.6)
Annunciation Catholic School	8	\$6,730	n/a	\$841	n/a
Apostolic Faith Center					
Christian Academy	6	\$10,125	(40.0)	\$1,687	30.0
Arcadia Montessori School	6	\$11,163	11.4	\$1,861	(44.3)
Arizona Cultural Academy	78	\$204,178	(31.5)	\$2,618	7.2
Arizona International Academy	31	\$44,400	(13.3)	\$1,432	(32.9)
Arizona Lutheran Academy	134	\$325,491	(2.1)	\$2,429	12.6
Arrowhead Christian Academy	140	\$165,745	(9.4)	\$1,184	(12.6)
ASCEND	2	\$5,000	n/a	\$2,500	n/a
Ascension Lutheran School	45	\$127,071	25.1	\$2,824	53.0
Atonement Lutheran School	67	\$129,349	(6.8)	\$1,931	5.8
Awakening Seed School	15	\$82,400	11.4	\$5,493	41.1
Barness Family East Valley Jewish Community Center Day School	34	\$79,215	(1.8)	\$2,330	(39.3)
Beautiful Savior Academy	18	\$32,364	18.1	\$1,798	18.1
Bella Vista Private School	11	\$29,390	(27.1)	\$2,672	(13.9)
Bethany Christian School (Lake Havasu)	11	\$10,768	12.5	\$979	33.0
Bethany Christian School (Tempe)	254	\$544,857	13.8	\$2,145	0.8
Bethany Learning Center	44	\$80,433	15.2	\$1,828	15.2
Bios Christian Academy	74	\$115,330	223.1	\$1,559	(12.7)
Blessed Sacrament Kindergarten	8	\$35,890	(22.8)	\$4,486	(13.1)
Bourgade Catholic High School	392	\$747,566	(14.5)	\$1,907	(20.8)
Bridges PreSchool & Kindergarten	2	\$1,800	n/a	\$900	n/a
Brophy College Preparatory	280	\$1,301,257	(17.1)	\$4,647	(17.4)
Calvary Baptist School	17	\$13,954	(32.2)	\$821	(24.3)
Calvary Chapel Christian School	99	\$180,771	0.0	\$1,826	(1.0)
Calvary Christian Academy (Lake Havasu City)	139	\$206,978	(27.7)	\$1,489	(25.1)



Calvary Christian Academy (Tempe)	1	\$928	(38.0)	\$928	(38.0)
Calvary Christian School (Queen Creek)	55	\$59,285	(11.4)	\$1,078	(11.4)
Camelback Christian School	8	\$15,768	114.5	\$1,971	(46.4)
Camelback Desert School (Paradise Valley)	4	\$3,058	(87.4)	\$765	(81.1)
Camp Verde United Christian School	94	\$95,340	(13.7)	\$1,014	15.6
Canyon State Academy	1	\$9,698	n/a	\$9,698	n/a
Carden Christian Academy	32	\$35,810	(1.9)	\$1,119	(5.0)
Casas Christian School	369	\$715,112	4.2	\$1,938	18.3
Casas Ninos School of Montessori	2	\$1,710	(26.0)	\$855	(1.7)
Castlehill Country Day School	35	\$66,003	(30.6)	\$1,886	(12.8)
Cathedral of Praise Christian School	3	\$2,260	(52.5)	\$753	(52.5)
Cave Creek Montessori	12	\$17,338	n/a	\$1,445	n/a
Chandler Christian School	93	\$173,675	(6.3)	\$1,867	17.9
Chaparral Church Kindergarten	17	\$23,279	(25.8)	\$1,369	(25.9)
Chapel in the Hills	51	\$38,301	(3.0)	\$751	(31.5)
Chinle Adventist Elementary School	7	\$1,000	n/a	\$143	n/a
Christ Church School	12	\$35,040	83.9	\$2,920	(23.4)
Christ Greenfield Lutheran School	143	\$401,610	1.2	\$2,808	17.4
Christ Lutheran School	208	\$390,916	2.6	\$1,879	(6.2)
Christ the King Academy	6	\$9,872	161.6	\$1,645	30.8
Christ the King Catholic School	108	\$211,861	(0.8)	\$1,962	96.6
Christ the Redeemer Lutheran	60	\$51,606	(32.3)	\$860	(32.3)
Christian Academy of Prescott	142	\$159,596	(10.2)	\$1,124	(11.5)
Chrysalis Academy	3	\$5,950	(25.8)	\$1,983	(25.8)
Community Montessori School	9	\$16,150	50.9	\$1,794	(16.2)
Congregation Anshei Israel	7	\$9,444	(47.6)	\$1,349	(62.6)
Copper Canyon Christian School	2	\$891	(1.0)	\$445	(1.1)
Cornerstone Christian Academy (Chandler)	1	\$360	0.0	\$360	0.0
Cornerstone Christian Academy (Cottonwood)	7	\$9,884	(35.2)	\$1,412	(35.2)
Cornerstone Christian Academy (Tucson)	39	\$48,524	(86.1)	\$1,244	(41.5)
Cornerstone Kidz	5	\$6,740	n/a	\$1,348	n/a
Covenant Child Care Center	1	\$920	n/a	\$920	n/a
Creative Castle PreSchool & Kindergarten	6	\$10,076	n/a	\$1,679	n/a
Cross of Glory Lutheran School	23	\$45,569	14.3	\$1,981	14.3
Cross Roads Preschool & Kindergarten	1	\$1,800	(45.0)	\$1,800	10.0
Crossroads Community School	101	\$163,670	(5.8)	\$1,621	1.6
Dayspring Kindergarten	37	\$70,434	10.7	\$1,904	(13.2)
Desert Christian Schools	536	\$990,847	(1.0)	\$1,849	(2.3)
Desert Garden Montessori	54	\$121,593	13.1	\$2,252	(7.8)
Desert Montessori	5	\$4,750	(22.5)	\$950	(53.5)
Desert Shadows Montessori	4	\$7,750	(0.4)	\$1,937	(25.4)

Desert Sky Montessori	4	\$2,700	200.0	\$675	50.0
Desert Sun Child Development Center	31	\$46,707	(29.8)	\$1,507	(29.8)
Desert Valley Christian School	29	\$32,529	79.5	\$1,122	302.2
Desert View Learning Center	34	\$114,850	15.9	\$3,378	(21.6)
Desert Voices Oral Learning Center	5	\$57,968	(43.4)	\$11,594	(32.1)
Desert Willow Educational Services	2	\$3,060	(5.8)	\$1,530	41.3
Dobson Montessori School	59	\$76,401	(33.8)	\$1,295	(5.8)
Dove Christian School	23	\$30,955	(35.5)	\$1,346	13.2
Dynamite Montessori	34	\$26,356	(2.5)	\$775	8.8
East Fork Lutheran School	90	\$35,153	(23.9)	\$391	(28.1)
East Valley Christian Academy	2	\$3,496	153.3	\$1,748	153.3
El Dorado Private School	12	\$24,048	(18.0)	\$2,004	(11.2)
Emmanuel Christian Academy	22	\$19,860	(42.8)	\$903	(24.6)
Emmanuel Evangelical Lutheran School	118	\$146,795	3.0	\$1,244	3.0
Emmaus Lutheran School	56	\$72,081	3.2	\$1,287	(11.5)
Ethos School	2	\$25,113	n/a	\$12,557	n/a
Faith Christian School	52	\$44,672	(40.0)	\$859	(40.0)
Faith Community Academy	66	\$84,803	(13.9)	\$1,285	(13.9)
Faith Lutheran School	55	\$94,056	60.7	\$1,710	31.5
Family Life Academy	110	\$131,631	32.9	\$1,197	(29.9)
Family of God Lutheran School	12	\$19,341	17.9	\$1,612	37.5
Fellowship Children's Development Center	8	\$12,141	(1.1)	\$1,518	(25.8)
Firm Foundations	56	\$41,620	(15.8)	\$743	(26.3)
First Baptist Christian Academy	55	\$70,038	(7.4)	\$1,273	12.8
First Southern Christian School	76	\$89,022	(1.0)	\$1,171	(24.5)
Flagstaff Community Christian School	35	\$96,342	(16.1)	\$2,753	(56.8)
Florence Baptist Academy	4	\$3,238	134.6	\$809	75.9
Foundation of Blind Children PreSchool	7	\$133,990	120.5	\$19,141	89.0
Fountain of Life Lutheran School	93	\$114,017	(29.2)	\$1,226	(7.9)
Freedom Christian Academy	49	\$78,077	9.4	\$1,593	18.3
Freedom Christian School (Arizona City)	7	\$8,868	118.2	\$1,267	(6.5)
Gateway Academy	5	\$22,140	n/a	\$4,428	n/a
Gateway Baptist Academy	43	\$26,014	8.4	\$605	28.7
Gethsemane Lutheran School	120	\$215,710	(5.0)	\$1,798	(14.5)
Gilbert Christian Schools	365	\$689,504	n/a	\$1,889	n/a
Gilson Wash Baptist School	6	\$8,642	5.6	\$1,440	40.8
Glendale Christian Academy	88	\$92,322	(41.9)	\$1,049	(10.9)
Glenview Adventist School	67	\$61,931	(4.7)	\$924	16.5
Good Shepherd Lutheran School	8	\$6,060	(63.3)	\$757	(35.8)
Gospel Light Christian Academy	2	\$1,287	(28.5)	\$643	7.2
Grace Christian School	5	\$2,315	(42.1)	\$463	(42.1)
Grace Community Christian School	268	\$611,957	(8.9)	\$2,283	(2.1)
Grace Fellowship Academy	49	\$73,324	(10.8)	\$1,496	36.5

Grace Lutheran School	99	\$123,161	1.1	\$1,244	(4.0)
Graysmark Academy	9	\$10,305	186.3	\$1,145	(4.6)
Green Fields Country Day School	48	\$251,488	12.7	\$5,239	(6.1)
Guiding Light Christian Partnership	13	\$6,398	218.3	\$492	(2.2)
Guiding Light School	12	\$31,532	(18.6)	\$2,628	15.4
Hand in Hand Christian School	14	\$16,660	102.7	\$1,190	15.9
Harvest Christian Academy	10	\$11,730	(20.7)	\$1,173	(28.6)
Heritage Christian Academy	91	\$144,406	(26.2)	\$1,587	(5.1)
Heritage Montessori	2	\$4,988	n/a	\$2,494	n/a
Highland Free School	20	\$9,615	(19.9)	\$481	(7.9)
Holbrook Indian School	46	\$14,217	(24.3)	\$309	34.9
Holy Angel School	58	\$133,701	11.1	\$2,305	22.5
Holy Cross Evangelical Lutheran School	4	\$3,380	(57.8)	\$845	(4.9)
Holy Trinity Academy	17	\$41,576	14.4	\$2,446	(32.7)
Hopi Mission School	71	\$220,805	18.2	\$3,110	33.2
Howard S. Gray Education Center	2	\$11,700	(19.3)	\$5,850	(19.3)
Imago Del Middle School	42	\$143,183	(27.5)	\$3,409	(36.1)
Immaculate Conception School	77	\$106,454	26.3	\$1,383	49.4
Immaculate Heart Schools	200	\$340,382	6.3	\$1,702	(14.9)
International Christian Academy Online	3	\$2,226	303.3	\$742	34.4
International School of Arizona	17	\$63,757	41.0	\$3,750	74.2
International School of Tucson	38	\$74,916	(0.2)	\$1,971	(18.6)
Jess Schwartz Jewish Community High School	134	\$452,642	30.8	\$3,378	(53.1)
Joanne Todd Christian School	24	\$24,052	(14.0)	\$1,002	3.9
Journeys Academy	1	\$3,150	(40.0)	\$3,150	117.2
Joy Community Christian School	277	\$567,332	(3.9)	\$2,048	(9.1)
Joyful Beginnings Academy	16	\$42,101	0.6	\$2,631	(12.0)
Keystone Montessori	21	\$47,998	(32.2)	\$2,286	(12.8)
Khalsa Montessori School	10	\$13,844	(47.8)	\$1,384	(16.5)
King David School	12	\$38,735	(91.0)	\$3,228	(42.2)
Kino Learning Center	16	\$45,617	(51.1)	\$2,851	(42.0)
Lamad Preparatory Academy	1	\$460	(69.2)	\$460	(1.6)
Lamb's Gate Kindergarten	40	\$60,733	24.0	\$1,518	(13.2)
Lauren's Institute for Education	8	\$40,455	764.4	\$5,057	116.1
Legacy Classical Christian Academy	56	\$84,560	39.1	\$1,510	(0.7)
Lestonnac Kindergarten	9	\$8,216	(32.0)	\$913	(9.4)
Life Development Institute	2	\$41,700	81.3	\$20,850	81.3
Logos Academy	3	\$6,494	n/a	\$2,165	n/a
Loretto School	66	\$140,419	120.7	\$2,128	57.2
Lourdes Catholic School	48	\$99,277	(10.8)	\$2,068	(38.7)
Maranatha Christian Academy	1	\$1,144	(56.6)	\$1,144	30.3
Maricopa Village Christian School	16	\$6,700	17.5	\$419	(26.5)
Martin Luther School	85	\$138,488	(3.6)	\$1,629	(8.1)
Mesa Montessori	3	\$4,545	(19.8)	\$1,515	60.3
Millennium Worldwide Academy	5	\$17,500	(58.7)	\$3,500	15.5
Mission Christian School	34	\$22,810	(83.4)	\$671	(60.4)

Mission Montessori School	34	\$35,863	36.8	\$1,055	20.7
Mission View Academy	1	\$276	n/a	\$276	n/a
Montessori Center School	8	\$42,455	(22.0)	\$5,307	7.3
Montessori Children House	10	\$50,280	37.4	\$5,028	23.6
Montessori Christian Academy	10	\$19,805	19.6	\$1,981	(28.2)
Montessori Day School	60	\$12,600	(33.7)	\$210	(70.2)
Montessori Educare Academy	11	\$22,568	n/a	\$2,052	n/a
Montessori in the Park	1	\$180	(99.1)	\$180	(81.6)
Montessori International	35	\$102,544	28.2	\$2,930	10.4
Montessori Kingdom of Learning	79	\$130,499	41.7	\$1,652	(13.9)
Montessori Learning Center	2	\$3,000	(9.8)	\$1,500	35.4
Montessori West Preparatory School	11	\$22,206	(15.6)	\$2,019	(2.5)
Morning Glory Montessori	7	\$13,395	64.0	\$1,914	(29.7)
Most Holy Trinity Catholic School	119	\$190,969	(4.8)	\$1,605	(20.8)
Mount Calvary Lutheran School	45	\$53,173	12.2	\$1,182	4.8
Mountain Christian School	50	\$131,360	11.9	\$2,627	16.4
Navajo Lutheran Mission School	77	\$200,686	(22.4)	\$2,606	(18.3)
Nehemiah Ministries	1	\$184	(88.2)	\$184	(76.5)
Nellie P. Covert School	27	\$37,000	(18.0)	\$1,370	(36.2)
Neurological Music Therapy Services	5	\$10,755	108.8	\$2,151	(16.5)
New Covenant Child Development	10	\$22,840	(33.4)	\$2,284	(53.4)
New Horizons Academy	10	\$40,800	25.9	\$4,080	13.3
New Vistas Academy	24	\$78,148	60.1	\$3,256	13.4
New Way Learning Academy	26	\$205,367	0.6	\$7,899	(22.6)
Noah's Ark Kindergarten	4	\$9,720	(56.4)	\$2,430	52.5
Nogales Christian Academy	5	\$500	n/a	\$100	n/a
North Phoenix Baptist Kindergarten	16	\$21,492	57.8	\$1,343	18.3
North Valley Christian Academy	77	\$155,072	38.5	\$2,014	17.3
Northminster Christian School	17	\$20,594	19.0	\$1,211	4.9
Northwest Christian School	1,006	\$1,585,390	(4.8)	\$1,576	1.6
Notre Dame Preparatory High School	261	\$599,353	(34.7)	\$2,296	(28.3)
Orme School	31	\$125,521	(9.7)	\$4,049	(18.5)
Our Lady of Guadalupe	9	\$15,702	n/a	\$1,745	n/a
Our Lady of Joy School	15	\$66,296	33.3	\$4,420	202.1
Our Lady of Mount Carmel School	284	\$352,406	(10.8)	\$1,241	(25.8)
Our Lady of Perpetual Help School (Glendale)	240	\$322,552	(31.6)	\$1,344	(25.9)
Our Lady of Perpetual Help School (Scottsdale)	186	\$359,240	(12.5)	\$1,931	73.7
Our Lady of Sorrows Academy	24	\$22,850	(48.2)	\$952	(15.9)
Our Mother of Sorrows	186	\$239,059	4.1	\$1,285	2.4
Our Savior's Lutheran School	64	\$17,958	n/a	\$281	n/a
Our Saviour Lutheran School	26	\$40,191	(14.2)	\$1,546	(20.8)
Page Christian School	4	\$8,698	(4.6)	\$2,175	(4.5)
Palms Elementary	11	\$17,315	24.4	\$1,574	13.1
Paradise for Tots Christian Kindergarten	7	\$11,840	343.8	\$1,691	(36.6)
Paradise Valley Christian	290	\$622,781	1.8	\$2,148	13.4

Pardes Jewish Day School	148	\$502,901	(16.9)	\$3,398	(30.4)
Parker Apostolic Christian School	5	\$2,988	(48.9)	\$598	(59.1)
Parkway Children's School of Excellence	1	\$460	(95.7)	\$460	(91.4)
Patagonia Montessori	1	\$4,050	n/a	\$4,050	n/a
Payson Community Christian School	74	\$112,524	(27.8)	\$1,521	(9.8)
Peridot Lutheran School	1	\$1,750	0.0	\$1,750	0.0
Phillips Christian School	8	\$4,782	18.1	\$598	3.3
Phoenix Christian School K-8	83	\$166,108	5.1	\$2,001	2.9
Phoenix Christian Unified	365	\$676,165	(15.5)	\$1,853	(12.7)
Phoenix Christian Unified Elementary (Goodyear)	74	\$116,139	13.8	\$1,569	(0.1)
Phoenix Country Day School	47	\$283,148	6.4	\$6,024	(2.6)
Phoenix Hebrew Academy	154	\$756,428	(4.1)	\$4,912	(7.8)
Phoenix Metro Islamic School	145	\$235,779	(48.8)	\$1,626	(38.5)
Pieceful Solutions	2	\$5,155	n/a	\$2,577	n/a
Pilgrim Lutheran School	52	\$64,836	1.3	\$1,247	5.2
Pleasantview Christian Elementary	4	\$4,894	189.9	\$1,223	(27.5)
Pope John XXIII Catholic School	208	\$277,634	7.5	\$1,335	(26.1)
Precious Lamb Christian School	14	\$36,660	28.8	\$2,619	38.0
Prescott Adventist School	9	\$8,865	46.7	\$985	144.4
Primavera School	30	\$77,468	2.7	\$2,582	(11.0)
Providence Classical School	63	\$86,064	(17.7)	\$1,366	(26.9)
Pusch Ridge Christian Academy	580	\$1,263,239	32.0	\$2,178	1.3
Quality Interactive Montessori	1	\$1,800	n/a	\$1,800	n/a
Queen of Peace School	106	\$183,498	35.7	\$1,731	(7.8)
Rancho Solano (Gilbert)	2	\$5,723	(55.4)	\$2,861	(33.1)
Rancho Solano (Glendale)	2	\$2,840	(46.3)	\$1,420	7.5
Rancho Solano (Phoenix)	4	\$14,000	n/a	\$3,500	n/a
Rancho Solano (Scottsdale)	246	\$535,633	76.6	\$2,177	2.6
Red Mountain Montessori	1	\$900	(81.1)	\$900	(43.3)
Red Rock Christian School	13	\$15,832	23.4	\$1,218	108.9
Redeemer Christian Academy	7	\$12,350	(11.3)	\$1,764	26.7
Redeemer Christian School	60	\$115,244	28.7	\$1,921	26.5
Redeemer Lutheran School	101	\$179,945	(1.3)	\$1,782	0.6
Resurrection Lutheran Child Development Center	17	\$69,160	14.3	\$4,068	0.8
Risen Savior Lutheran School	65	\$166,190	117.2	\$2,557	80.5
River of Life Christian Academy	50	\$64,599	61.4	\$1,292	38.8
Sacred heart School (Nogales)	133	\$48,699	12.4	\$366	78.5
Sacred Heart School (Prescott)	68	\$389,785	(6.8)	\$5,732	48.1
Safford Adventist Christian School	6	\$3,500	(31.4)	\$583	(8.5)
Safford Christian School	17	\$21,333	(31.9)	\$1,255	(7.8)
Saguaro Hills Adventist Christian School	20	\$18,129	(39.8)	\$906	41.6
Saguaro Hills Christian School	21	\$21,309	(47.9)	\$1,015	(10.7)
Sahuarita Christian Academy	89	\$135,590	97.5	\$1,523	(17.9)
Salpointe Catholic High School	528	\$1,222,807	4.2	\$2,316	(4.5)
San Francisco di Asis	68	\$237,953	(5.3)	\$3,499	146.4

San Miguel Catholic High School	101	\$238,391	8.2	\$2,360	1.7
San Xavier Indian School	90	\$267,282	(1.1)	\$2,970	(1.1)
Santa Cruz Catholic School	86	\$145,106	(13.1)	\$1,687	(10.1)
Satori	37	\$70,216	7.2	\$1,898	4.3
Scottsdale Christian Academy	580	\$1,160,421	7.4	\$2,001	3.6
Scottsdale United Methodist Kindergarten	2	\$3,970	24.1	\$1,985	24.1
Sedona Montessori School	1	\$1,000	n/a	\$1,000	n/a
Seton Catholic High School	372	\$757,578	19.8	\$2,037	(11.7)
Shalom Montessori School	17	\$49,690	119.4	\$2,923	(9.7)
Shearim Torah High School	14	\$74,320	60.4	\$5,309	(31.2)
Sheila's Christian Academy	5	\$9,908	65.7	\$1,982	(33.7)
Shepherd of the Desert Lutheran School	78	\$155,709	59.0	\$1,996	46.8
Shiloh Christian School	19	\$26,250	(38.7)	\$1,382	29.2
Sonshine Christian School	7	\$5,838	27.2	\$834	(27.3)
Southwest Christian School	25	\$32,323	(47.0)	\$1,293	(13.0)
Southwestern Christian School	159	\$198,911	(10.9)	\$1,251	(18.4)
Spectrum Private School	3	\$7,898	104.1	\$2,633	104.1
Spirit of Hope Montessori School	12	\$16,682	(38.8)	\$1,390	(49.0)
SS Peter & Paul Catholic School	331	\$303,345	9.3	\$916	(34.0)
SS Simon & Jude Catholic School	329	\$462,153	(9.4)	\$1,405	(23.1)
St Agnes Catholic School	184	\$213,422	(17.0)	\$1,160	(35.5)
St. Alban's Kindergarten	1	\$900	(74.3)	\$900	(74.3)
St Ambrose Catholic School	226	\$152,252	(22.0)	\$674	1.2
St Andrews Presbyterian Pre-School & Kindergarten	75	\$60,681	(8.2)	\$809	(60.8)
St Anthony of Padua School	88	\$136,366	(8.1)	\$1,550	(3.9)
St. Anthony (Pinetop)	9	\$25,880	(74.5)	\$2,876	18.8
St. Anthony Catholic (Show Low)	44	\$115,800	n/a	\$2,632	n/a
St Augustine High School	101	\$224,195	(5.3)	\$2,220	4.1
St Catherine of Siena School	199	\$346,635	(8.6)	\$1,742	(28.8)
St Charles Apache School	96	\$276,611	(2.9)	\$2,881	2.2
St Cyril's Catholic School	141	\$314,221	0.8	\$2,229	5.8
St Daniel the Prophet School	67	\$160,971	(3.4)	\$2,403	47.1
St. Dominic Savio Academy	2	\$12,960	n/a	\$6,480	n/a
St Elizabeth Ann Seton	464	\$429,917	40.4	\$927	(28.5)
St Francis of Assisi School	99	\$130,593	63.1	\$1,319	20.2
St Francis Xavier Elementary School	205	\$432,874	(1.1)	\$2,112	79.6
St Gregory Catholic School	168	\$364,721	(7.2)	\$2,171	28.2
St Gregory College Prep	114	\$440,157	(4.1)	\$3,861	(15.9)
St Jerome K-8 School	131	\$168,118	(23.2)	\$1,283	(23.8)
St John Bosco School	179	\$387,930	1.5	\$2,167	104.6
St John the Evangelist	134	\$249,536	(8.7)	\$1,862	14.4
St John Vianney Catholic School	149	\$209,200	(40.5)	\$1,404	(18.6)
St Joseph's Catholic School	38	\$149,840	(31.2)	\$3,943	576.3
St Joseph School (Tucson)	134	\$174,335	27.5	\$1,301	(58.2)
St Louis the King School	263	\$320,764	(5.9)	\$1,220	(18.0)

St Luke's	7	\$26,450	(41.0)	\$3,779	9.6
St Maria Goretti Kindergarten	22	\$67,467	(6.3)	\$3,067	23.3
St. Mark's Methodist	22	\$19,835	(0.5)	\$902	(50.2)
St. Mark's Presbyterian Kindergarten	15	\$25,575	143.6	\$1,705	(51.3)
St. Mary-Basha Catholic School	411	\$512,358	14.7	\$1,247	(4.8)
St Mary's High School	820	\$1,518,665	(2.1)	\$1,852	(26.2)
St Matthew School	179	\$230,310	3.2	\$1,287	(53.9)
St Maximillian Mary Kolbe School	43	\$84,456	5.1	\$1,964	(2.2)
St Michael's Indian School	256	\$206,709	(6.9)	\$807	(36.0)
St Michael's Parish Day School	160	\$295,764	(40.3)	\$1,849	(35.0)
St Paul's Preparatory Academy	9	\$151,277	(17.7)	\$16,809	375.6
St Peter Mission School	132	\$200,285	0.2	\$1,517	53.4
St Theresa Catholic School	204	\$368,328	5.3	\$1,806	72.3
St Thomas Aquinas	123	\$352,427	(5.5)	\$2,865	73.5
St Thomas Lutheran School	8	\$8,683	(79.7)	\$1,085	(54.3)
St Thomas the Apostle School	164	\$317,799	(13.4)	\$1,938	107.9
St Timothy's Catholic Academy	108	\$235,883	(15.3)	\$2,184	40.5
St Vincent de Paul School	282	\$322,535	0.5	\$1,144	(28.0)
Summit School of Ahwatukee	70	\$170,588	(30.1)	\$2,437	(23.1)
Sun & Shield Christian Academy	74	\$61,756	(7.1)	\$835	(0.7)
Sun Valley Indian School	16	\$13,013	(18.6)	\$813	(38.5)
Sunrise Montessori School	21	\$50,882	12.1	\$2,423	6.7
Surrey Garden Christian School	1	\$450	(99.9)	\$450	(78.5)
Tanque Verde Lutheran Kindergarten	25	\$72,357	15.1	\$2,894	10.5
Tempe Montessori School	29	\$86,758	11.7	\$2,992	34.8
Tesseract School	78	\$229,598	309.2	\$2,944	(10.8)
The Caepe School	21	\$23,635	330.5	\$1,125	23.0
The Family School	23	\$88,621	(31.6)	\$3,853	4.1
The Learning Pod	3	\$2,564	(69.5)	\$855	(49.1)
Thunderbird Adventist Academy	116	\$202,236	17.4	\$1,743	111.5
Thunderbird Christian Elementary	76	\$76,864	32.5	\$1,011	55.1
Tree of Life Christian School	9	\$20,990	508.4	\$2,332	305.6
Tri-City Christian Academy	211	\$307,962	8.6	\$1,460	(5.3)
Trinity Christian School (Chino Vall)	14	\$34,388	(84.5)	\$2,456	56.5
Trinity Christian School (Mesa)	15	\$19,034	(21.7)	\$1,269	4.4
Trinity Christian School (Prescott)	132	\$201,196	n/a	\$1,524	n/a
Trinity Lutheran	177	\$294,692	7.9	\$1,665	23.2
Trinity Pre-school & Kindergarten	10	\$18,603	18.4	\$1,860	6.5
Trinity United Methodist Kindergarten	16	\$21,171	(27.4)	\$1,323	(41.0)
Tucson Community School	25	\$33,325	(15.1)	\$1,333	(4.9)
Tucson Hebrew Academy	94	\$531,433	(19.4)	\$5,654	(15.1)
Tucson Waldorf School	63	\$145,207	333.6	\$2,305	(8.5)
Turning Point	8	\$8,823	(89.2)	\$1,103	(58.2)
Valley Baptist School	7	\$2,300	(52.1)	\$329	(52.0)
Valley Christian High School	327	\$1,135,929	(4.9)	\$3,474	1.3

Valley Classical Christian School	73	\$119,201	(25.8)	\$1,633	(2.4)
Valley Lutheran High School	222	\$335,692	26.7	\$1,512	(3.6)
Verde Valley Adventist School	15	\$6,016	(42.3)	\$401	100.5
Verde Valley Christian School (Cottonwood)	109	\$139,993	(4.9)	\$1,284	(4.0)
Verde Valley School (Sedona)	20	\$84,445	12.7	\$4,222	12.6
Veritas Christian Community School	89	\$138,424	(5.0)	\$1,555	(20.0)
Victorious Preschool & Kindergarten	4	\$4,650	n/a	\$1,163	n/a
Ville de Marie Academy	67	\$83,171	(29.0)	\$1,241	3.8
Vision Christian Academy	21	\$19,871	5.7	\$946	(4.3)
West Valley Adventist School	2	\$1,100	(92.0)	\$550	52.4
Western Hills Baptist School	1	\$450	n/a	\$450	n/a
White Mountain Montessori	13	\$23,270	147.3	\$1,790	71.1
Wickenburg Christian Academy	39	\$59,492	(7.6)	\$1,525	11.3
Wings on Words	6	\$7,083	687.0	\$1,181	31.2
Word of Life Early Learning Center	3	\$7,157	(0.9)	\$2,386	65.1
Xavier College Preparatory High	489	\$1,090,524	14.6	\$2,230	(22.9)
Yuma Adventist School	13	\$14,860	13.4	\$1,143	92.1
Yuma Catholic High School	198	\$378,451	(6.2)	\$1,911	0.9
Yuma Lutheran High School	232	\$241,939	(3.7)	\$1,043	(10.3)



**APPENDIX V**

**SCHOLARSHIPS BY LOCATION OF PRIVATE SCHOOL**

<b>City/Town</b>	<b>#</b>	<b>\$</b>	<b>% chg from 2008</b>	<b>Avg. Scholarship</b>	<b>% chg from 2008</b>	<b>Rank 2009</b>	<b>Rank 2008</b>
Anthem	113	\$204,074	51.2	\$1,806	12.4	24	30
Apache Junction	2	\$3,496	(38.7)	\$1,748	84.0	27	53
Arizona City	7	\$8,868	118.2	\$1,267	(6.5)	46	40
Avondale	128	\$352,427	(5.5)	\$2,753	66.7	8	27
Bapchule	132	\$200,285	0.2	\$1,517	53.4	39	51
Benson	5	\$2,315	(42.1)	\$463	(42.1)	59	58
Buckeye	49	\$73,324	(10.8)	\$1,496	36.5	41	50
Camp Verde	94	\$95,340	(13.7)	\$1,014	15.6	51	56
Carefree	15	\$66,296	(25.0)	\$4,420	202.1	1	32
Casa Grande	91	\$142,860	(3.7)	\$1,570	(2.7)	34	29
Cave Creek	66	\$81,614	(14.6)	\$1,237	(13.3)	47	33
Chandler	1,688	\$3,454,968	17.8	\$2,047	(7.6)	18	11
Chinle	7	\$1,000	n/a	\$143	n/a	65	
Chino Valley	14	\$34,388	(84.5)	\$2,456	56.5	11	31
Clarkdale	2	\$891	(1.0)	\$445	(1.1)	60	63
Cottonwood	177	\$310,515	(1.0)	\$1,754	23.0	26	34
Douglas	75	\$148,635	96.3	\$1,982	54.5	21	42
Flagstaff	158	\$428,268	(4.1)	\$2,711	49.9	9	22
Florence	4	\$3,238	134.6	\$809	75.9	56	62
Fort Mohave	12	\$19,341	17.9	\$1,612	37.5	33	49
Gilbert	653	\$1,308,162	(14.2)	\$2,003	0.1	20	14
Glendale	1,202	\$1,822,088	(12.6)	\$1,516	(11.4)	40	24
Globe	58	\$133,701	11.1	\$2,305	22.5	12	18
Goodyear	252	\$353,893	(31.5)	\$1,404	(16.3)	43	26
Higley	74	\$115,330	593.8	\$1,559	21.9	35	44
Holbrook	46	\$14,217	(24.3)	\$309	34.9	63	65
Kingman	22	\$19,860	(56.1)	\$903	1.8	53	55
Kykotsmovi	71	\$220,805	18.2	\$3,110	33.2	6	8
Lake Havasu City	189	\$264,335	(23.4)	\$1,399	(24.9)	44	19
Laveen	16	\$6,700	17.5	\$419	(26.5)	61	60
Litchfield Park	191	\$318,178	(9.4)	\$1,666	38.1	32	46
Marana	74	\$61,756	(7.1)	\$835	(0.7)	54	57
Maricopa	9	\$10,305	186.3	\$1,145	(4.6)	49	47
Mayer	31	\$125,521	(9.7)	\$4,049	(18.5)	4	1
Mesa	777	\$1,341,795	(0.4)	\$1,727	26.3	28	39
Nogales	193	\$154,314	(3.1)	\$800	24.6	58	59
Oro Valley <sup>14</sup>	220	\$417,440	548.4	\$1,897	(47.0)	22	4
Page	4	\$8,698	(4.6)	\$2,175	(4.5)	16	10
Paradise Valley	183	\$681,462	194.8	\$3,724	1.5	5	3
Parker	14	\$23,978	157.8	\$1,713	84.2	30	54

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<sup>14</sup> Pusch Ridge Christian School was previously mistakenly put into Oro Valley. It should have been in Tucson.

Patagonia	1	\$4,050	n/a	\$4,050	n/a	3	
Payson	74	\$112,524	(27.5)	\$1,521	(9.8)	38	25
Peoria	120	\$202,875	11.6	\$1,691	(6.9)	31	21
Peridot	65	\$19,708	1026.2	\$303	(82.7)	64	23
Phoenix	8,888	\$17,996,736	(7.3)	\$2,025	(5.5)	19	13
Pinetop-Lakeside	22	\$49,150	(55.7)	\$2,234	2.6	13	12
Prescott	390	\$868,360	20.1	\$2,227	(6.7)	14	7
Queen Creek	114	\$162,762	17.7	\$1,428	11.5	42	43
Rock Point	77	\$200,686	(22.4)	\$2,606	(18.3)	10	5
Safford	23	\$24,833	(31.8)	\$1,080	(8.0)	50	48
Sahuarita	89	\$135,590	97.5	\$1,523	(17.9)	37	20
San Carlos	102	\$285,253	(2.6)	\$2,797	4.1	7	6
Scottsdale	1,550	\$3,366,638	3.7	\$2,172	12.2	17	16
Sedona	21	\$85,445	14.0	\$4,069	8.6	2	2
Show Low	170	\$374,946	38.3	\$2,206	(3.2)	15	9
Sierra Vista	232	\$398,712	(7.6)	\$1,719	21.1	29	35
Sonoita	10	\$11,730	(20.7)	\$1,173	(28.6)	48	28
St. Michael	256	\$206,709	(6.9)	\$807	(36.0)	57	45
Sun Valley	16	\$13,013	(18.0)	\$813	(38.5)	55	41
Surprise	14	\$24,472	15.7	\$1,748	24.0	27	36
Tempe	1,310	\$2,343,973	(20.8)	\$1,789	(10.0)	25	15
Tucson	6,029	\$10,938,705	(6.5)	\$1,814	(4.9)	23	17
Whiteriver	90	\$35,153	(23.9)	\$391	(28.1)	62	61
Wickenburg	39	\$59,492	(7.6)	\$1,525	11.3	36	38
Willcox	24	\$24,052	(27.3)	\$1,002	3.0	52	52
Yuma	812	\$1,104,386	1.1	\$1,360	(1.4)	45	37