

A photograph of two young women with backpacks walking away from the camera on a green lawn. In the background is a large, ornate classical building with columns and a pediment. The image is semi-transparent, allowing text to be overlaid.

# A Failed Experiment

*Georgia's  
Tax Credit  
Scholarships for  
Private Schools*



THE SOUTHERN EDUCATION FOUNDATION  
135 Auburn Avenue, NE, 2nd Floor • Atlanta, GA 30303  
[www.southerneducation.org](http://www.southerneducation.org)

## **THE SOUTHERN EDUCATION FOUNDATION**

[The Southern Education Foundation \(SEF\)](#) is a nonprofit organization comprised of diverse women and men who work together to improve the quality of life for all of the South's people through better and more accessible education. SEF advances creative solutions to ensure fairness and excellence in education for low income students from preschool through higher education.

SEF develops and implements programs of its own design, serves as an intermediary for donors who want a high-quality partner with whom to work on education issues in the South, and participates as a public charity in the world of philanthropy. SEF relies on contributions from foundations, corporations, and individuals to support its efforts.

### **SEF'S VISION**

SEF seeks a South and a nation with a skilled workforce that sustains an expanding economy, where civic life embodies diversity and democratic values and practice, and where an excellent education system provides all students with fair chances to develop their talents and contribute to the common good. We will be known for our commitment to combating poverty and inequality through education.

### **SEF'S TIMELESS MISSION**

SEF develops, promotes, and implements policies, practices, and creative solutions that ensure educational excellence, fairness, and high levels of achievement for all students. SEF began in 1867 as the Peabody Education Fund.

### **CREDITS**

Steve Suitts, SEF Vice President, developed and wrote this report with Katherine Dunn, SEF Program and Research Fellow, who was chief investigator for the study. Dorian Woolaston, Program Assistant, helped to retrieve and format statistical data. Cynthia Blakeley was copy editor.

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## FOREWORD

The Southern Education Foundation (SEF) began a review in 2009 of a new Georgia law providing tax credit scholarships for students to attend private schools. We originally considered using the law to establish our own student scholarship organization (SSO) to provide low income and minority students in poorly performing public schools in Georgia with opportunities for a better education. Earlier, in October 2008, SEF had invited Gerald Robinson, at that time President of the Black Alliance for Educational Options (and now Virginia Secretary of Education) to make a presentation to our board of trustees about public and private alternatives for improving African American education in K-12 schools across the South.

These considerations led SEF to examine the potential of Georgia's new law, HB 1133, in addressing the critical question of how to improve the educational performance of the South's new, diverse majority—low income students and students of color who had become a numerical majority of the region's public school children in 2009.<sup>1</sup> SEF has a long history of support of effective public schools for all students in the South, but our commitment across the decades always has been to the children themselves—especially low income and minority children—rather than to any tradition or method for how or where students could be well educated.

The more SEF scrutinized the Georgia law on tax credit scholarships, the more our inquiry began to raise serious questions and concerns about the legislation's potential for worsening educational practices, for diverting and diminishing resources for the state's neediest, most vulnerable children, and for creating a dual system of publicly financed education that might enlarge inequities as much as create good, fresh options for individual students.

After careful consideration, SEF's program committee recommended to our board of trustees that the SEF staff forego establishing an SSO and instead undertake a study of the law and its implementation during its early years. Then and now, we see the law on tax credit scholarships as an important experiment in how the first state in the Deep South would carry out this type of major public-private venture in K-12 education.

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<sup>1</sup> See *A Diverse New Majority: Students of Color in the South's Public Schools* (Atlanta: Southern Education Foundation, 2010).

This report evidences the independent findings of our two-year study of Georgia's experiment with tax-funded tuition grants for private schools. As the following pages document, the law in its present form contains a number of troubling features. It lacks transparency regarding contributors, beneficiaries, and the criteria by which scholarships are awarded or even the size and number of scholarships awarded. Nor do the schools involved appear to be subject to any accountability regarding the academic standards in force or academic outcomes of their students. There are no income limits for eligibility and, in the absence of a mandate to report demographic information on participating students, it is difficult to see how the program is meeting its stated policy objective of increasing the affordability of private schools for low income families.

And if helping parents make informed choices between public and private education is an implied goal, then both collecting information from participating schools and providing information to parents about these schools would be an important feature in a well-designed tax credit law. This of course presumes that using tax subsidies to support private schools is good public policy.

It is also clear that the lack of any meaningful reporting, regulation, or supervision about how funds are raised and scholarships awarded has led to a failure on the part of some student scholarship organizations and some affiliated private schools to follow basic rules set out in the law.

I encourage you to read this report in its entirety as you consider both the merits of the idea of education tax credits and the design of Georgia's current tax credit legislation.

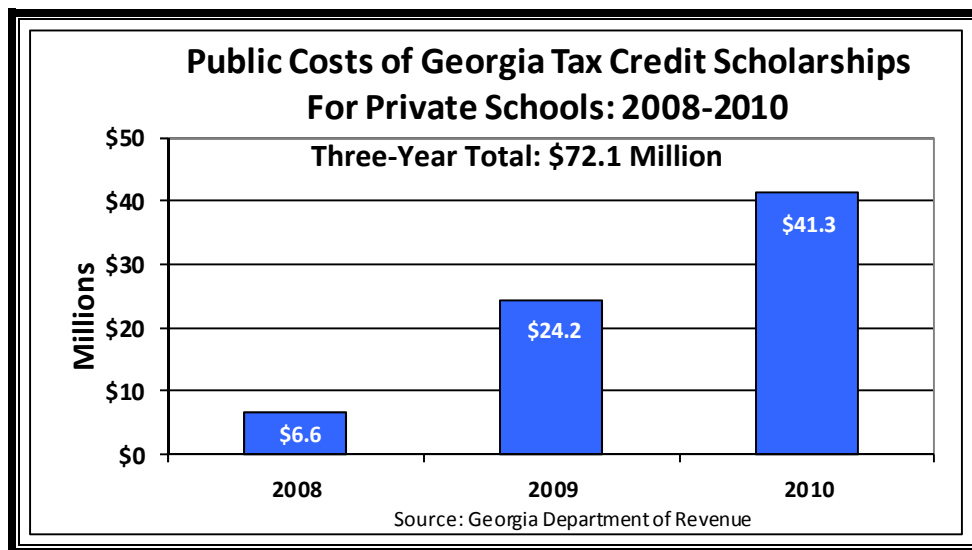


Kent McGuire  
President  
Southern Education Foundation

## INTRODUCTION

Georgia is one of seven states that currently allow tax credits for scholarships to private schools.<sup>2</sup> Georgia's law was enacted in May 2008 in order to assist low income students transfer out of low performing public schools. Operations under the new act began in late 2008. The law permits taxpayers in Georgia to reduce their annual state taxes up to \$2,500 on joint returns when they contribute to a student scholarship organization (SSO), who provides scholarships to private school students. A corporation may eliminate its Georgia taxes by as much as 75 percent of total liability when it uses tax credits to contribute to an SSO.

For every dollar provided to an SSO, a Georgia taxpayer reduces his own state tax liability by a dollar and diverts that dollar from state tax revenue. The Georgia law currently limits the total amount of statewide tax credits in any one calendar year to \$50 million. During the last three years (July 2008 through 2010), a total of \$72.1 million has been diverted from Georgia's state revenues as a result of these tax credits for scholarships to private schools in the state.



Most student scholarship organizations in Georgia allow taxpayers to designate a private school to receive their tax-diverted scholarship funds. Otherwise, the SSOs use tax credit funds for grants to the private schools of their choice. In turn, private schools distribute tax-funded scholarships to the students. In late 2008, the Georgia Department

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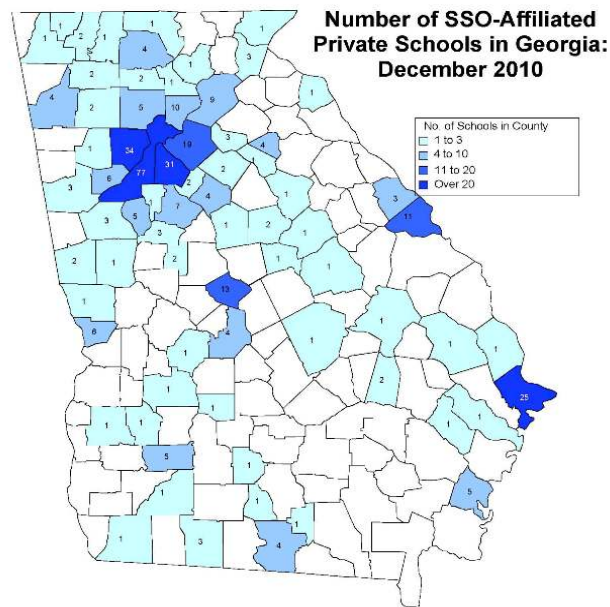
<sup>2</sup> The other six states are Arizona, Pennsylvania, Florida, Rhode Island, Iowa, and Indiana (in order of adoption). Oklahoma will begin a tax credit program for educational improvement in late 2011. In the 2008–2011 legislative sessions, at least 25 states had legislation introduced for tax credit scholarships, including 8 additional Southern states. For a national review of tax credit scholarships and their emergence in recent years, see Kevin G. Welner, *NeoVouchers: The Emergence of Tuition Tax Credits for Private Schooling* (Lanham, MD: Rowman & Littlefield, 2008).

of Education listed fewer than 10 SSOs registered to solicit funds for student scholarships to private schools. As of December 31, 2010, that number had grown to 32 SSOs.

By Georgia law, in order to operate as an SSO, a group must: 1) be a lawful, charitable organization located in the state; 2) register with the state department of education; 3) allocate or obligate no less than 90 percent of its revenues to more than one private school for funding student scholarships; and 4) have an annual CPA audit and financial report sent to the Georgia Department of Revenue. SSOs fill out a check list from the Georgia Department of Education on which they affirm that they meet the requirements of the state law and are afterwards listed on the education department's approved list of SSOs.

Approximately 370 private schools had affiliated with one or more SSOs by the end of 2010.<sup>3</sup> More than half of these SSO-affiliated private schools were located in only five Georgia counties: Fulton, Cobb, DeKalb, Chatham, and Gwinnett. At the end of 2010, two-thirds of the private schools affiliated with an SSO to receive tax credit scholarships were in only nine of Georgia's 159 counties.

Across the state, almost 199,000 students attended private schools in 2009—one out of every 10 schoolchildren in Georgia.



Source: SEF Research

<sup>3</sup> An "SSO-affiliated school" is a private school associated with a Georgia SSO in order to receive tax credit scholarships. There is no complete listing of private schools affiliated with registered SSOs in Georgia. Some SSOs publish a list of the affiliated schools. Others do not. SEF used a variety of research methods to identify all SSO-affiliated schools in the state (see Appendix 6). No doubt the number of schools has grown since December 31, 2010.

## BACKGROUND

Georgia's tax credit scholarships for private schools were established with the passage of House Bill 1133 in the 2008 session of the Georgia General Assembly. State Representatives David Casas and Earl Ehrhart and former State Senator Eric Johnson introduced and championed the legislation as a way to provide school choice to Georgia parents and students for whom private schools were inaccessible due to cost.

During committee deliberations, Rep. Casas said the bill would help parents who can't afford private education, such as those struggling in Clayton, DeKalb, and other counties who want to leave underperforming public schools. Casas also argued that the bill would "improve public schools without costing taxpayers more money." He cited a study by the Friedman Foundation for Educational Choice of Indianapolis. It concluded that the proposed law would save Georgia's state and local governments a combined total of nearly \$100 million annually based on the transfer of almost 15,000 students from public to private schools. Rep. Casas maintained that "thousands of students would take these privately funded scholarships and transfer to private schools, leaving a host of tax money available for public schools to improve their performance."

On the floor of the House, Rep. Ehrhart called the bill "one of the most innovative . . . greatest things . . . for the children of Georgia" since it provides "the opportunity for children to have choices" in education. He informed colleagues that Florida, Pennsylvania, Rhode Island, and Arizona had passed similar legislation. He too quoted the Friedman Foundation's conclusion that Georgia public education could save nearly a hundred million dollars each year if the bill were passed. Praised by sponsors as a plan for lower income schoolchildren to get out of shoddy public schools, the legislation passed the lower house in a roll call vote of 92 to 73.

In the State Senate, Sen. Johnson spoke on behalf of the bill on April 1. He said that "the only beneficiary" of the proposed legislation "would be those who can't afford to be in private school and want to be." He explained that the bill would not help "the rich" because they could already afford private schooling and would not seek the tax credit scholarships. The bill passed the upper chamber by a vote of 32 to 20, and Governor Sonny Perdue signed HB 1133 into law on May 14, 2008.



In the following year, during the 2009 legislative session, Rep. Ehrhart<sup>4</sup> and Rep. Casas introduced a bill to make several changes in the SSO law. It proposed primarily to eliminate any limits on the amount of tax credits an individual taxpayer could take by contributing to an SSO, so long as the amount did not exceed 75 percent of the taxpayer's total state tax liability. In addition, the bill would have added freestanding, private pre-kindergarten programs as eligible schools and would have made all information and reports provided by student scholarship organizations to the Georgia Department of Revenue "confidential taxpayer information" subject to criminal misdemeanor penalties for disclosure.

The bill passed both houses of the General Assembly but was vetoed by Gov. Perdue on May 11, 2009. In his veto message, Gov. Perdue stated, "I agree that changes are needed to the original student scholarship organization law and I supported HB 394, which would have enacted the changes I believe are necessary."

House Bill 394, the legislation Gov. Perdue had his floor leaders sponsor, would have implemented sweeping reforms in the current SSO law. It was designed to

- restrict scholarships to students who could document that they had been enrolled in a Georgia secondary or primary public school for at least one year and were eligible for a free or reduced-price lunch;
- require SSOs to allocate 97 percent of annual revenue to scholarships;
- mandate background checks on SSO owners and operators;
- prohibit an owner or operator of an SSO from also being an owner or operator of a qualified school eligible to receive scholarship monies;
- require SSOs to report annually to the Georgia Department of Education on the number of students receiving scholarships and the schools in which such students are enrolled;
- restrict the amount of an SSO scholarship in a single academic year to the average amount the state provides in its funding formula for a full-time student in public schools; and
- require each school in which a student receives an SSO scholarship to select a nationally norm-referenced test approved by the State Board of Education, administer annually such test to each scholarship student, and report yearly on results of the norm-referenced test to the Department of Education in accordance with its rules and regulations.

Governor Perdue's bill died in a House Committee during the 2009 legislative session.

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<sup>4</sup> Between the 2008 and 2009 legislative sessions, Rep. Ehrhart helped to establish an SSO, the Georgia Christian Schools Scholarship Fund, where he remains an officer and a member of a three-person board of directors. Rep. Ehrhart is also on the board of directors of one of the Christian private schools affiliated with the Georgia Christian Schools Scholarship Fund to receive monies for student scholarships.

On February 22, 2011, Rep. Ehrhart and Rep. Casas introduced House Bill 325, in a renewal of their attempts to alter Georgia's existing private school scholarship law. This new bill proposed, among other things, to increase the current funding cap on the tax credit program from \$50 million to \$62.5 million and to automatically increase the funding cap by 25 percent after any year in which SSO tax credits reached an amount within 10 percent of the existing cap. In addition, the bill proposed to remove income limits on SSO tax credits for individuals and married couples, up to 75 percent of their total state tax liability.

These specific provisions were stripped away by the House Ways and Means Committee after a hearing in which members cited a sluggish economy and lingering concerns about state revenues. In the State Senate Finance Committee, however, Senator "Chip" Rogers revived the provision in HB 325 that provided an automatic increase in the ceiling on tax credits.

On the last day of the 2011 session, the Georgia General Assembly passed a revised version of HB 325. The law primarily removes the annual cap of \$50 million on the amount of tax funds diverted from the state treasury for private school scholarships. It automatically increases the ceiling every year for the next nine years to reflect gains in the consumer price index (CPI). HB 325 also makes it a criminal misdemeanor to disclose any information reported to the Georgia Department of Revenue relating to taxpayers, SSOs, and private schools—except for tallies on the total number and amounts of tax credits used and the total number and dollar value of all scholarships awarded. Disclosing or publishing anything else—including the results of an SSO's CPA audit—will be illegal and punishable by criminal law.

The new law also adds private pre-kindergarten programs to those schools eligible for tax credit scholarships and limits the amount of each scholarship funded by tax credits to the amount of the public schools' per pupil expenditure from state and local funding in Georgia.

Governor Nathan Deal signed the bill on May 12, 2011, and the new provisions become law on July 1, 2011.

## PUBLIC ACCOUNTABILITY FOR THE USE OF TAX FUNDS

There is almost no public record currently available about how the law authorizing tax-funded scholarships for private schools is operating in Georgia. The state department of education maintains on its website a list of SSOs—but nothing more. It requires an SSO to fill out a check-off sheet to register. At the end of 2010, eight of the 32 listed SSOs did not have a website, and 10 SSOs had only a post office box for their location.

The Georgia Department of Revenue receives annually a certified public accountant's audit of each SSO's finances and a report from each SSO that includes a list of donors and the amounts of their tax credits. As of July 1, the department is authorized to publish a list of donors, tallies on the total number of taxpayers who used tax credits, the total amount of the tax credits, and the total number and dollar value of all scholarships awarded. The disclosure of any other information, including the financial audit of the SSO's operations, will be a criminal offense.

The SSO law also fails to authorize the department to collect any information about the private schools or students receiving the tax-funded scholarships and prohibits the revenue department from requiring SSOs to provide any additional information not expressly authorized by the law. A list of SSOs is also submitted annually to the Georgia General Assembly.

As a result, there is no public information about the following critical components:

- SSO contributors using state tax dollars to support private school scholarships;
- private schools receiving tax funds, which SSOs award them the funds, or the amount of tax-diverted funds each private school is receiving from an SSO;
- the amount or number of scholarships that private schools or SSOs distribute to students with SSO funds;
- which students receive private school scholarships supported by tax credits or the students' characteristics; or
- the criteria and processes that different private schools or SSOs use to award tax-funded scholarships.<sup>5</sup>

Georgia alone makes it a criminal offense to publicly disclose any specific information submitted by SSOs to the department of revenue, and it is the only state that fails to require any real public accountability for the use of tax dollars to finance scholarships. In each of the other six states with tax credit scholarships, the organizations

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<sup>5</sup> A few SSOs established in late 2009 and 2010 award scholarships directly to students instead of permitting private schools to award the scholarships. Arete Scholars Fund, the Student Scholarship Foundation of Georgia, and AAA Scholarship Foundation appear to follow this practice.

and/or schools receiving contributions through taxpayer funding must provide detailed, adequate information so that a state agency can report publicly on the operations of the tax-financed scholarship program.

The Georgia law requires SSOs to obligate no less than 90 percent of their annual revenue for scholarships and to operate lawfully, but there is only a very limited amount of information that the law permits the department of revenue to require in order to investigate issues of unlawful conduct and to assure an SSO's compliance. In most respects, Georgia's law is designed primarily to watchdog the honesty of taxpayers—not the SSOs. The foremost regulatory function the Georgia Department of Revenue can carry out with the authority and information it has been granted by the SSO law is nothing more than to assure that taxpayers who claim a reduction in state income taxes under this law have made payments of the same amount to a registered SSO.

By way of contrast, the Arizona Department of Revenue issues an annual public report identifying each scholarship organization's number, the amount of contributions received, and the number and amount of scholarships it has provided private schools from both its corporate and individual tax credit programs. These public reports also identify each private school in Arizona that receives tax credit scholarship funds and the number and amount of the scholarships that each school awards.

### Public Reports on Arizona Student Scholarship Program Excerpts from Individual Donors Program

#### APPENDIX II 2008 SCHOLARSHIPS PAID BY SCHOOL TUITION ORGANIZATION

SCHOOL TUITION ORGANIZATION	# of 2008 scholarships	2008 scholarships	% chg in #	% chg in \$	Average scholarship	% chg in average
Alternative Schools Scholarship Fund	25	\$14,700	(13.8)	(15.8)	\$588.00	(2.3)
Arizona Adventist Scholarships	793	\$446,855	(14.2)	(9.4)	\$563.50	5.6
Arizona Christian School Tuition Organization	5,584	\$10,964,557	3.3	5.8	\$1,963.57	2.5
Arizona Episcopal Schools Foundation	219	\$1,001,505	10.1	14.1	\$4,573.08	3.7
Arizona Independent Schools Scholarship Foundation	111	\$803,743	2.8	(4.5)	\$7,240.93	(7.1)

#### APPENDIX IV NUMBER AND AMOUNT OF SCHOLARSHIPS RECEIVED BY SCHOOL

School	# of Scholarships	Scholarship \$	% chg from 2007	Avg. Scholarship	% chg from 2007
2 <sup>nd</sup> Street Children's School	9	\$20,561	281.5	\$2,285	112.0
91st Psalms Christian School	102	\$121,585	11.3	\$1,192	13.5
Abbie Loveland Tuller	48	\$152,742	(0.3)	\$3,182	(4.5)
Abiding Savior School	13	\$26,736	(24.4)	\$2,057	(12.8)
Adobe Adventist Christian School	25	\$11,538	22.4	\$462	52.0
Ahwatukee Foothills Montessori	3	\$6,930	NA	\$2,310	NA
Aldea Montessori	14	\$35,652	22.1	\$2,547	100.6
Aletheia Classical Christian School	19	\$29,847	179.8	\$1,571	17.8
Al-Huda School	19	\$47,265	22.8	\$2,488	(9.5)
All Saint's Episcopal Day School	47	\$340,672	27.2	\$7,248	8.2
American Indian Christian School	67	\$153,842	0.2	\$2,296	43.6

Source: Arizona Department of Revenue

Rhode Island's Division of Taxation makes a similar annual public report for the activities of each student organization that allocates tax credit funds for scholarships. The state reports also identify the zip code of each student who receives a tax credit scholarship and the amount of the scholarship.

In Florida, this type of financial reporting is only the beginning of its insistence that student scholarship organizations and their affiliated private schools must be accountable for public funds. All student scholarship organizations must provide the Florida Department of Education with the following information four times a year:

- demographic information for each student, including name, date of birth, social security number, grade level, gender, race, parent's name, and address;
- information on the student's school of attendance, including tuition, fees, and transportation amounts; and
- the amount of each student's scholarship.

Florida also mandates that private schools complete an annual survey and to publicly release scores of standardized tests administered by an independent research organization, if 30 or more students receive a tax credit scholarship. Based on these and other data, the Florida Department of Education prepares and publishes quarterly public reports on the tax credit scholarship program, its schools, and its students. Florida also requires a full annual public report.

In Georgia, none of this information about the state's tax-financed scholarship program is required or available, and most SSOs and private schools eligible to receive SSO scholarship funds have failed to voluntarily provide such public information about the use of tax funds. Except for the Georgia Greater Opportunities for Access to Learning (GOAL) scholarship program, no student scholarship organization in Georgia has made public on a website or in any other public forum specific information about contributions, expenditures, SSO grants to students or schools, or the schools' scholarships and the students who receive them. The schools also have published no detailed, meaningful information about their SSO-supplied funding or the students who have received tax credit scholarships.

Despite extensive efforts, the Southern Education Foundation was unable in the fall of 2010 to convince a single SSO in Georgia to voluntarily complete all or even a substantial portion of an SSO survey on tax credit funds, schools, or operations. SEF also surveyed 67 private schools that were affiliated with an SSO. They were asked to

complete a one-and-a-half-page survey. Only nine schools answered all or most of the survey in writing, and two of the nine replied only that they had not yet received monies for tax-funded scholarships. Several schools refused any discussion when asked in a follow-up telephone call. One school headmaster discussed the program in general terms and with the stipulation that the conversation be off-the-record.<sup>6</sup>

### **FAILURES TO COMPLY WITH THE LAW**

The near-total lack of disclosure and oversight has created an array of issues and questions relating to whether SSOs have complied with basic provisions of Georgia’s tax credit scholarship law. These problems appear to implicate the conduct of almost every SSO that operated during the first three years of the law. The apparent failures of SSOs to comply with the law relate to:

- Students eligible for scholarships
- Schools eligible for scholarships
- Spending requirements
- Civil rights compliance
- Limiting scholarships to one school

#### Eligible Students

The Georgia law on private school tax credits stipulates that a student is eligible for a scholarship to a private school only if he or she “is a Georgia resident enrolled in a Georgia secondary or primary public school or eligible to enroll in a qualified kindergarten program or pre-kindergarten program.”<sup>7</sup>

Several SSOs and many private schools have decided that the law requires only that a student enroll—not actually attend—a public school to be eligible for a scholarship. This practice became evident in August 2009 when the *Atlanta Journal-Constitution* (AJC) reported that parents and students attending private schools were showing up at public schools “to fill out paperwork to enroll their kids in public schools solely to qualify” for the tax-funded scholarships—“with no intention of actually attending classes in the public school.”<sup>8</sup> The news story did not determine how widespread the practice had become but identified three school districts reporting the local practice by parents. The newspaper

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<sup>6</sup> The SEF questionnaire was sent to all SSOs in Georgia by email and by US Postal Service. The survey was followed up by telephone calls and additional emails over a period of eight weeks. One SSO executive responded generally to a few questions in the survey. A Seventh Day Adventist representative gave the number and amount of its scholarships by phone.

<sup>7</sup> See *Code of Georgia*, sections 20-2A-1(1).

<sup>8</sup> *Atlanta Journal-Constitution*, August 9, 2009.

also found officials at two private schools who admitted that some of their students were using the state law’s “loophole” to receive tax-funded scholarships.

State Rep. Earl Ehrhart, one of the law’s sponsors, told an *AJC* reporter that he thought it was legal for parents to use this “loophole” but described use of it as “an anomaly. There is no conspiracy there.” In December 2009, however, at a meeting sponsored by the Georgia Student Scholarship Organization (GASSO), State Rep. David Casas, another sponsor of HB 1133, told parents how Killian Hill Christian School in Gwinnett County had received \$85,000 in SSO scholarships to help keep students in the private school—not to help new students transfer from public schools.<sup>9</sup>

In addition, in a videotape of the same meeting that has since been used at other GASSO meetings, Rep. Casas informs private school parents that as a sponsor of the law he deliberately specified “enroll” instead of “attend” in HB 1133 in order to ensure that tax credit subsidies would support students already in private schools. Rep. Casas states:

Some people felt a little bit weird about that; felt it was a little dishonest that they would take their child, enroll them in a public school and not have them actually attend, but all of a sudden they actually qualify for a scholarship. I’m telling you, we deliberately put the wording in there for that.<sup>10</sup>

Rep. Casas’ taped assertion is an admission of a deliberate deception on the part of a public official and an overt contradiction of his own public statements made while seeking support for the legislation in 2008. On his own website on March 4, 2008, Rep. Casas issued a press statement saying that the “Georgia House is considering legislation to permit tax credits worth up to \$50 million annually to fund scholarships for students to transfer from public schools to private schools. It would help parents who can’t afford private education, such as those struggling in Clayton, DeKalb, and other counties who want to leave underperforming public schools” (emphasis added; see Appendix 3 for documentation).

Rep. Casas’ assertion about the true meaning and intention of the term “enroll” also belies the public statements of civic leaders who were among the primary public supporters of HB 1133. On March 19, 2008, for example, Georgia Family Council Vice

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<sup>9</sup> See this version of the videotape of Rep. Casas’ remarks at:

[http://www.youtube.com/watch?v=Yx2GxjGpWcw&feature=player\\_embedded#at=440](http://www.youtube.com/watch?v=Yx2GxjGpWcw&feature=player_embedded#at=440), (accessed February 1, 2011).

<sup>10</sup> This version of Rep. Casas’ remarks is not publicly available but is apparently used by GASSO only at meetings in private schools. See Appendix 3 for a transcript of Rep. Casas’ remarks about the term “enroll” in HB 1133 from this version of the GASSO videotape and his earlier statements about the purpose of the legislation.

President Eric Cochling wrote in a newspaper column that “these scholarships are available only to students currently in public schools—so the claim that they will benefit only students already in private school is simply wrong.”<sup>11</sup>

Despite Rep. Ehrhart’s assurance in the fall of 2009 about an “anomaly,” the practice of private school students registering in public schools solely for the purpose of becoming eligible for a tax credit scholarship spread in 2010 across at least eight counties, where more than 42 percent of Georgia’s SSO-affiliated schools are located. Private schools serving children in Barrow, Cobb, Gwinnett, Cherokee, Forsyth, Fulton, Glynn, and Lowndes Counties have encouraged and instructed parents of current students on how to “enroll” in but never attend a public school in order to receive tax-funded scholarships for their private school tuition costs.

The Ivy League Montessori School in Cumming, Georgia, told its families, “According to the Georgia law, students must be Georgia residents enrolled in a Georgia secondary or primary public school, though attendance is not required. Therefore, existing and new students at ILMS can enroll in public schools for the county in which they live and qualify to receive scholarship monies” (emphasis added). The St. Simons Christian School in Glynn County provided a copy of the public school registration form on its own website. The school informed families that they can make their children eligible for an SSO scholarship if they complete “the Student Enrollment Eligibility Form and submit it at the county school board registration office, which is in the annex building behind the school board office.”

Covenant Christian Academy in Loganville instructed its parents that a student “must be a Georgia resident enrolled as a non-attending student in a Georgia primary or secondary public school” to be eligible for an SSO scholarship. Cornerstone Preparatory Academy in Acworth also told its parents, “Many of the state public school systems (including Cobb County) have established a procedure to ‘enroll’ these students, but not enter them into the student information system, thus avoiding unnecessary work for the public school staff, knowing the student will not actually be attending. When you call for an appointment or go into the school to register/enroll, please explain that you are using HB 1133 and bring all of the documents listed below which are necessary for school

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<sup>11</sup> *Atlanta Journal-Constitution*, March 19, 2008.



enrollment” (emphasis added).<sup>12</sup>

Several SSOs, including GASSO, have encouraged and supported private schools in their tactics to use tax credit funds to subsidize existing students’ tuition costs. One of GASSO’s directors, Robert Jasion, has recruited private schools and contributions to his SSO by selling the “loophole” in HB 1133 as a lawful means to use tax dollars to support private schools’ existing students.

In his private school presentation, Jasion typically starts by showing the full version of the videotape of State Rep. David Casas explaining the tax credits program as a way for citizens to spend their own tax dollars for private schooling. “If nobody takes that credit,” Rep. Casas says on the video, “we [the Georgia legislature] will find a way to spend it.” In addressing the issue of “enroll” versus “attend,” Rep. Casas states “there is no loophole, there is absolutely no loophole. That was deliberately put in there” so that private school children could enroll in but never attend a public school and take advantage of tax-funded scholarships.

GASSO’s Jasion also explains the difference between “enrolling” or registering a student at a public school and attending a public school. He shows private school parents what a public school enrollment form looks like and lists on his PowerPoint slides the contact information of a state employee of the Georgia Department of Education who he states will “Help on Enrolling in the Public Schools.”

At a meeting with private school parents, Jasion also stated,

You saw David [Rep. Casas] in the video. He said he intentionally wrote that word “enrolled” in there. What does enrolled mean? Well, David sits on the education committee and he helps writes the laws for the Department of Education, and he knew that DOE defines enroll as “the registration of a student in a local school system of residence.”

. . . [They] thought enrolled meant attend. Enroll means simply registering your child in the local public school system, not having them attend, just having them register. Once they’ve registered, they are eligible for a scholarship award.

GASSO’s presentation notes that the SSO works with more than 100 private schools in Georgia (although the claim can not be fully verified since GASSO is the only

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<sup>12</sup> See Appendix 4 for a listing of private schools identified by SEF as instructing parents on how to “enroll” but not attend public schools in order to become eligible for tax credit scholarships. This is probably only a partial listing. Two SSOs, ALEF and GRACE, state that they require documentation of public school attendance.

large SSO in the state that does not publicly list the names of its affiliated schools). The one private school that Jasion identifies in his presentation is Cornerstone Preparatory Academy, where his own children attend. It is one of the schools that instruct its parents on how to “enroll” in public schools to receive a tax-funded scholarship.

GASSO is not the only SSO encouraging private schools to use this ruse to support existing private school students. SEF has discovered that the Golden Dome Scholarship Fund, Corporate Giving for Education, and the Parent’s Choice Student Scholarship Organization are also registered SSOs working with private schools to use the “enroll” language in the state law to provide tax credit scholarships to their existing students.

#### Eligible Schools

Georgia law specifically defines a private “qualified school or program” eligible to receive tax scholarships as a “non-public primary school or secondary school” that is accredited or is applying for accreditation from one of six private agencies recognized by Georgia law.<sup>13</sup> In addition, the law states that the school must be located in Georgia and “satisfies the requirements prescribed by law for private schools in this state.” Regulations of the Georgia Department of Revenue also require SSOs to deliver the payment of the tax credit scholarships directly to a qualified private school.<sup>14</sup>

Some SSOs apparently have granted scholarships to students to attend schools and programs that are not qualified by law as accredited, private primary or secondary schools. At the end of 2010, it appears that three SSO-affiliated “schools” were childcare or preschool programs unaccredited by any of the state-sanctioned accrediting agencies. Thirty-one programs were accredited as “non-traditional educational centers”—not as accredited primary or secondary private schools. Nine of these “non-traditional educational centers” fail to meet the state law’s definition of a private primary or secondary school (see Appendix 2 for a list of the most questionable SSO-affiliated schools). Most of these centers call themselves schools but appear to supplement and

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<sup>13</sup> The law was amended by HB 325 so that as of July 1, 2011, qualified private pre-kindergarten programs will be eligible to receive private school scholarships.

<sup>14</sup> See *Code of Georgia*, sections 20-2A-1 and Rules of Georgia Department of Revenue Tax Division, Chapter 560-7-8. The definition of a private school in the *Code* includes a requirement for 180 days of instruction, a minimum of 4.5 hours of instruction on those days, and a curriculum that covers basic areas of knowledge such as reading, mathematics, and science.

support homeschooling without the necessary curriculum or amount of organized learning that Georgia law defines as a private school.<sup>15</sup>

There are also 19 SSO-affiliated institutions that are accredited only as “educational agencies with special purposes”—not as primary or secondary schools. Six of the 19 “educational agencies with special purposes” do not appear to meet the legal definition of a private school. Some of these agencies serve children with developmental needs and provide therapy as a primary method of assistance. Others are also only part-day programs and do not provide a minimum of 4.5 hours of instruction as required of all qualified schools.

### Spending Requirements

The law in Georgia requires an SSO to allocate or obligate 90 percent of its annual revenue for scholarships to private school students. It permits up to 25 percent of this amount (one-fourth of 90 percent) to be carried over into the next fiscal year. In effect, a Georgia SSO must distribute no less than 67.5 percent of its revenue for scholarships each year and may carry over no more than 22.5 percent of annual revenue for scholarships in future years. These requirements leave 10 percent of annual revenues for administrative costs. The law clearly mandates that SSOs cannot hoard tax funds and must distribute every year the vast majority of its money on student scholarships.<sup>16</sup>

In the first two years of operations (2008 and 2009), several SSOs failed to comply with these basic provisions of state law. According to their reports to the Internal Revenue Service (IRS), five SSOs reported in 2008 combined revenues of more than \$4.6 million—almost 70 percent of all scholarship tax credits taken that year in Georgia.<sup>17</sup> These five SSOs made less than \$1.4 million in scholarship grants or payable grants (obligations for current or future scholarships)—distributing only 30 percent of all revenues raised for

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<sup>15</sup> Two SSO-affiliated private schools accredited by the Southern Association of Colleges and Schools (SACS) also use what is called the “university model” of learning, where the schools simply hold classes on three days a week and for the other four days leave students under the supervision of parents, who are responsible for guiding their children in the completion of assigned work. This innovation is, in effect, a merger of traditional schooling and homeschooling, especially for young learners.

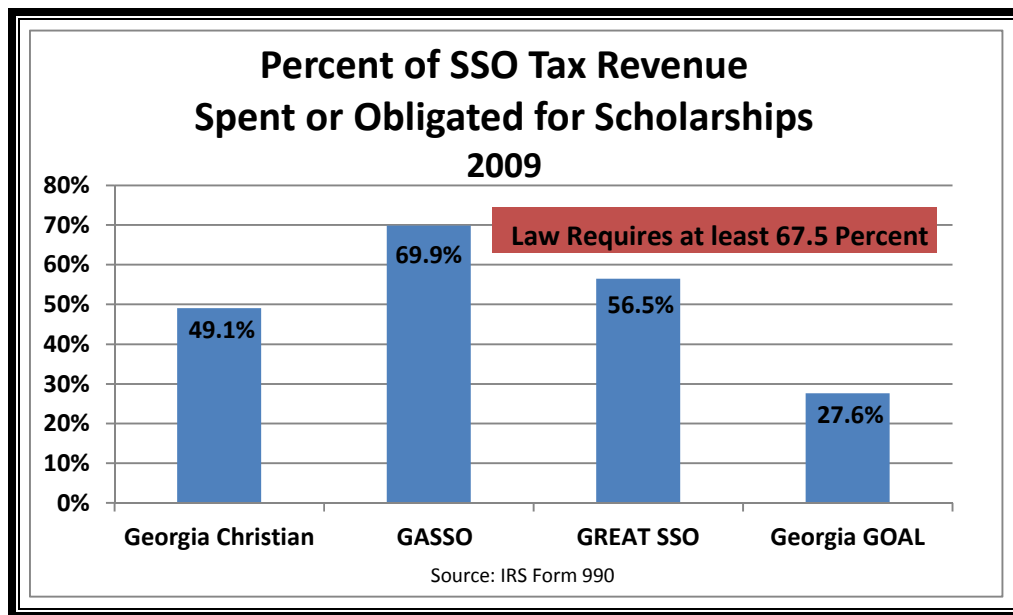
<sup>16</sup> See *Code of Georgia*, sections 20-2A-1 and 20-2A-2. In its annual statistical report for 2008, the Georgia Department of Revenue defines SSOs as tax-exempt “nonprofits that distribute at least 90% of their revenues for scholarships or tuition grants to allow students to attend qualified nonpublic schools” (emphasis added). See Georgia Department of Revenue Statistical Report, FY 2008, p. 120.

<sup>17</sup> As charitable tax-exempt organizations, SSOs file an annual financial and operational report to the federal Internal Revenue Service (IRS). Federal regulations require these reports to be available for public inspection at the organization’s offices. These IRS 990 forms provide information on categories of annual income and expenses and a balance sheet for the organization. The data on these federal reports can generally indicate if an SSO is spending 90 percent its annual revenue for scholarships. Typically the federal reports are filed at least 9–12 months after a reporting period.

scholarships. The records for three SSOs (Georgia GOAL, Georgia Christian Schools Fund, and Apogee Scholarship Fund) show they did not grant or obligate any funds for scholarships in 2008, although GOAL raised over \$3.5 million and Georgia Christian raised almost \$269,000.

For the calendar year of 2009, federal records are available for four SSOs (GASSO, Georgia Christian, Great SSO, and Georgia GOAL) that diverted at least \$30,000 in tax credits from the public treasury. These four SSOs generated a combined total of \$15.1 million in diverted state revenue (nearly two-thirds of that year's total amount raised from state tax credits). But federal documents indicate that these four SSOs granted or obligated no more than \$5.9 million for scholarships—barely 39 percent of all tax revenues that these four SSOs diverted for scholarships (see Appendix 1).

Only one of the four SSOs, Georgia SSO (GASSO), shows that it distributed at least two-thirds of its tax-generated funds in 2009 as required by state law.<sup>18</sup> GOAL's federal records show that it obligated or distributed in scholarships only 28 percent of the \$10.6 million it raised in 2009. During the same year, GOAL's federal report shows that it spent 12.2 percent of its revenue—above the maximum of 10 percent allowed by law—on administrative and operational costs.



<sup>18</sup> GASSO's methods of distributing tax credit scholarships raise important issues of compliance in another area. See pages 14-18. Also, in a report for July 2008 through June 2009, the ALEF Fund, an SSO established to support scholarships at Jewish schools, actually exceeded the 90 percent requirement by obligating more funds for scholarships than ALEF raised that year. Its IRS report for the latest year is not yet publicly available.

In summary, during the first two years of the operation and fundraising of Georgia SSOs, currently available federal records show how \$19.7 million of a total of \$30.8 million in tax credits were used. These reports capture nearly two out of every three dollars of tax money diverted to SSOs for private school scholarships in Georgia in 2008 and 2009. Less than \$7.3 million—only 37 percent of the \$19.7 million—was distributed or made payable as grants for scholarships during these two years.

More than 57 percent of the \$19.7 million in tax-diverted funds was carried forward from 2008 and 2009 into 2010. Federal records also show that an average of 10.6 percent of SSO revenues from tax credits during these two years was spent on administration and operations. Therefore, based on the available federal records for 2008 and 2009, most of the tax funds diverted by SSOs were not used in accordance with the basic provisions of the tax credit law.

#### Civil Rights Compliance

Georgia law also requires private schools to comply with the Civil Rights Act of 1964, which in Title VI outlaws discrimination based on race, color, or national origin in programs or activities.<sup>19</sup> Unfortunately, the Student Scholarship Organization for Greek Americans in Georgia expressly limits scholarships to students based on national origin—proof of Greek ancestry. To receive an application for this SSOs scholarship, a student must demonstrate “origin of Greek descent.” As of the end of 2010, the SSO had raised approximately \$40,000 to support scholarships for Greek American students in a variety of private schools. These schools are accepting tax-diverted funds for scholarships that are awarded on the basis of national origin, contrary to the Civil Rights Act.

#### Limiting Scholarship to One School

The Georgia SSO law prohibits an SSO from making scholarships available to eligible students in only one school.<sup>20</sup> The provision is apparently designed to prevent a private school in Georgia from creating an SSO in order to arrange financing for educating a limited and narrow range of children—children attending only that school. This arrangement, however, is exactly what the Christian International Counseling & Ministries (CICM) has done as an SSO. The organization was incorporated in 2001 and in recent years has been in business to operate Friendship Christian School. In its 2008 IRS report, CICM

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<sup>19</sup> See *Code of Georgia*, sections 20-2A-1 (2) (B).

<sup>20</sup> See *Code of Georgia*, sections 20-2A-1 (3) (B).

states as its primary exempt purpose: “We Are a Non-Denominational Christian School.” CICM’s report was filed with the IRS in January 2010 and lists its street address as the school location and the website of Friendship Christian as its own.

At the end of 2010, CICM as a registered SSO had a separate website, but it did not list any affiliated schools. The site did not provide any means for applying for a scholarship. The online section for “Scholarship Forms” included only forms for taking a tax credit—not for applying for a scholarship. The last street address for the SSO was the Slavic Evangelical Christian Church of Atlanta, whose members were involved in founding the nearby Friendship Christian School. The only school that SEF found in its research that identifies CICM as its affiliated SSO is Friendship Christian School. The school’s business manager is also the contact person/agent for CICM as a Georgia SSO.

CICM and other SSOs have been able to disregard Georgia law because the law deliberately provides no public records by which to monitor how private organizations that raise and distribute tax-diverted funds are implementing the law. By effectively barring state agencies from monitoring and holding accountable Georgia’s SSOs, Georgia law has created an environment in which too few are acting lawfully in a publicly funded system that is currently free to serve private interests as much as the public interest.

#### **GEORGIA’S TAX CREDIT SCHOLARSHIP LAW IGNORES LESSONS OF OTHER STATES**

Georgia is an exception in several important ways among the seven states with tax credit scholarships for private schools.

First, Georgia’s law is the exception because it fails to hold anyone accountable for how they divert or spend tax funds. It is the only law that does not track—in some way—who is receiving scholarships under the program. All other states require reporting that tracks and measures developments in the tax-credit program. Three states (Arizona, Indiana, and Florida) go a step further to ensure accountability by requiring private schools to measure student achievement with standardized testing or reports of student progress. Due to 2011 amendments to the SSO law, Georgia also is the only state to make it a criminal offense to divulge information about an SSO’s audited operations and spending.

Second, Georgia is the only state that does not consider family income in awarding tax-funded scholarships to private schools. Florida, for example, restricts scholarships to students whose families are at or below 185 percent of the poverty line.

Third, four states limit eligibility for scholarships to public school students, but Georgia is the only state among them that has not required actual prior attendance in a public school to receive a tax-funded scholarship (see pages 14-18). The other three states have enforced the requirement that only students who transfer from a public school are eligible for scholarships.

Georgia also is one of only three states (including Arizona and Indiana) that allow both individuals and corporations to receive a tax credit, and one of only three (including Arizona and Florida) that allow a dollar-for-dollar tax reduction for contributions. Also, three states—Indiana, Iowa, and Rhode Island—have programs with annual caps below \$10 million, while Georgia’s \$50 million cap now has an automatic annual cost-of-living increase.

## ACCOUNTABILITY FOR TAX-FUNDED EDUCATION PERFORMANCE

In Georgia, there is little or no information by which parents or policymakers can consider and compare the academic performance of a private school receiving tax revenues for a student scholarship with the performance of students in public schools or other private schools. In addition, Georgia law currently does not provide for any method to account for how well schools are educating any student receiving an SSO tax-funded scholarship.

Georgia's law makes no provision for an assessment or testing of students who attend private schools with tax-funded scholarships. Nor is there any state regulation or law in Georgia that provides the public with the results of any test or assessment of the academic performance of any student attending a private school with taxpayer support. Some private schools in Georgia administer national tests, such as the Iowa Test of Basic Skills (ITBS), which also has been used widely by public schools, but almost none routinely makes test results available to the public.<sup>21</sup>

In contrast, students in tax-funded public schools are required to undergo an extensive series of tests, all of which are published annually according to student characteristic by school and school district. In the first and second grades, Georgia public school children are tested on three subjects every year. From the third grade through the seventh grade, public school students are tested annually on five subjects. In the eighth grade, they are tested on five subjects and writing. In Georgia public high schools, students take state-mandated tests three times each year on one of eight subjects in four core areas of the curriculum. There is also a state-mandated writing test and a graduation test for high school students in public schools. The results from all of these tests are disaggregated by student characteristics and made available to parents and to the public.

Today, as in the past, it is virtually impossible for parents to make an informed choice about the comparative academic effectiveness of public and private schools. Now in Georgia, some private schools are being aided with tax-diverted funds for scholarships.

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<sup>21</sup> See, for example, "Education Guide: A Directory of Public and Private Schools in the 10-County Metro Area + Their Standardized Test Scores," *Atlanta Business Chronicle*, special section, January 28–February 3, 2011. Despite the title, there are no test scores for private schools—only for public schools—in the guide. Also see the *Atlanta Journal-Constitution's* online "School Guide" for parents on public and private schools. It lists student demographics and performance data, test scores, and teachers' years of experience for public schools. The private schools report no information on academic achievement or other comparable indicators. See: <http://schools.ajchomefinder.com/>.

As a result, there is also no information available to the general public or to policymakers by which to assess how effective the private schools are in educating students attending with tax-funded support.

Students who attend and graduate from public schools in Georgia will undergo as many as 87 state-mandated tests over 12 years in order to assess if their schools are effectively using tax dollars in education. A student who attends a private school with tax-funded scholarships takes no state-mandated tests. The results of mandated testing in the public schools are published annually by school and school district according to student characteristics. There are no results and nothing available to publish in the private schools where students attend with support of diverted tax funds.

The only rational basis for such an enormous mismatch in public accountability for tax-supported education is the assumption that any private school selected by a parent is always better than any public school selected by a parent. This assumption is false. There is no credible evidence to support the conclusion that private schools educate children with similar backgrounds any better than public schools.<sup>22</sup> And, there is no factual basis for concluding that any private school eligible to receive tax-funded scholarships in Georgia is usually better in educating children than any public school.

The nation's prevailing independent research presents clear and convincing evidence that students with similar economic, social, and family backgrounds in similar communities score much the same on tests in public and private schools. A 2007 study using longitudinal data was commissioned by the Center on Education Policy and supports the conclusion that "students who attend private high schools receive neither immediate academic advantages nor longer-term advantages in attending college, finding satisfaction in the job market, or participating in civic life."<sup>23</sup>

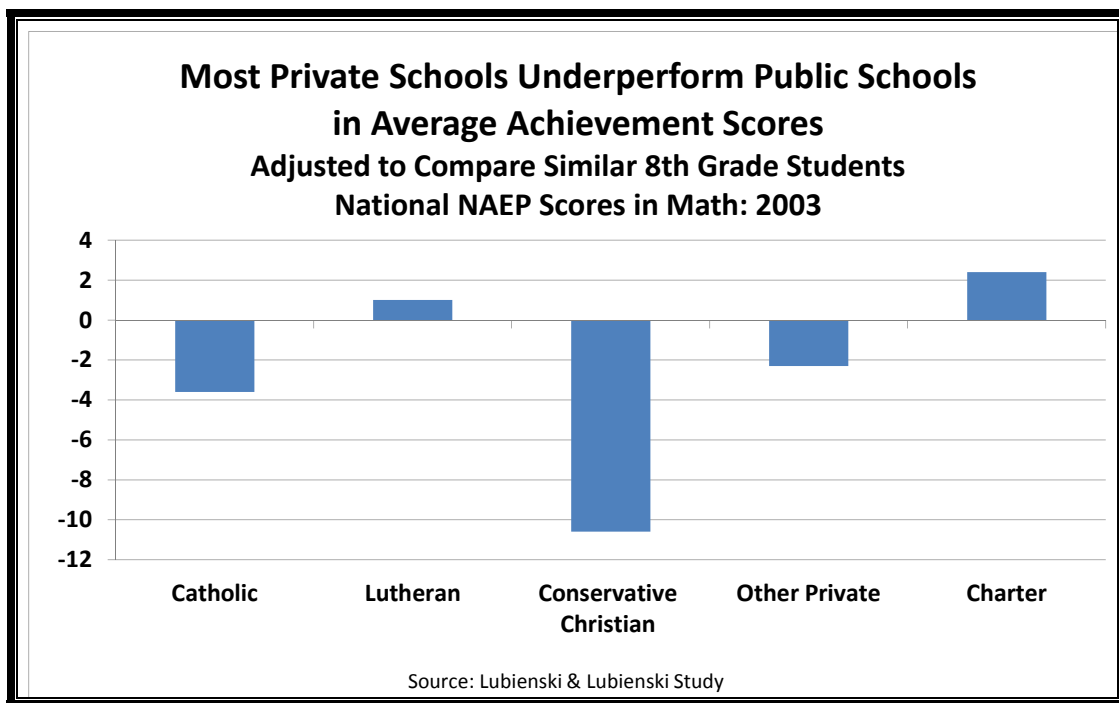
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<sup>22</sup> A recent scholarly study shows that private schools receiving tax credit scholarships for students in Florida have helped to improve public school performance by creating competition between private and public schools for students. See D. Figlio and C. Hart, "Competitive Effects of Means-Tested School Vouchers" (Cambridge, MA: National Bureau of Economic Research, June 2010). The study, however, offers few or no prospects for such a beneficial development in Georgia under HB 1133. The competitive effects in Florida stem in large part from the Florida law requiring similar levels of accountability and reporting for educational performance between private and public schools and limiting scholarship to low income children, whose public schools are eligible for extra federal Title I funding. In addition, while the study's findings were consistent using four different methods of measurement, the authors note that "these estimated effects are modest in magnitude" (p. 24).

<sup>23</sup> H. Braun, F. Jenkins, and W. Grigg, *Comparing Private Schools and Public Schools Using Hierarchical Linear Modeling*, No. 2006-461 (Washington, DC: National Center for Education Statistics, 2006); C. Lubienski and S. Lubienski, *Charter, Private, Public Schools and Academic Achievement: New Evidence from NAEP Mathematics Data*, Occasional Paper No. 111 (New York: National Center for the Study of Privatization in Education, 2006); S. Lubienski and C. Lubienski, "School Sector and Academic Achievement: A Multilevel Analysis of NAEP Mathematics Data," *American Educational Research*



Other recent research suggests that public schools on average may be outperforming private schools when examining students with similar backgrounds and characteristics. The most recent, comprehensive study of student achievement by school type found that, after adjusting data to account for a student’s background, some types of private schools in the United States performed below public schools on NAEP tests. The lowest-performing schools—scoring significantly below public schools on fourth or eighth grade NAEP tests—were “conservative Christian” schools, which are the largest, fastest-growing segment of private schools and SSO-affiliated schools in Georgia today. A related, follow-up study found that conservative Christian schools also had the lowest percentage of certified teachers among public and private schools.<sup>24</sup>



Data is available in Georgia for high school seniors’ SAT college entrance tests by school type, but no study has adjusted results to compare scores for Georgia students with similar family backgrounds, locations, and socioeconomic characteristics. With three times more low income students, public schools in Georgia lag behind both independent

*Journal* 43, no. 4 (2006): 651–698; and H. Wenglinsky, *Are Private High Schools Better Academically Than Public High Schools?* (Washington, DC: Center for Education Policy, 2007). A review of the policy centers’ research validates the findings of other independent scholars, finding small or no differences in student performance among similarly situated children in public and private schools. See J. Lee, *Review of Two Reports Addressing the Achievement of Students in Private and Public Schools* (Boulder, CO: Education and the Public Interest Center & Education Policy Research Unit, 2007).

<sup>24</sup> Lubienski and Lubienski, “School Sector and Academic Achievement,” 651–698. S. Lubienski, C. Lubienski, and C. Crane, “Achievement Differences and School Type: The Role of School Climate, Teacher Certification, and Instruction,” *American Journal of Education* 115, no. 1 (2008): 97–138.

and religiously affiliated private schools in average SAT scores. But in 2010 there were 34 public high schools that scored above Georgia’s SAT average for religiously affiliated private schools, and 16 public schools that exceeded the independent high schools’ average—without considering student characteristics.

<b><u>Number of Georgia Public High Schools Exceeding Georgia's Private School SAT Average Scores: 2010</u></b>				
<b><u>Type of Private School Where Public School Exceeded:</u></b>	<b><u>Total</u></b>	<b><u>Math</u></b>	<b><u>Reading</u></b>	<b><u>Writing</u></b>
<b><u>Independent</u></b>	16	23	15	12
<b><u>Religious</u></b>	34	47	29	29

Source: College Board

The location of these Georgia schools is particularly relevant. A majority of these higher-performing public high schools are located in the five counties of Georgia that have the largest number of private schools and most SSO-affiliated private schools. In other words, most of the private schools currently working with SSOs to receive tax funds to finance student scholarships are in the five counties that also have Georgia’s higher-performing public high schools. Said another way, most SSO-affiliated schools are not in the 120 Georgia counties with no higher-performing public schools.

High school seniors in public schools in the same five counties also have a higher rate of eligibility for HOPE scholarships than the rest of the state. Forty percent of the public high school seniors in 2009 in these five counties were eligible for a HOPE scholarship. The average in the remaining 154 counties was 37 percent.<sup>25</sup>

The data on Georgia high schools demonstrates how the current law, without real oversight, disclosure, and accountability, is developing in an unregulated marketplace to provide tax-funded educational choice primarily in locations that already have the state’s most academically competitive public high schools.

All told, with no public disclosure or accountability for a private school’s educational performance, Georgia has left policymakers and parents in the dark about how well a private school can and does educate students with tax-funded scholarships, especially in comparison with public schools. The tax credit law is based upon a disproven assumption that a private school will always educate a student better than a public school. And, so far, most of the SSO-affiliated schools eligible for tax-funded scholarships

<sup>25</sup> A slightly larger difference in HOPE eligibility existed in 2006.

to provide educational choices for students in low performing public schools are located in the counties where students are less likely to be in or near the worst failing public high schools in Georgia.

## INCOME AND TAX-FUNDED PRIVATE SCHOOL SCHOLARSHIPS

There is little or no evidence to demonstrate that SSOs in Georgia have used tax-funded grants to distribute scholarships primarily to low income students during the last three years. The Georgia law fails to set income limits for eligibility—a fact that makes Georgia today the only state in the nation with tax credit scholarships that does not limit at least some tax credit scholarships to students with real financial need.

None of the SSOs raising tax-diverted funds in Georgia since 2008 has voluntarily restricted their grants to schools that will provide only need-based scholarships, and none of these SSOs has established household income as even one of several necessary criteria for eligibility for tax-supported scholarships. Georgia GOAL has recommended that participating schools provide need-based scholarships with tax credits, but it allows affiliated schools to ignore their recommendation.<sup>26</sup>

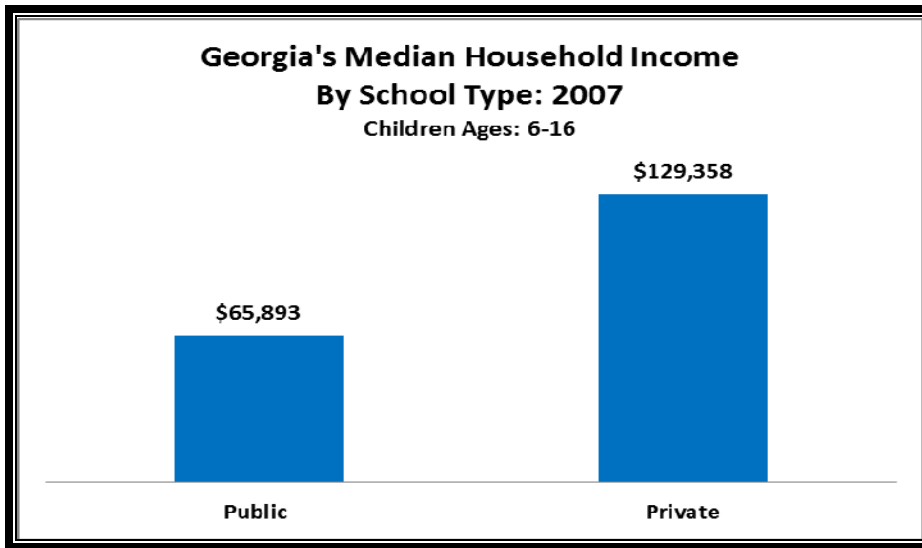
Most private schools in Georgia collect or consider, to some extent, household income in order to award scholarships with their own private funds, but there is no evidence that most SSO-affiliated private schools have considered a student's family income when deciding how to award tax-financed scholarships during the last three years.<sup>27</sup> And currently there is no public information about how many tax-supported scholarships are awarded, in whole or in part, by these private schools on the basis of financial need.

These policies and practices make a difference because relatively few low income children in Georgia attend private schools. For example, households with children (between the ages of six and 16) attending private schools in Georgia had essentially twice the median income of those households where children attended public schools in 2007. This gap in income was the fourth largest in the nation following only three other Southern states: Tennessee, Texas, and Louisiana.

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<sup>26</sup> Three newer SSOs, Arete Scholars Fund, Student Scholarship Foundation, and AAA Scholarship Foundation, have stated that they will limit their scholarships to students with financial need; however, a larger number explicitly state they will not impose any such requirements.

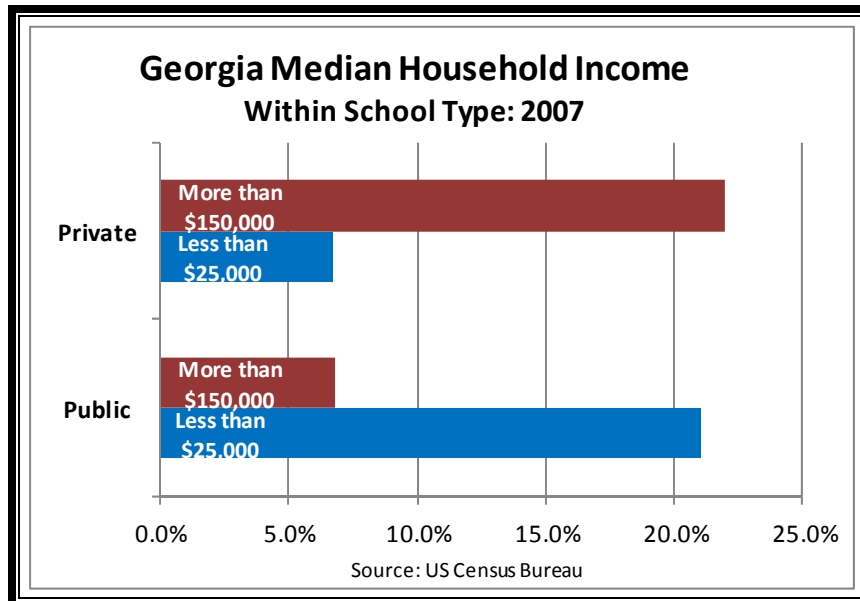
<sup>27</sup> Some private schools such as Gatewood Academy in Eatonton and Landmark Christian School in Fairburn require income tax forms to verify household income. Several schools like Macon's Central Fellowship Christian Academy, which has issued 163 tax-financed scholarships during the last three years, also use commercial services like FACTS, which collect family income data for the schools in managing all applications for admission and scholarships, including tax credit scholarships.



Source: US Census Bureau

As a result, children in Georgia’s public schools are far more likely to come from low income households than private school students and far less likely to come from higher income families. Only 6.7 percent—one out of every 15—households with children in private schools had incomes below \$25,000 in 2007. In public schools, the percentage was three times higher—one out of every five households.

At the highest end of the income scale, the pattern is reversed. More than one out of every five families with a child in private schools in Georgia in 2007 had an income of \$150,000 or more. One in every 15 households with public school children was at that income bracket.<sup>28</sup>



Source: US Census Bureau

<sup>28</sup> These comparisons do not show that most of Georgia’s high income households have children in private schools—only that most of the children who are in private schools do come from high income households. In fact, more than 70 percent of Georgia households with incomes at or above \$150,000 have their children in public schools. The latest available year for data on school type by income is 2007.

Without clear intentions and focused efforts, it is difficult to understand how private schools in Georgia, populated predominately by children from high income households, can or will use tax-supported scholarships to assist the needy students who are supposed to be the chief beneficiaries of the tax credit law.

#### GOAL Scholarships and Low Income Students

Georgia GOAL is the only SSO that has published information about the household income of students awarded their SSO scholarships in 2009 and 2010. GOAL received 43.8 percent of all SSO tax credit revenue (\$10.6 million) in 2009 and 34 percent of all tax credit revenue (\$13.7 million) in 2010. As perhaps the largest SSO operating in Georgia during the last three years, GOAL's statistical reports offer the only available data in understanding if and how SSOs are distributing scholarships to low income students.

GOAL reports that the average family adjusted gross income (AGI) for its 626 scholarship recipients in 2009 was \$44,633.<sup>29</sup> Thirty percent—188 scholarship recipients—had a family AGI of \$24,000 or less. Another 16 percent—102 recipients—had a family AGI between \$24,001 and \$36,000. Together, 42 percent of the scholarships went to students in families with an AGI of \$36,000 or less. More broadly, 72 percent of all Georgia GOAL scholarships went to families with AGI at \$60,000 or less. In contrast, only 16 percent of the scholarships were awarded to students in families with an AGI of \$72,000 or more.

GOAL's program report for last year demonstrates a similar pattern in distributing scholarships. The average adjusted gross income for families receiving a private school scholarship was \$47,797 in 2010. Families with less than \$24,000 in AGI comprised 27 percent of all GOAL scholarship recipients. Families with more than \$72,000 in AGI received 23 percent of all GOAL scholarships.

On first impression, these numbers appear to demonstrate that low income students comprise a significant proportion of GOAL's scholarship recipients, but because of the special features of AGI as income, the data does not.

Compiled by the Internal Revenue Service (IRS) and state revenue departments, "adjusted gross income" is often very different from the income reported by the US

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<sup>29</sup> The Georgia GOAL program report for 2009 states that there were 639 scholarships, but only 626 are included in the SSO's breakout by family. Apparently there was no income data for 13 of the recipients. Also, GOAL reported on its website that it distributed 77 scholarships in 2008 to families with an average AGI of \$48,605. Its 2008 IRS report, however, shows no scholarships or grants were allocated or obligated that year. SEF has elected to rely upon the accuracy of GOAL's IRS report in 2008, since a false federal report makes an individual subject to punishment for perjury.

Census Bureau or other state and federal agencies. AGI is almost always considerably below reported income from the Census Bureau and other agencies.

### **APPLES AND ORANGES: ADJUSTED GROSS INCOME (AGI) AND CENSUS INCOME**

Statistics on adjusted gross income (AGI) from the IRS and the Georgia Department of Revenue cannot be compared with data from the US Census Bureau, which defines the poverty threshold and eligibility for free and reduced lunch in public schools. It is a classic case of comparing apples and oranges.

The IRS defines the components of AGI income differently from the income of both the US Census Bureau and the Bureau of Economic Analysis (BEA), which reports for the federal government on per capita income. The data also involves a different unit of reporting—a taxpayer (single and joint) for the IRS; a household, family, or person for the Census; and an individual person for BEA income. Finally, AGI is different because obviously it is “adjusted” according to the terms of the federal tax code. As a result, AGI is substantially below the other forms of income reported by other federal agencies.

An analysis by the IRS shows that nationally in 2003 the average AGI income per taxpayer was nearly \$10,000 below the average income per household reported by the Census Bureau. A study by Arizona State University recently reported that in 2007 the IRS’s aggregate income was only 79 percent of the total income reported by the BEA during the same year. In Georgia the average AGI for a taxpayer in 2007 was only 76.1 percent of the average household income reported by the Census Bureau for that year. In other words, on average, *AGI was 23.9 percent less than the amount reported by the Census in Georgia.*

Therefore, the most accurate, meaningful method for using AGI to measure relative income or need in Georgia is to compare a group of families’ average AGI to the AGI averages for all Georgia taxpayers or different groups of taxpayers in the state. This comparison is exactly what this study does, where data is available, to determine if and how well Georgia’s SSOs are serving low income students with tax-funded scholarships.

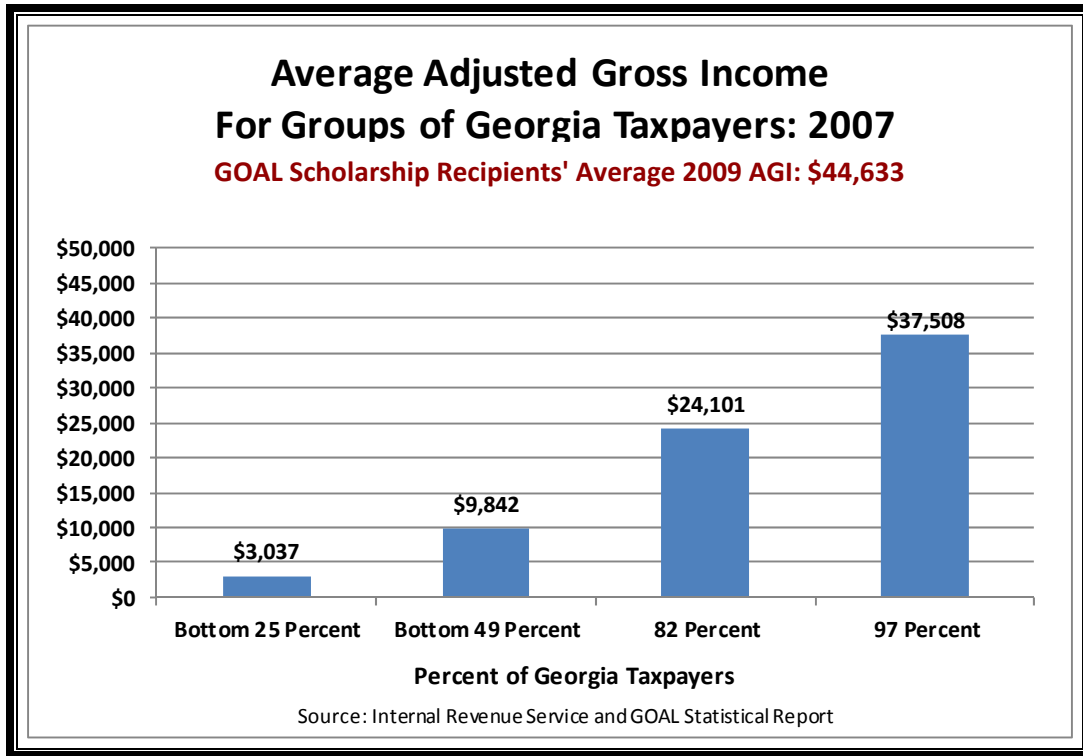
The Georgia GOAL data takes on new meaning when those numbers are placed in the context of the IRS’s latest AGI data (2007) for all Georgia taxpayers. The average AGI of GOAL scholarship families—\$44,633 in 2009 and \$47,797 in 2010—was more than four times larger than \$9,842, which was the average AGI for tax filers who comprised essentially the bottom half of all Georgia taxpayers in 2007.<sup>30</sup> In this real-life context, GOAL’s tax-funded scholarships appear heavily weighted toward students in Georgia families with higher incomes.

Similarly, 70 percent of GOAL’s tax-funded scholarships in 2009 and 73 percent in 2010 went to families with an AGI above \$24,000. In contrast, the average AGI for eight out of 10 Georgia taxpayers in 2007 was only \$24,101. In other words, more than seven

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<sup>30</sup> The latest data from federal and state tax returns that permit an analysis of average income within income groups are provided by the federal Internal Revenue Service (IRS) for 2007. Since the recession began to lower incomes of more families in Georgia in 2008 and afterwards, the use of 2007 IRS data in this comparison probably understates differences.

out of every 10 GOAL scholarships in both 2009 and 2010 went to students in families and households whose average AGI was essentially above the average AGI of 80 percent of Georgia taxpayers. This pattern of distribution for tax-funded scholarships does not evidence primary support for low income students.



[Tuition Costs for Lower Income Students with SSO Scholarships](#)

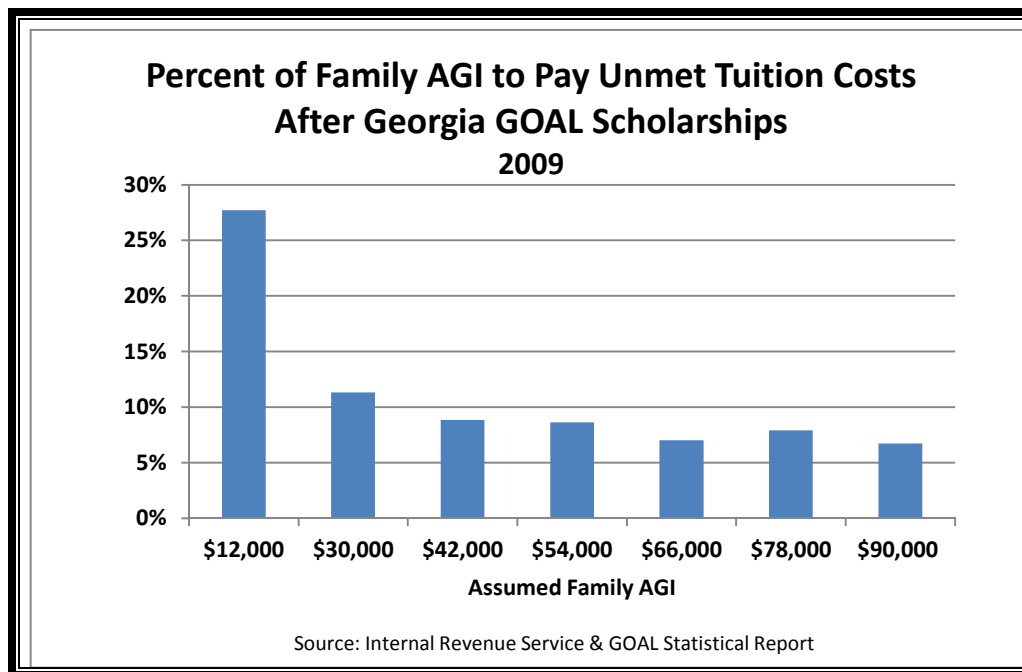
The GOAL statistical report also provides information about the percentage of the private schools’ tuition covered by its scholarships. In 2009, students with family AGI between \$36,001 and \$48,000, for instance, received the highest average scholarship, \$5614, which covered 60 percent of their private school tuition. In 2010, students from families with an AGI of \$24,001 and \$36,000 received the highest average amount of scholarships, \$4921, which covered 56 percent of the private school tuition. In general, students with lower incomes received the largest average amounts for scholarships in GOAL-affiliated schools and had the largest percentage of their private school tuition covered by tax funds.

These patterns for GOAL scholarships are progressive, but they fail to go far enough to assure that the lower income families do not carry the heaviest financial burden—and possibly the heaviest debt load—for attending private schools with tax-funded scholarships. The GOAL data shows that the families with the lowest AGI will have to spend the largest portion of their limited income to pay the private school tuition costs



not covered by scholarships. A student in a family with an AGI of \$23,000, for example, paid 15 percent of the total family AGI to cover the remaining tuition costs in 2009. A student in a family with \$83,000 in AGI paid only half that percentage—seven percent—to pay off the tuition balance.

As family AGI drops, the unmet cost of tuition becomes increasingly burdensome for students receiving GOAL scholarships. If a student, for example, had a family AGI of only \$12,000 instead of \$23,000, the average cost of unmet private tuition would consume 28 percent of the family’s AGI in 2009 and 31 percent in 2010. In contrast, a student from a family with an AGI of \$66,000 used only seven percent of the family’s income in 2009 and nine percent in 2010—roughly one-fourth or one-third the share that the low income student’s family pays to cover remaining tuition costs.



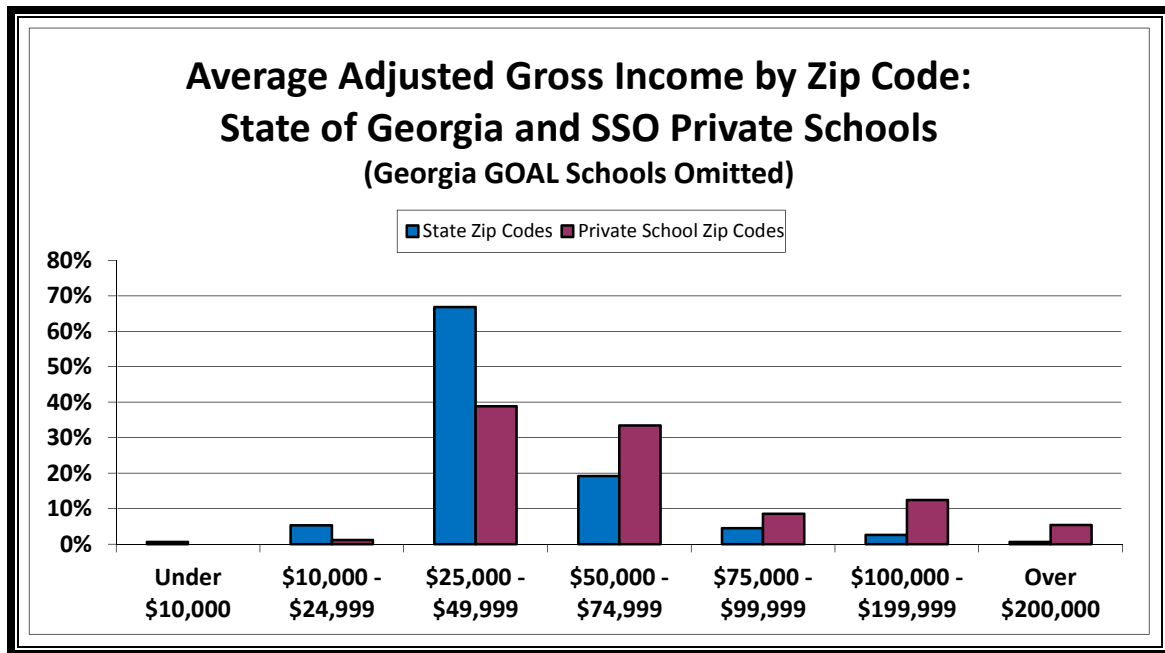
There is no available data by which to assess how accurately Georgia GOAL’s patterns of giving reflect the terms and patterns of other tax-funded SSO scholarships for private school students. But circumstantial evidence suggests that most other SSO-affiliated private schools also support relatively few low income students.

Since 2008 Georgia GOAL has been the only SSO with substantial funding that encourages private schools to grant need-based scholarships.<sup>31</sup> For this reason, it is fair to assume that the schools affiliated with Georgia GOAL have been more likely to provide a

<sup>31</sup> Three SSOs do target low income students, but only one, the Student Scholarship Foundation of Georgia, was operating in 2009. Their scholarship funds amounted to less than \$30,000 in 2009.

larger percentage of scholarships to low income students than most schools affiliated with the other large SSOs operating in the state since 2008. And, since some significant percentage of tax-funded scholarships are going to existing private school students, who are mostly from higher income households, those recipients of tax credit scholarships are likely to be high income students.

The private schools associated with other SSOs in Georgia are often located in Georgia’s higher income communities and, as a consequence, are less likely as a practical matter to reach and serve low income students. Almost one in five SSO-affiliated private schools (but unaffiliated with Georgia GOAL) were located in zip codes where the average AGI in 2007 was more than \$100,000—a rate four and a half times larger than the percentage of such higher income zip codes in Georgia.



Source: Internal Revenue Service & SEF Research

On the other end of the scale, more than 70 percent of Georgia’s zip codes had an average AGI of less than \$50,000. But only 40 percent of SSO-affiliated private schools (not associated with Georgia GOAL) were in these zip codes in 2007.

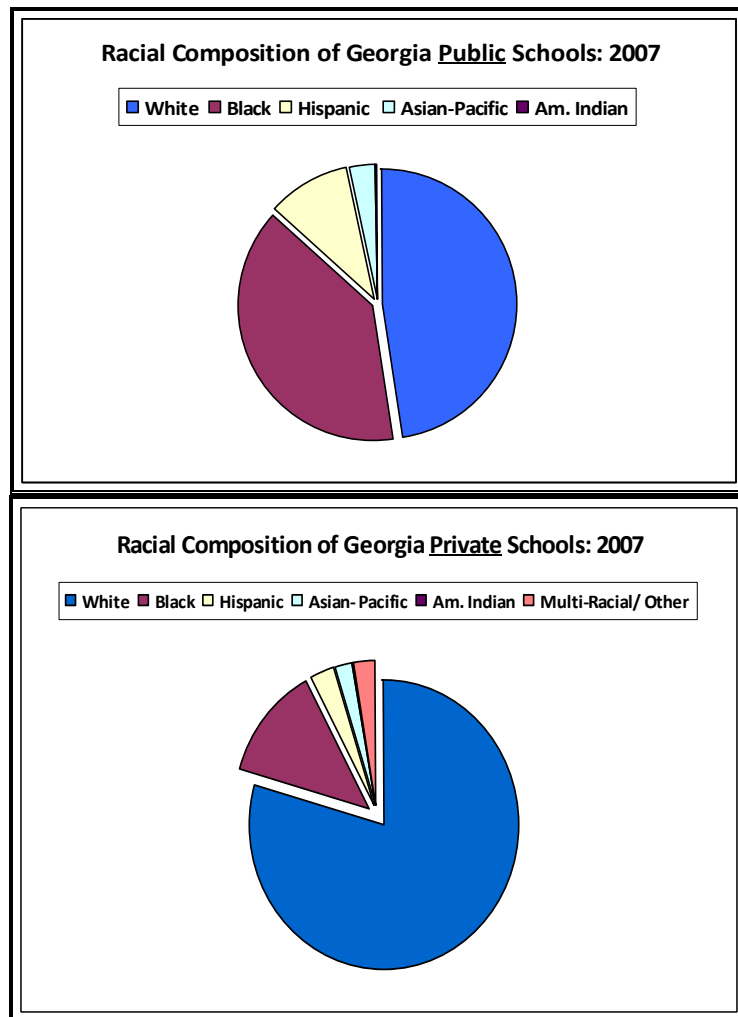
A private school’s location in a higher-income neighborhood, of course, does not exclude low income students from attending, but it often reflects the school’s primary student population and presents added costs of transportation, afterschool care, and extracurricular activities that become barriers to attendance for low income children.

All in all, Georgia's private schools have been and are heavily populated with students from high income households. When carefully analyzed, every available data indicates that the Georgia's tax credit scholarships have not changed that fact. It is far more likely that the tax-funded scholarships have actually done very little to give a significant number of low income students a private choice in education. And it is far more likely that the implementation of HB 1133 has helped children in higher income families to attend private schools.

## RACE AND TAX-FUNDED PRIVATE SCHOOL SCHOLARSHIPS

Georgia's private schools eligible for tax-funded scholarships are significantly more segregated by race and ethnicity than the state's public schools. While there is scant data on how SSO scholarships are being awarded, it appears from available sources that the Georgia tax credit scholarships have done little more than support white students to attend schools that already have extreme racial isolation.

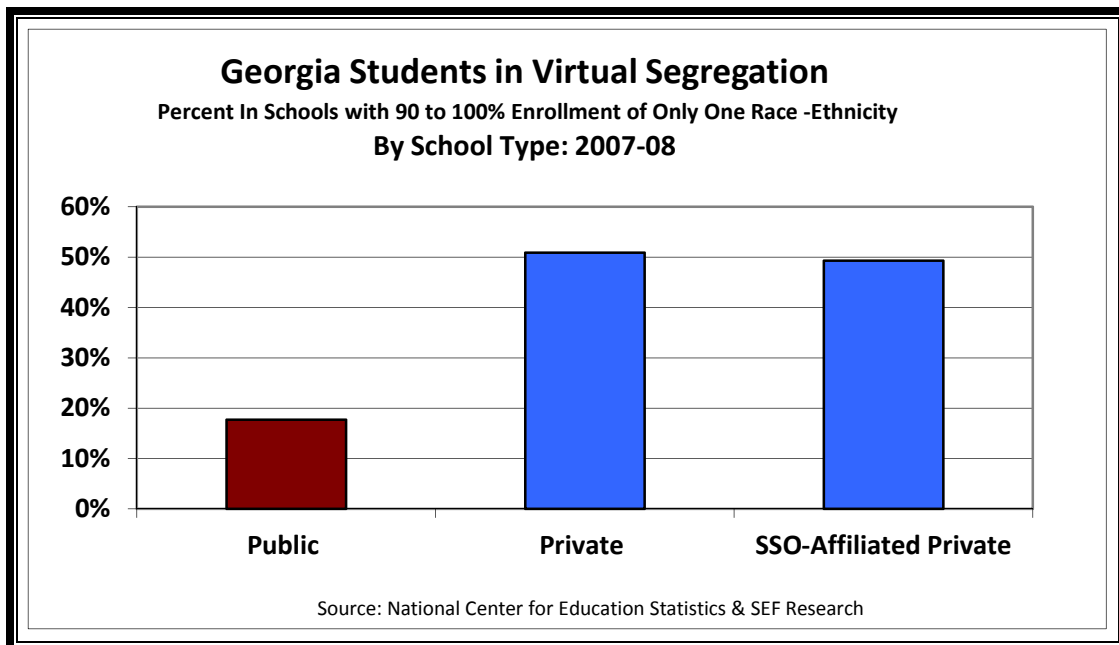
In 2007 (the latest year for comparable racial data), white students constituted 47.5 percent of the public school enrollment and 79.4 percent of the enrollment in private schools in Georgia. African American children made up 39.2 percent of the public school enrollment and 12.9 percent of the state's private school students. Hispanic students comprised 10 percent of the students in Georgia's public schools and three percent in the private schools. Students with family heritages from countries in Asia, the Pacific islands, and American Indian tribes and students self-identifying as multiracial or "other" had the smallest disparities in enrollment between public and private schools in Georgia.



Source: US Census Bureau

These differences in school demographics reflect, in large part, the role that private schools in Georgia played in resisting school desegregation during the last century.<sup>32</sup> In fact, the first time Georgia enacted a law to provide tax-funded scholarships and grants for students to attend sectarian private schools was for the purpose of advancing “the constitutional rights of school children to attend private schools of their choice” in order to preserve segregation. In 1962, the State of Georgia spent approximately \$210,000 (more than \$1.4 million in 2011 dollars) financing scholarships for almost 1200 students to escape public school desegregation by transferring to segregated private schools.

This past is evident today in current patterns of racial separation and isolation in most of Georgia’s private schools. More than half the state’s private school students attended schools that are virtually segregated—where one race or another constituted from 90 to 100 percent of the school’s student population in the 2007–08 school year.



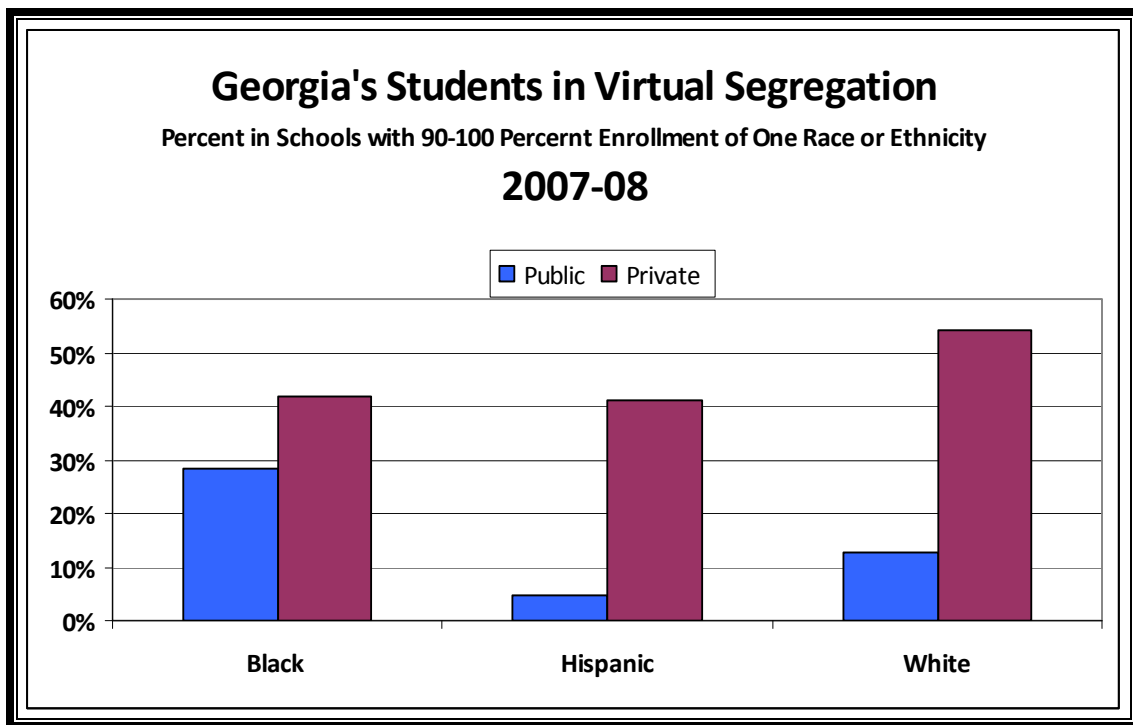
Based on the latest enrollment data from the National Center for Education Statistics for public and private schools, a student in a Georgia private school is nearly three times more likely than a public school student to attend a school virtually segregated by race or ethnicity. Only 17.7 percent of Georgia’s public school children

<sup>32</sup> See Appendix 8, “A Brief History of Georgia’s Private Schools in Opposing Desegregation.”

were in virtual segregation, while more than half the state's private school students attend such schools.

These patterns of segregation apply almost equally to the private schools affiliated with SSOs in order to receive tax-funded scholarships in Georgia. Forty-nine percent of the students attending SSO-affiliated private schools in 2007–08 were in virtual segregation—only slightly below the percentage for all of Georgia's private schools.

The differences in segregated education between public and private schools applied to all racial and ethnic groups of school children, but they were especially large for whites and Hispanics. Fifty-four percent of Georgia's white students in private schools were isolated in schools that were virtually segregated, while only 13 percent were in segregated public schools. Hispanic students were over nine times more likely to be in virtual segregation in private schools than in public schools in Georgia. Black students had the highest percentages for students in segregated public schools—more than one in four black students. (Of course, most of this segregation has been the result of white students fleeing desegregated public schools where black students attend in large numbers.) Despite this fact, black students in private schools in Georgia have a significantly higher percentage of virtual segregation than blacks in public schools.



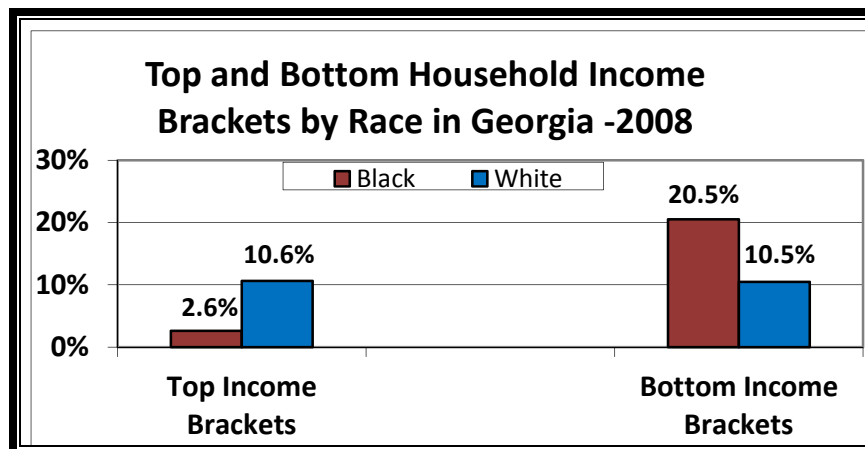
Source: National Center for Education Statistics & SEF Research

There is no publicly available data on the racial or ethnic characteristics of the students who have received tax-funded SSO scholarships in Georgia during the last three

years. But two prior findings in this study tend to support the conclusion that relatively few scholarships have supported the attendance of African American or Hispanic students in private schools. First, since a significant number of scholarships are apparently going to students who are already attending private schools (see pages 14–18), it is likely that the scholarships are distributed to students in rough proportion to their numbers already in private schools. In Georgia, that means that about eight out of 10 of these scholarships would go to white students. This distribution seems especially likely given that most fundraising for tax credits by SSOs has been taking place among families and friends of current private school students.

Second, the available data on household income (see pages 28–35) indicates that relatively few low income students are receiving SSO scholarships. In Georgia, this distribution by income also probably represents much the same distribution of scholarships by race, since African American students are far more likely to come from low income households and far less likely to come from high income households than are white students.

There is also no data by race available in Georgia for adjusted gross income (AGI), but Census data illustrates the starkly different patterns of income, regardless of source, between black and white households in the state. A student in a white household Georgia in 2008 was four times more likely to be in the top income brackets than an African American student. In turn the African American student was twice as likely to be in a household in the lowest income brackets.<sup>33</sup> The income gaps are also very wide between Hispanic and white households.



Source: US Census Bureau

<sup>33</sup> In this illustrative chart, the top bracket represents Census household income of \$150,000 or more and the bottom bracket represents less than \$25,000 of Census income in 2008.

This much is known: SSO-affiliated schools are significantly segregated in enrollment, as are most Georgia private schools. Since it appears that a substantial portion of tax-funded scholarships have been distributed to existing private school students and to private school students in higher income brackets, it is likely that SSO scholarships are going largely to the students who represent most of the current private school enrollment: white students from upper income families.

None of the SSOs or SSO-affiliated schools has established public guidelines for actually using tax credit scholarships specifically to diversify by race or ethnicity Georgia's highly segregated private schools. The available evidence therefore strongly suggests that tax-supported scholarships in Georgia are doing nothing more than maintaining or perhaps even exacerbating student isolation by race and ethnicity in Georgia's schools.



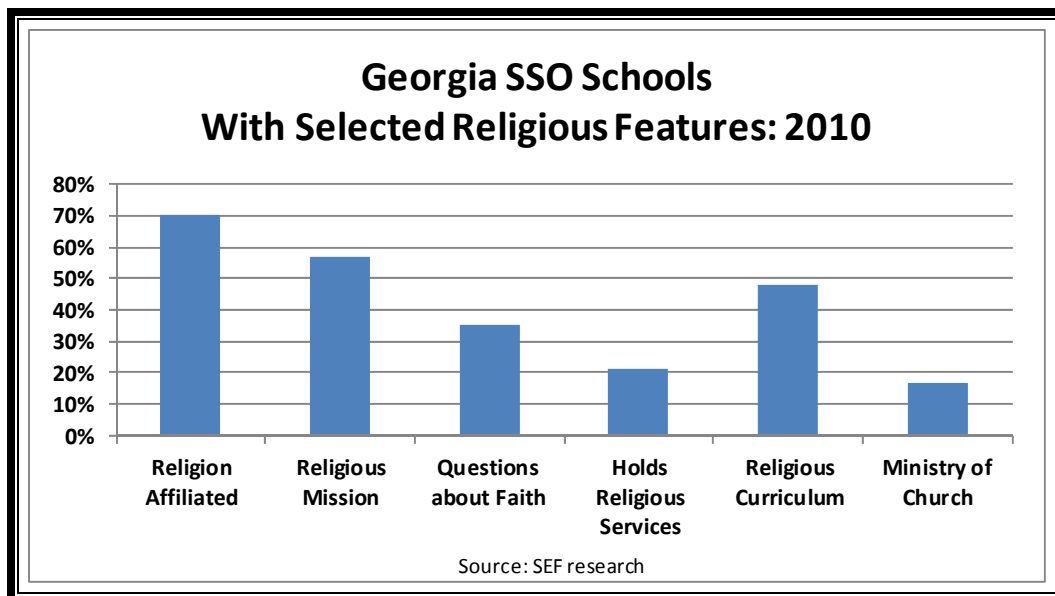
## RELIGION AND TAX-FUNDED PRIVATE SCHOOL SCHOLARSHIPS

The Georgia Constitution plainly states in Article I, section II, and paragraph VII:

No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution.

Despite this clear constitutional prohibition, approximately 70 percent of the SSO-affiliated schools eligible for tax-funded scholarships in Georgia are religious in their purpose or operations. Like most private schools across the state today, almost 60 percent of the SSO-affiliated schools in Georgia have a stated religious mission, and approximately half appear to infuse their school day or curriculum with their a particular religious belief or doctrine.

Many religious schools receiving Georgia's tax-diverted scholarships also screen out applicants for admission and, in turn, for scholarships according to their own particular religious preferences or requirements. More than one out of every three SSO-affiliated private schools asks questions about religious faith of prospective students and their families in school applications, and almost one out of four SSO-affiliated schools requires prospective parents and students to agree to a specific statement of religious belief or doctrine as a requirement for admission.



One in five SSO-affiliated schools hold religious services, and about the same number have religious requirements for employment at the school. Some SSO-affiliated schools also require a student and his or her family to attend a particular type of church as a condition of enrollment in school. At the end of 2010, most of these religious private

schools represented a variety of sects and denominations of the Christian faith, both Protestant and Catholic, but also included Jewish schools and at least one Muslim school.<sup>34</sup>

Effingham Christian School in the Savannah metropolitan area is a representative example of Georgia's private religious schools. Effingham is affiliated with two SSOs: Apogee Georgia School Choice Scholarship Program and Arete Scholars Fund, and it has received an undisclosed amount of tax funds from SSOs for student scholarships. The school is a self-described "Christ-centered classical school" with an enrollment of approximately 100 students, virtually all white, who attend pre-school through the 11<sup>th</sup> grade. (The school was founded in 2004 and has its first graduating class in 2012.)

Effingham is a ministry of the Ephesus Church, an evangelical, reformed Baptist congregation, and the school sits on the church property. The Ephesus Church's council of elders has "the final authority in all school policy matters," according to the school handbook, except in those matters requiring the approval of the entire church. The school's headmaster is "a part of the Ephesus Church staff." The school has a 10-point statement of faith that summarizes much of the 1689 London Baptist Confession of Faith, which is the congregation's Biblical guide.

All teachers, parents, and students at Effingham Christian School must sign a written acceptance of this statement of faith. As the school informs prospective teachers, "we do discriminate based on religion." The private school does not require teachers to attend Ephesus Church but they must "regularly attend a local Christian church" as a condition of employment.

At least one parent or guardian must "profess faith in Jesus Christ as the only way of salvation" in order for a child to attend Effingham Christian School. Parents who wish the school to consider their children for admission must answer questions about whether they believe they are going to heaven and why; list the current and past churches they have attended and explain the reasons for leaving any church; and secure a mandatory recommendation from a pastor who has known them for more than a year. One of the questions on the pastoral reference form is: "Do you consider the children open to spiritual instruction?"

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<sup>34</sup> The data on the religious nature of private schools was collected from available published sources, including school websites. Given SEF's limited sources, these estimates of the religious aspects of private schools in Georgia may be understated.

The instruction at Effingham Christian School instills the church's beliefs throughout the school year in all grades. Amid the school's classical curriculum, which stresses the study of Latin, grammar, logic, and rhetoric, the private school lists its first goal for students in Pre-K through 6<sup>th</sup> grade as the teaching of the Bible. This instruction involves not only reading and discussing the Bible but also memorizing its list of books, the Ten Commandments, and passages of Scripture. The objectives for this part of the school curriculum include: "Show the students the richness and requirements of the Bible . . . Teach the plan of salvation . . . Encourage each student to come to the Father, through the Son."

The private school's instructional goals also include illustrating "God's unchanging character through the timeless, logical mathematical systems." In reading, the school strives to instill a "life-long love" of the Scriptures and other high-quality literature. In English classes, the Bible is a primary source for teaching writing styles. In music, the school teaches students to sing church hymns.

Effingham's history/geography curriculum includes the goals of teaching "students that God is in control of History (His providence)" and enabling "students to see God's hand in the history of the world and the United States, specifically by illustrating the effect His people have had on history." In science, the school seeks to teach "that the Biblical literal six day creation account is true and that the theory of evolution is false." As a part of science class, students are required to memorize the account of work done in "each of the six days of Creation."<sup>35</sup>

The headmaster of Effingham Christian School has publicly endorsed Georgia's SSO law (HB 1133) as a means by which "every taxpayer in Effingham County" can "shift his personal tax monies toward the religious education he personally values." Headmaster Ted Trainor sees tax-funded scholarships for private schools as a way to help restore a past in which "Protestant Christianity" was at the "core of many community schools" amid what he describes today as a public school system that rides "the pluralistic, All-gods-are-equal-and-the-God-of-the-Bible-is-not-to-be-discussed horse."

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<sup>35</sup> Effingham Christian School also holds religious services on Wednesdays during the school day, hands out "Apostle Paul Awards" to students who make improvements in their school work, and, citing six Biblical passages, uses corporal punishment as "Godly discipline." Parents can give the school permission to spank children or the parents must come to school and spank the children themselves if and when school officials deem it appropriate.

Suggesting that pluralism and atheism are now supported in public schools with tax dollars, Effingham’s headmaster endorses the SSO law as a way to promote a form of “self-imposed segregation” with tax dollars to advance what he believes is religious liberty. He asks: “why cannot our tax monies be used to support educational institutions which advance our religion of choice?”<sup>36</sup>

The answer, of course, begins with the Georgia Constitution. Its prohibition against direct or indirect “aid of any church, sect, cult, or religious denomination or of any sectarian institution” has been a part of the state’s fundamental law for more than 125 years and establishes a high bar against taxpayer support of religion and institutions of religion. Although the Georgia Supreme Court has not ruled on the question of tax-supported scholarships for religious schools, the opinions of the attorneys general of Georgia—both Democratic and Republican—over more than 70 years have consistently held that any direct or any indirect public support for K-12 education in private, religious schools is strictly prohibited.

In 1947, for example, the Georgia attorney general held that “Should the county board of education transport children from their homes to schools operated by any religious organization, where the cost of such transportation is paid from funds raised by taxation . . . such an act would amount to withdrawing from the Treasury public funds to directly or indirectly aid such religious denomination in carrying on its school activities, and would thus, in a way, aid the religious denomination in violation of the constitutional provision.”

Similarly, in 1988, Attorney General Michael Bowers issued an official opinion stating, “should the contractual arrangement here in question involve any payment of public funds by the school system to the sectarian organization, the constitutional prohibition against taking money from the public treasury in aid of a religious organization would appear to be implicated.”<sup>37</sup>

Even when the State of Georgia adopted a private school voucher program in 1961 to allow white families and students to evade federally mandated desegregation, the State of Georgia did not violate its own state constitution. No public funds for private schooling went to sectarian schools. Georgia’s private school voucher law stated that

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<sup>36</sup> *Effingham Herald*, November 18, 2008.

<sup>37</sup> 1945–47 Opinion Attorney General, State of Georgia, p. 222; 1988 Ga. AG LEXIS 11.

Every child between the ages of six and 19 years residing in this state who has not finished or graduated from high school and who is otherwise eligible and qualified . . . shall, in lieu of attending the public schools of such local school system, be eligible to receive an education grant to be expended for the purpose of paying or otherwise defraying the cost of tuition at a nonsectarian private school.<sup>38</sup>

The restriction of scholarships to nonreligious private schools prompted objections in some segments of the white community in Atlanta, where the state's public schools were first required by a federal court order to desegregate. One Atlanta citizen argued that "if some parents can receive tuition grants because they 'believe' in segregation, why can't others because they 'believe' in religion? . . . The grant, after all, is to the parent, not to the church or school." Another parent with children in the Catholic St. Pius X School in the early 1960s claimed his children were denied "equal protection" of the laws in pursuit of his right to escape from desegregated schools. After white students were denied scholarships to attend Arlington School because it was deemed sectarian in nature, white parents sued in state court.

During the litigation, six religious organizations, including the Georgia Council of Churches, United Church Women of Georgia, Episcopal Diocese of Atlanta, the Atlanta chapter of the American Jewish Committee, and the southeastern office of the Anti-Defamation League asked the state court to prohibit any tuition grant for Arlington School. The groups argued that Arlington's practice of teaching Christianity without emphasizing one denomination over another did not save it from being deemed a sectarian institution. The religious organizations reminded the Georgia Supreme Court that the state constitution sets a higher standard than the federal constitution in banning government support of a religious institution.<sup>39</sup>

The Georgia General Assembly and Governor Ernest Vandiver also stood their ground on the separation of church and state. "It is fundamental in American law that public funds can't be used for schools controlled by the church," Vandiver declared.

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<sup>38</sup> Georgia Laws 1961, at 35 section 2; formerly Georgia CODE 20-2-642. Emphasis added.

<sup>39</sup> *Atlanta Constitution*, January 25, 1961 and February 13–14, 1961; *Atlanta Journal*, February 2–3, 1961, February 13–14, 1961, May 18, 1962, and May 29, 1962. Lovett School in Atlanta also was disqualified as a sectarian institution. The Georgia Supreme Court remanded the case due to procedural errors and the case was not revived afterwards. By 1963, the Georgia legislature had abandoned the private tuition law by refusing to fund it.

During the year and a half in which the State of Georgia actively operated a private school voucher program in the early 1960s, no student received a tax-funded tuition grant to attend a religious school. During this time, the Georgia Board of Education disqualified applications for tax-supported scholarships from at least 27 private schools that were deemed religious or sectarian institutions.<sup>40</sup>

By calling for a separation of church and state, the Georgia Constitution prevents a rivalry for tax monies among sectarian organizations seeking to advance their religion, directly or indirectly. It protects religious belief by prohibiting the government with its powers and funding from choosing favorites among the many religions and denominations that exist. The wisdom of this American tradition is evident today throughout a world where religious conflicts account for a large portion of the worst human violence and where state-supported religious intolerance fuels terrorism, destruction, and persecution.

Georgia's SSO law contravenes this fundamental tradition and the state constitution through tax support for religion and religious instruction. It also presents a serious danger of a radical misuse of tax funds in support of only one religion or a few religions favored by a few wealthy individuals or sects. As currently written, the Georgia SSO law would permit any advocate of any kind of religious sect, who owned or operated a Georgia corporation, to divert up to \$50 million in state taxes to support schools that advance that sect's religious views, so long as there remained 25 percent of the corporation's total state tax bill to be paid. This scenario may—or may not—occur, but the current law would sanction it.

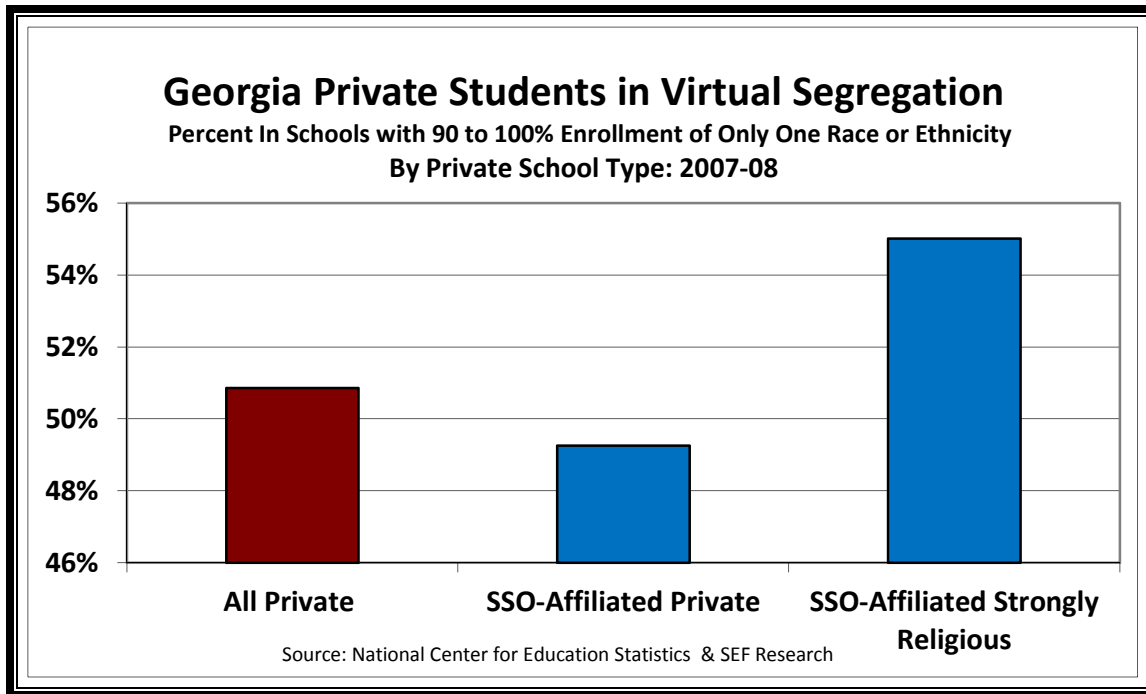
By financing religious education through religious organizations, Georgia's SSO law also promotes a "self-imposed segregation," as the headmaster of Effingham Christian School called school choice. When publicly financed education widely develops along religious lines and is defined by differing religious beliefs, it will build a wall of

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<sup>40</sup> *Atlanta Constitution*, February 15, 1961; *Atlanta Daily World*, August 11, 1962 and October 17, 1962. It remains an open question as to whether the practice of providing tax credit scholarships to religious schools also contravenes the federal constitution. In early April 2011, the US Supreme Court reversed on procedural grounds a federal appeals court opinion that concluded that Arizona's Scholarship Tax Credit Program constitutes governmental endorsement of religion in violation of the federal Bill of Rights' First Amendment. In a 5–4 decision, the Court held that Arizona taxpayers did not have proper standing in a federal court to bring the suit against the state law providing for tax credit scholarships for private schools. See *Arizona Christian School Tuition Org. v. Winn et al.*, 563 US \_\_ (2011).

separation—not between church and state—but between America’s people based on their faith.

And, perhaps just as likely, along the lines of race. While nearly half of all SSO affiliated private schools in Georgia have between 90 and 100 percent enrollment of only one race, the affiliated schools that are strongly religious have the highest rates of racial segregation in enrollment.<sup>41</sup>



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<sup>41</sup> SEF defines “strongly religious” as those private schools that require affirmation of a religion or religious faith for admission or that are an extension of a church or religious congregation as evidenced by their tax-exempt status as a “church.”

## FISCAL IMPACT OF TAX-FUNDED PRIVATE SCHOOL SCHOLARSHIPS

The sponsors and supporters of HB 1133 assured Georgians in 2008 that tax-funded scholarships for private schools would save the state millions of dollars each year. Based on a study by the Friedman Foundation for Educational Choice, Rep. David Casas said the program would save \$94 million for Georgia's 180 school districts and \$6 million for the state government "because thousands of students would take these . . . scholarships and transfer to private schools, leaving a host of tax money available for public schools to improve their performance." It was a claim echoed by the vice president of the Georgia Family Council and others.<sup>42</sup>

The analysis by the Friedman Foundation made three assumptions, each one essential for finding that the state government would realize \$6 million in education savings and local school districts would receive \$94 million. These claims assume the following:

- Students receiving a tax-funded SSO scholarship transfer from public schools and attend private schools because of the scholarship;
- the average SSO scholarship per student is less than the state's average per pupil expenditure; and
- local school districts reduce their per pupil costs when students transfer to private schools but maintain the same revenue they received before losing students to private schools.<sup>43</sup>

Based on all credible, available data from the first three years of SSO operations, each of these three assumptions has proven to be false.<sup>44</sup>

### Transfer of Public School Students to Private Schools

Georgia's tax credit scholarship has been used across the state, both properly and illegitimately, during the last three years to support students who have not transferred from a public school. First, the current law permits any child entering a private school's pre-kindergarten or kindergarten class to receive a tax credit scholarship. The parents of some of these children may never have intended to send their children to a public school.

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<sup>42</sup> See Appendix 3 for "Tax Credits Could Aid Companies, Public Schools" originally published on [www.votecasas.com](http://www.votecasas.com); *Atlanta Journal-Constitution*, March 8, 2008, March 12, 2008, and March 19, 2008.

<sup>43</sup> Brian Gottlieb, "The Fiscal Impact of Tax-Credit Scholarships in Georgia" (Indianapolis, IN: Friedman Foundation for Educational Choice, February 2008): 30–33. The report also assumes that 14,286 students would receive SSO scholarships that would prompt them to transfer from public schools to private schools.

<sup>44</sup> The Friedman Foundation study for Georgia has previously received strong criticism for its methods and assumptions. See L. Huerta, *Review of Three Tuition-Tax-Credit Voucher Reports from the Friedman Foundation* (Boulder, CO: Education and the Public Interest Center & Education Policy Research Unit, 2009).



Also, there may be a significant number of public school students whose parents already plan to send their children to a private school at a certain grade level, such as the 6th grade when a student moves from elementary to middle school. A tax-funded scholarship for these students simply subsidizes private schooling instead of enabling a student to switch to private schooling.

Third, the evidence is irrefutable that at least four SSOs and dozens of SSO-affiliated private schools have been using language in the current law to dodge the requirement that tax-funded scholarships go only to students who transfer from public schools (see pages 14–18). This practice is widespread, and it diverts public financing to private schools without reducing public school enrollment.

Finally, as supporting evidence, an SEF survey sent to all active SSOs and 67 private schools in Georgia prompted not one response in which an SSO named a single public school that a tax credit scholarship recipient had attended before transferring and receiving a tax-funded scholarship at a private school.<sup>45</sup>

In light of these findings, it is extremely difficult to identify any factual basis upon which to assume or conclude that most recipients of SSO scholarships in Georgia have transferred from public to private schools since 2008.

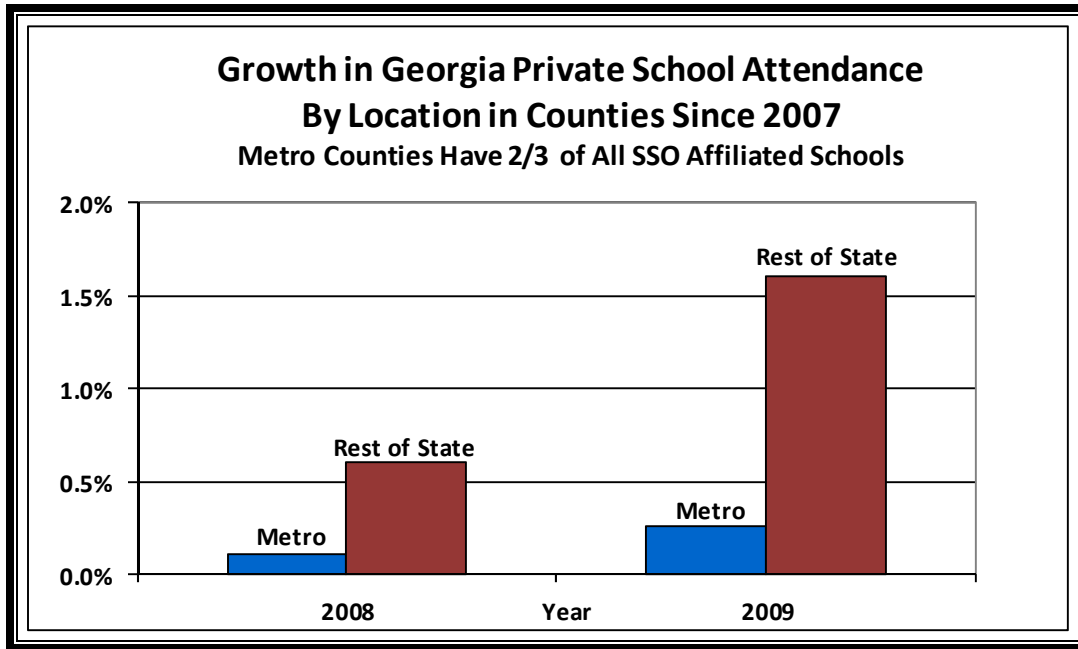
This conclusion is supported by recent Georgia trends in private school attendance. Census data indicates that attendance in private schools (K-12 grades) in Georgia has slowed down in the last couple of reported years. The same data also suggests that the counties with most of Georgia's SSO-affiliated private schools have had the smallest gains in private school enrollment from the end of 2007 through 2009.

Between 2007, the first year before SSO operations, and the end of 2009, the first full year of the SSOs' operations, the rate of private school enrollment increased only by about 1/3 of one percent in the Georgia metro counties where more than two out of every three private schools affiliated with an SSO are located. In the remainder of the state, with only one in three affiliated SSO schools, private school attendance grew during the same period at a rate of 1.3 percent—about four times faster than the metro rate. Between 2008 and 2009, the metro counties with the highest number of SSO-affiliated

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<sup>45</sup> It also is evident from SEF's review of SSO practices that most student scholarship organizations in Georgia attempt to raise their funds through affiliated private schools from the family and friends of their existing students. As a result, existing students and their families are probably the focus of donations and, in turn, often the recipients of donations for any younger members of the family who may be entering private schools according to the families' prior plans.

schools also had a slower rate of growth than the rest of the state with far fewer SSO-affiliated schools.



Source: US Census Bureau

If tax-funded scholarships had prompted a significant number of students to transfer from public schools, absent other extraordinary factors, private school attendance in the counties with three out of four SSO-affiliated schools would have exhibited more growth than in those counties with very few schools eligible to receive scholarships. During the first couple of years of SSO operations, Census data suggests quite the opposite: private school enrollment increased fastest in those Georgia counties with only a very small number of SSO-affiliated private schools.<sup>46</sup>

The same pattern appears when comparing trends in private school enrollment in the five Georgia counties with more than 50 percent of all SSO-affiliated schools with the counties in the rest of the state. The big five SSO counties actually had a slight decline in the percentage of private school students between 2007 and the end of 2009, while the rate of private school attendance increased in the rest of the state by 1.5 percent.

In essence, the statistical evidence supports the conclusion that tax-funded scholarships have failed to help a significant number of students transfer from public to private schools at SSO-affiliated schools in Georgia.

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<sup>46</sup> The latest data from the US Census Bureau's American Community Survey (ACS) on private school enrollment in K-12 grades is for 2009. The data for 2010 should be available in late 2011. See Appendix 6 for cautions on use of the data at local levels.

## Size of SSO Scholarship

The average tax-financed scholarship that Georgia's SSOs have distributed to private schools has cost the state far more than the state's average per pupil expenditure for public schools. The math for this finding is straightforward, if the correct factors of simple division are used.

The average amount of a scholarship awarded by an SSO is not the same amount as the average cost of the scholarship to the state government. Georgia's SSOs do not use all funds raised through tax credits each year only for scholarships. They incur other expenses and make other uses of the state tax funds. All of the taxes diverted from the state treasury by an SSO—not just an SSO's scholarship funds—represent the real cost to the state.

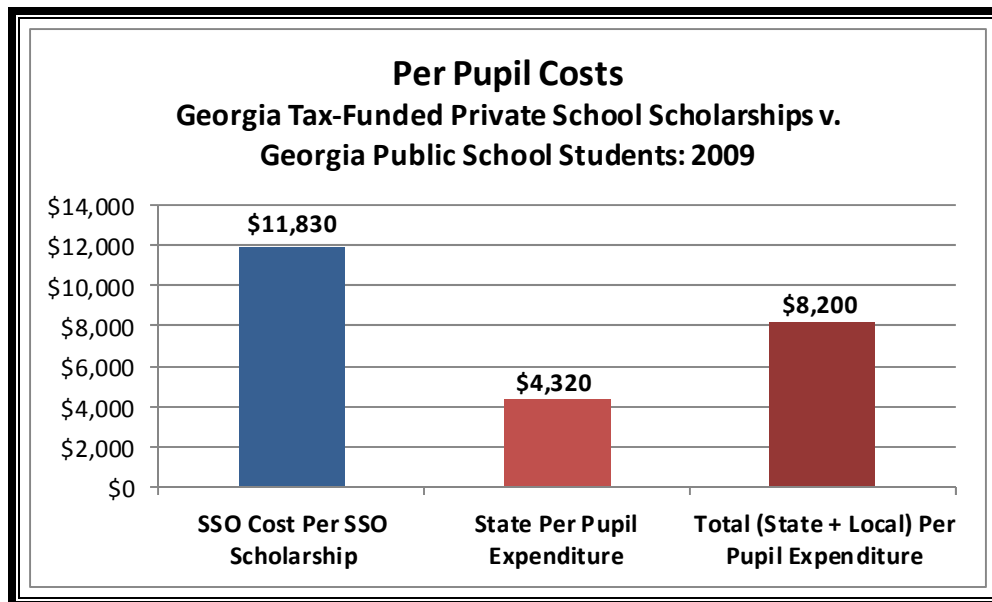
The average per student cost to the state government is therefore accurately computed after dividing the total number of students receiving a tax-funded scholarship into the total amount of lost state revenue—not simply into the sum of all SSO scholarships awarded. In short, the real per pupil costs of the tax-diverted scholarships must include all funds diverted from the state treasury by SSOs, not just that portion of money that SSOs used for scholarships.<sup>47</sup>

By this measure, Georgia's per student costs for private school scholarships have been extraordinarily high—much higher than the state's per pupil expenditures for public school students. In 2009, far more money was diverted from the state treasury by SSOs than was allocated for private school scholarships.

Based on available data from IRS reports filed for 2009 (some SSOs had not filed their federal reports for that year as of the end of 2010), five SSOs reported almost \$12.4 million in annual revenue from Georgia tax credits. This amount represented nearly half of all revenue diverted by tax credits from the state treasury that year. The five SSO reports show that collectively they awarded 1,047 scholarships. As a result, these SSO scholarships in 2009 cost the state government \$11,803 per student. The state's per pupil cost in public schools in 2009 was \$4320 and the total state and local costs were \$8,200—far less than the average amount of the tax credit scholarships.

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<sup>47</sup> A few SSOs have publicly mentioned the average amount of their scholarships. In a 2010 statistical report, Georgia GOAL also publicly claimed it is saving the state taxpayers funds by comparing the average amount of the scholarships it awarded in 2010 with a state per pupil average in 2007. Their data and math were badly flawed. See Appendix 7 for a brief case study of Georgia GOAL's dubious, misguided efforts at public disclosure.



In other words, for every student who received an SSO scholarship, the state government incurred an additional cost of \$7,510 in financing a partial scholarship in a private school above and beyond what it would have paid in 2009 for the education of the same student in a public school—assuming all students who receive these SSO scholarships had, in fact, switched from public to private schools.<sup>48</sup>

From the limited available data, it appears that per pupil costs for SSO scholarships were astronomically high for the State of Georgia in 2008. According to available federal records, three SSOs reported receiving a total of \$3.5 million in diverted tax funds that year and awarded a collective total of only 77 scholarships.

If Georgia’s SSOs allocate their unused, accumulated funds for scholarships in later years, the state’s per student costs in future years can decline considerably. But the current law requires that at least 67.5 percent of funds received by SSOs shall be allocated in the same year for scholarships. It does not permit hoarding of tax funds by SSOs for future uses. This practice has been especially harmful to the public interest during the last three years, as SSOs have accumulated diverted state revenues while almost every penny in the state budgets was counted to reduce the size of cutbacks in vital services amid declining state revenues.

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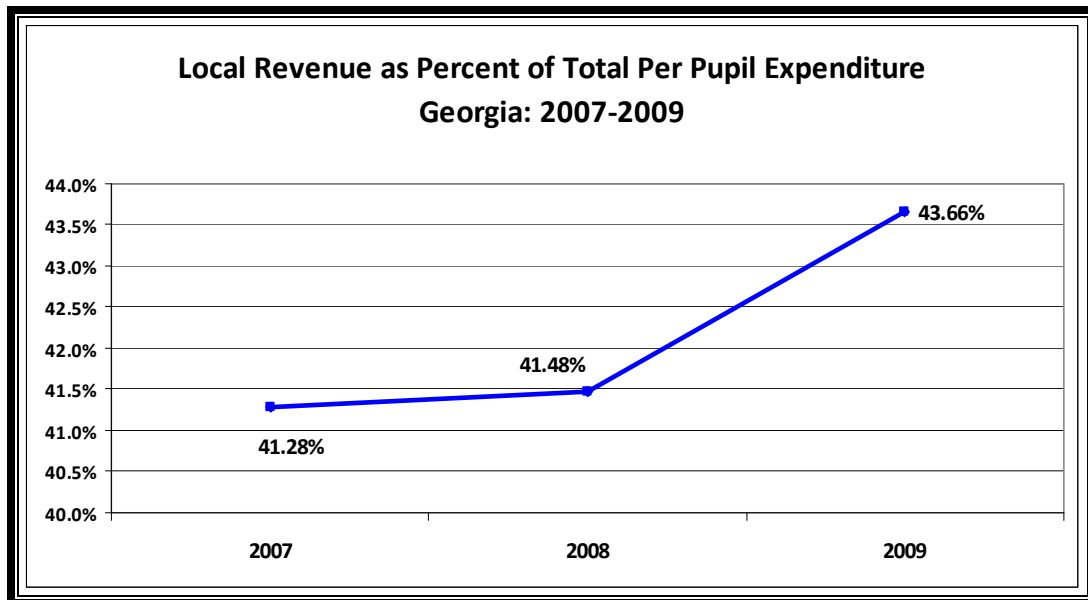
<sup>48</sup> See Appendix 5 for a breakdown of per student costs for each of the five SSOs for 2009. The Georgia Student Scholarship Organization (GASSO) was not included in this analysis since there is evidence beyond any reasonable doubt that a very large number of its scholarships have gone to students who did not transfer from public schools (see pages 14–18). For that reason, the funds it diverted from the state treasury were extra costs to the state regardless of the average cost for each tax-funded scholarship. Had GASSO’s scholarships been included in the computations for 2009, the reported SSO scholarships for 2009 would have had an average cost of \$8,059, which would have been an extra cost of \$3,739 per student above the state allocations per pupil in Georgia’s public schools.

## Local Public School Revenue

The third essential assumption in arguing that Georgia tax credit scholarships produce tax savings—that public school districts reduce their per pupil costs but maintain the same local school revenue when students transfer to private schools with tax credits—has also been proven baseless during the last three years. Since 2008, public schools in Georgia have been in near-crisis due to declining revenues, and while per pupil expenditures have increased in some school districts during this time, this increase has been the result of local efforts to make up for declining state support for public schools—not due to extra revenue from any savings of the tax credit scholarships.

Local revenues for public schools in the last few years have been very unstable. Since 2007, three-fourths of all local school districts in Georgia have faced a decline in local per pupil revenues in at least one year. Almost one in four school districts across the state had a decline of per pupil revenues from local sources in two of the last three years.

At the same time, because of declining per pupil revenue from the state government, all local school districts have had to try to take over an increased proportion of the total school costs to sustain public education in Georgia. From 2007 to 2009, Georgia's local school districts' share of total per pupil revenues expanded by two-and-a-half percentage points.



Source: Georgia Department of Education

This shift meant that Georgia local school districts increased local expenditures by nearly \$560 million simply to make up for cuts in the state government's education funding.

This expanded load for local school districts has come at a time when local tax revenues for schools have slowed almost as much as state revenues. Until 2008, Georgia's local revenues for schools had increased over the last 10 years by an annual rate of more than five percent. From 2007 to 2008, for example, local education revenues increased by 6.1 percent. These increases in local revenues often allowed school districts to support an increased public school enrollment that has moved steadily upward during the last 10 years. From 2008 to 2009, however, local school revenues rose at a rate of only 1.4 percent. From 2009 to 2010, local school revenues declined, although the number of students did not.

This trend probably will worsen in the short run.<sup>49</sup> The federal share of per pupil expenditures in Georgia is dropping because special federal recovery funds are no longer available to fill gaps in state and local funding for education, and local revenues have to be stretched more to make up for a larger share of the total per pupil expenditures for public school students.

There is no math that can add up the numbers to show honestly that the state's local school districts are now receiving more local revenue for education due to SSOs diverting state revenues (which might otherwise come to school districts) to provide partial scholarships to private schools. Nor are there any real-life prospects for such developments in the foreseeable future.

All in all, there is no factual evidence to support a contention that tax credit scholarships are saving the State of Georgia any money.<sup>50</sup> Instead, the evidence is clear that, so far, private school scholarships supported by Georgia's tax-diverted funds have been very costly to taxpayers.

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<sup>49</sup> See C. Johnson, "Governor's FY 2012 Education Budget Proposals: The Cuts Continue" (Atlanta, GA: Georgia Budget and Policy Institute, January 20, 2011).

<sup>50</sup> Even if the assumptions in the Friedman Foundation study had been proven largely correct, they would not have necessarily meant that the fiscal impact of the SSO program in Georgia would have been positive. The issues surrounding which students switch from public to private schools, for how long, and for what incentives can be fluid, complex, and difficult to measure. See K. Welner, "How to Calculate the Costs or Savings of Tax Credit Voucher Policies," NEPC Policy Memo (Boulder, CO: National Education Policy Center, March 2011).

### Other Costs to Public and Private Schools

Beyond reducing available state tax revenues, tax credits for private school scholarships may increase costs for public schools—not reduce them. If large numbers of children enroll in public schools with no intention of attending, school districts incur unnecessary personnel costs. Also, if large numbers of students move from public to private schools, the migration can leave local school districts with large fixed costs for buildings, maintenance, and contracted services.

In addition, if tax credits for private schools continue to support or attract primarily wealthier students, this pattern can leave public schools with a disproportionately larger share of low income students who generally have higher educational needs and require often higher per pupil costs for their adequate education.

Some private schools in Georgia have decided not to join an SSO because they believe tax-funded scholarships for new students will increase the school's costs. George Walton Academy (GWA) in Monroe, for example, decided that they “do not feel that the program would be beneficial to GWA” because the law actually provides scholarship funds only to new students who had been in public schools. As a result, Walton's school administrators stated:

This is not a program in which our existing families can participate . . . We all know that our tuition does not cover all of GWA's operating expenses. It takes fundraisers to make up the difference and help maintain an affordable tuition rate. Offering scholarship-funded tuition adds an extra fundraising burden to existing families to raise the additional monies needed for operations, because of the additional students.<sup>51</sup>

Certainly, in a market-driven environment, any state policy that effectively increases demand for private schools will also drive up the price of private schooling.

### Additional State and Local Costs in Support of Private Schools

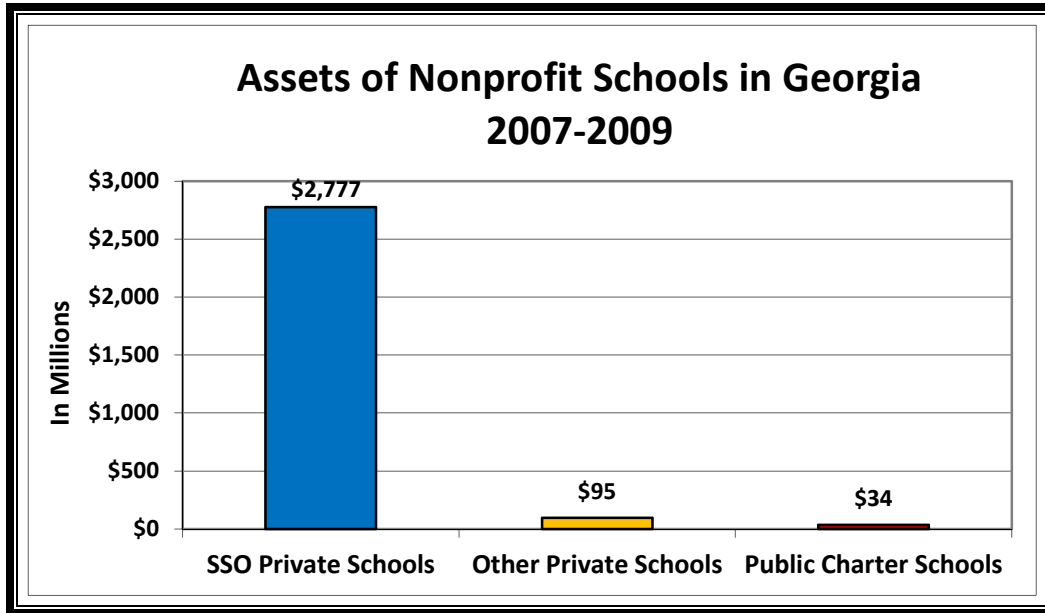
Tax credits are not the only means by which the state foregoes tax funds in support of private school attendance. Most private schools in Georgia are owned and operated by private, nonprofit organizations that have received a tax exemption from the federal Internal Revenue Service. Private contributions to these schools already include a

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<sup>51</sup> George Walton Academy, *G-News*, November 8, 2010.

deduction of federal taxes by as much as 35 percent of the gift, which also can reduce the State of Georgia's tax receipts.

In addition, most private schools in Georgia are exempt from both federal and state income taxes and from local property taxes. These tax-related benefits for Georgia's private schools are substantial. The latest available federal records show net assets and income for 323 private, nonprofit organizations operating private schools in Georgia, including 25 public charter schools. These nonprofit schools had collective assets of \$2.9 billion and an annual income of \$1.5 billion.



Source: IRS 990 Forms; Tax Exempt World

Were these private schools taxed at the same rate as for-profit entities for income and property, the state might reasonably realize as much as \$57 million in added revenue each year while local governments and school districts in Georgia would share perhaps as much as \$14 million to \$22 million in added property taxes.<sup>52</sup> These are additional taxpayer costs that state and local governments in Georgia incur annually in support of private schools beyond the state tax credits for scholarships.<sup>53</sup>

<sup>52</sup> These are rough, illustrative calculations only. See Appendix 6 for calculations, assumptions, and methods.

<sup>53</sup> There can be offsetting cost savings for the state if tax exemptions are essential in establishing and maintaining private schools where students can attend at a cost to the state that is less than what it would otherwise bear for a student to attend a public school. It is not clear if the benefits of exemptions from state income taxes and local property taxes provide a necessary difference in costs. A recent study, for instance, strongly suggests that the per pupil expenditures for private schools in the Atlanta metropolitan area are often substantially more than the total per pupil costs for public schools. See B. Baker, *Private Schooling in the US: Expenditures, Supply, and Policy Implications* (Boulder, CO, and Tempe, AZ: Education and Public Interest Center & Education Policy Research Unit, 2009): 27–28. These much larger costs for private schooling have already limited private schooling largely to high income families. It is unclear whether relatively moderate increases in private school costs due to a lack of exemption from state and local taxes



Most of these benefits in Georgia are currently going to private schools affiliated with a Georgia SSO. Based on available federal records, 175 private schools, or 54 percent of all schools in the database, were affiliated with a Georgia SSO at the end of 2010. But, SSO-affiliated schools were by far the richest private schools in the state. They had assets of almost \$2.8 billion—96 percent of the total assets for all Georgia private schools operated by private tax-exempt organizations. The median SSO-affiliated school in this database had assets of \$1.8 million. Half the SSO-affiliated schools had more than \$1.8 million in assets and half had less. The median unaffiliated private schools had less than \$25,000 in assets.

The SSO-affiliated schools also had 90 percent of the annual \$1.5 billion of income generated by these nonprofit private schools. Nonprofits operating other unaffiliated private schools had only five percent, while charter school organizations had the remaining 5 percent.

Wide gaps also existed in assets and income within the SSO-affiliated private schools. For example, more than \$2 billion of the almost \$2.8 billion in school assets are concentrated in only 20 private schools, which are primarily located in the Atlanta metropolitan area. Similarly, almost three-fourths of all income among SSO-affiliated schools came from only the top 25 schools, which also were primarily in the Atlanta metro area.<sup>54</sup>

Without data on the schools and students who have received SSO scholarships, it is impossible to determine at this time if the private schools that are benefitting most from the policies of tax exemption are also the schools receiving the largest benefits from Georgia's tax credits. It is, nonetheless, reasonable to assume that the private schools with the greatest assets and annual income also have the families with the largest income and assets. Since most of the SSO fundraising is based in the private schools and since most SSOs encourage taxpayers to designate a particular school for support, it stands to

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would prompt a decline in private school enrollment by the high median income households (\$129,358) that already have children who attend private schools.

<sup>54</sup> This financial data on private school assets in Georgia comes primarily from a compilation of federal reports on the income and assets of tax-exempt organizations for their latest fiscal year, which usually covered a year between 2007 and 2009. The reports did not distinguish between standing assets (buildings, equipment, etc.) and monetary assets such as endowments and investments. The data on assets and annual income do not indicate what amounts of funds are available in the schools for privately financed scholarships. The database probably understates the income and assets of all private schools in Georgia because a significant number may have operating expenses that are covered by the income of the church that sponsors the school. A good example, perhaps, is New Birth Christian Academy, which reports no assets and only \$61,000 in income in its last filing.

reason that the wealthiest private schools are probably also getting the larger share of the diverted tax revenue.

This much is very clear from every reliable indication: the evidence shows no cost-savings for the state in supporting private school attendance through tax credit scholarships. So far, the SSO law has been an extremely costly way for the state to support private school attendance.

## **OBSERVATIONS, CONCLUSIONS, AND RECOMMENDATIONS**

Since 2008 all sectors of public education in Georgia from pre-kindergarten through college have struggled with reduced state revenues. During the last three years (2008–2010), state appropriations for K-12 public education in Georgia have been reduced by a total of \$1.46 billion. There have also been deep budget cuts in higher education. During this same period, for the first time since 1962, Georgia has financed private elementary and secondary schools through state tax credits amounting to more than \$72 million.

In the 2011 session, the Georgia General Assembly continued to reduce state support for public education. Every sector of public education in Georgia—pre-kindergarten, K-12, and higher education—suffered deep cuts in the state budget adopted by the General Assembly. The Georgia Pre-K program was cut by \$54 million despite strong evidence that it is saving taxpayer funds. The state’s K-12 budget for public schools was reduced by approximately \$110 million. Cuts in the state budget for higher education amounted to more than \$174 million.

The legislature also effectively reduced by 10 percent the amount of most HOPE scholarships. In addition, with added fees and an additional three-percent tuition hike, most students attending the state’s public colleges and universities this fall will pay about nine percent more in college costs with or without a HOPE scholarship.

The Georgia legislature also passed into law an automatic increase in tax-credit funding for private school scholarships that will rise in tandem with the cost of living. Georgia’s program on tax credit scholarships for private schools was the one and only education program that received an annual increase in state funding. And it is the only state-supported educational program that does not account publicly for its use of tax funds or its educational impact.

This exceptional support for Georgia’s K-12 private schools has been sustained amid hard economic times on the public promise that this experiment in tax-funded educational choice will help the state’s neediest students who are trapped in low performing public schools and, at the same time, save Georgia taxpayers money.

Based on all available evidence, it is clear that the state’s investment in private schools through SSOs has failed to achieve its primary and most important aims. Instead of providing the state’s neediest children trapped in low performing public schools with

new, affordable opportunities for a good education, SSOs have carried out the law, in large part, as a means to publicly finance the private education of relatively well-to-do students, many of whom are already in private schools. Instead of saving tax funds, each of the private school scholarships in Georgia's state's tax credit has cost the state government more than twice what it would spend to send a student to public school.

These failures are only the beginning of the problems with tax credit scholarships for private schools in Georgia. The law appears to deliberately prevent any level of public accountability for how the tax-funded program is operated. It criminalizes public disclosure of basic information. It makes it extremely difficult—at times virtually impossible—to ascertain specific information that, if hidden or made inaccessible in the public schools, would be a matter of public outrage.

As a result, during the first three years in which private student scholarship organizations have raised and used tax-diverted funds to support scholarships at private schools, SEF has discovered a wide range of serious problems and questions about whether SSOs and private schools are complying with the basic provisions of state law. Many of these problems do not appear to be accidental. They often appear to be deliberate attempts to ignore or evade the law and its original, honorable goals.

No private school receiving a tax-funded scholarship is accountable for how well it spends public funds to educate a student. No SSO is really accountable for its expenditures. In effect, the State of Georgia has a program that is handing millions of tax dollars to anyone who can create a nonprofit organization and can sell private school parents and their friends on diverting tax dollars to support the private schools their children attend. It has allowed these private salesmen to be virtually unaccountable for how they raise and use taxpayer funds for private education.

The Georgia Partnership for Excellence in Education (founded in 1992 by the Georgia Chamber of Commerce and the Georgia Economic Developers Association) recently summed up the issue well: “Georgia scholarship and tax credit programs . . . should be accountable to the public and show a return on investment to all Georgia taxpayers.”<sup>55</sup>

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<sup>55</sup> S. Walker and A. Goss, *Top Ten Issues to Watch in 2011: What Georgia Must Do to Become a National Education Leader* (Atlanta, GA: Georgia Partnership for Excellence in Education, February 2011): 30.

So far, Georgia has ignored what other states have learned in trying to assure that tax-diverted funds for education are used for the public good—not diverted for private purposes. Georgia alone among the states with tax credit programs has failed to create a program that has any real chance of successfully helping low income students in public schools. And in failing to provide any meaningful information by which parents can compare how public and private schools educate children with similar backgrounds, Georgia’s SSO law has assured that parental choice often can be nothing better than a guessing game.

As a consequence, Georgia’s SSO program appears to be far more about doling out tax dollars to private schools and far less about improving the educational choices for needy students in public schools.

The available evidence strongly suggests that relatively few low income students are receiving tax-funded scholarships to attend private schools. The preponderance of evidence also indicates that relatively few African American or Hispanic students are benefitting from these tax-funded scholarships. In addition, based on available data, it appears that the state tax credits are primarily sustaining or increasing economic and racial segregation in Georgia’s private schools, which are far more segregated by race, income, and religion than the state’s public schools.

In every important respect, the evidence points toward the conclusion that Georgia’s experiment in financing private choice with tax dollars to improve the state’s education has been a devastating failure of policy and practice.

It is disheartening to consider how the \$72 million in tax revenue that the SSO law has already diverted from the state treasury might have been spent to better assist low income students in public schools during a time of severe cutback in public education. Every parent and grandparent of Georgia’s public schoolchildren knows how much each public school could have wisely used even a small, additional amount of funds during the last three years.

At a time when the state government continues to reduce all facets of public school funding, it makes no sense to continue a failed program that is diverting tax dollars from a state treasury that cannot adequately support public education. At a minimum, the State of Georgia should suspend the tax credit program until such time when there are surplus revenues in the state treasury by which to finance a more honest and open

educational experiment that offers a reasonable promise of success without denying state funding to existing accountable programs of public education.

If the state government decides to retry this kind of educational experiment in the future, it should completely revamp the law and the program. One good place to begin would be to consider the changes that Governor Sonny Perdue proposed and supported for the existing program in 2010 (see page 9). His proposal would provide a better chance for a more effective educational outcome. In addition, the neighboring state of Florida offers an example of a tax-credit educational program that has evolved and improved over the last few years. As a public-private venture, it has begun to require more effective measures for public accountability and educational performance from all entities and all private schools that take tax-diverted funds to support student learning.

Perhaps the best model for considering how to structure any future experiments in school choice is already in the state. Today, in Georgia pre-kindergarten, both public schools and private centers deliver publicly financed education to four-year-olds across the state under the same regulations and standards for accountability and educational performance.

Improving education is vital to the future of all Georgians, and any significant improvements in the coming years will require real changes and new choices in how and where students learn. These changes inevitably involve a process of trial and error, as the State of Georgia explores the best ways to improve education, especially for the state's neediest, most vulnerable children. But improving education in Georgia also requires the state to recognize if and when a trial, in fact, has become an error.

Georgia's tax-credit program for private school choice has failed the state's children and Georgia taxpayers. It is time to end—or vastly mend—Georgia's failed experiment in tax credit scholarships for private schools.

## APPENDIX 1

<b>Financial Summary of Georgia SSOs: 2008–2009</b>					
	<b>Georgia Christian</b>	<b>GASSO</b>	<b>GREAT SSO</b>	<b>Georgia GOAL</b>	<b>TOTAL</b>
<b>STARTING BALANCE</b>	\$268,205	\$21	\$30,578	\$3,267,082	\$3,565,886
<b>REVENUE</b>					
Contributions and Grants	\$820,559	\$3,450,724	\$231,250	\$10,609,573	\$15,112,106
Program					
Investment Income	\$1,015	\$707	\$152	\$901	\$2,775
Other Revenue					
<b>TOTAL REVENUE</b>	\$821,574	\$3,451,431	\$231,402	\$10,610,474	\$15,114,881
<b>EXPENSES</b>					
Grants	\$403,283	\$2,394,122	\$130,730	\$2,931,123	\$5,859,258
Benefits					
Salaries		\$328,500		\$136,042	\$464,542
Total Fundraising					
Other Expenses	\$68,815	\$16,096	\$180	\$1,153,717	\$1,238,808
<b>TOTAL EXPENSES</b>	\$472,098	\$2,739,396	\$149,346	\$4,220,882	\$7,581,722
<b>Revenue Less Expenses</b>	\$349,476	\$712,035	\$82,056	\$6,389,592	\$7,533,159
<b>Net Assets or Fund Balance</b>	\$617,681	\$712,056	\$112,634	\$9,651,616	\$11,093,987

Source: IRS 990 Forms

**NOTE:** The Student Scholarship Foundation of Georgia also raised \$29,454 in 2009, according to IRS records, and spent \$27,176 or 92 percent of tax credit funds on scholarships.

## APPENDIX 2

### SSO-Affiliated Private Schools—Issues with Eligible School Requirements

School	Affiliated SSO	Accreditation	Full time instruction	Basic academic program	Primary or Secondary School
<b>Unaffiliated with state-sanctioned accrediting agencies</b>					
Kids R Kids (Cumming)	Georgia SSO	none	unclear	yes	no
North Georgia Children's Center	Georgia SSO	none	unclear	unclear	yes
Trinity Early Learning Center	Apogee	none	unclear	unclear	no
<b>Accredited as a Pre-Kindergarten Program</b>					
Kingdom Kids Academy	Arete Scholars Fund	GAC - Pre-K	yes	yes	no
<b>Accredited as a Non-Traditional Education Center</b>					
ABC Montessori School	Apogee	GAC - NTEC	unclear	unclear	yes
Artios Academy	Corporate Giving for Education	GAC - NTEC	no	yes	yes
BaSix Knowledge Academy	Arete Scholars	GAC - NTEC	no	yes	yes
Bright Futures Academy	Arete Scholars	GAC - NTEC	no	yes	yes
Evans Christian Academy	Next Generation Scholarship Foundation	GAC - NTEC	no	yes	yes
Fideles Christian School	Corporate Giving for Education; Georgia SSO	GAC - NTEC	no	yes	yes
St. Nicholas Orthodox Academy	Apogee	GAC - NTEC	no	yes	yes
The Barnes Academy	Corporate Giving for Education	GAC - NTEC	no	yes	yes
Veritas Academy	Apogee; Arete Scholars	GAC - NTEC	no	yes	yes
<b>Accredited as an Educational Agency with a Special Purpose</b>					
Ash Tree Learning Center	Arete Scholars	GAC - EASP	unclear	unclear	unclear
Aurora Strategies, Inc	Apogee; Corporate Giving for Education	GAC - EASP	yes	no	yes
Pathways Academy	Apogee	GAC - EASP	no	unclear	yes
The Joseph Sams School	Apogee	GAC - EASP	no	unclear	yes
Brookwood Christian Language School	Apogee	GAC - EASP	no	yes	yes
Elaine Clark Center (Heart of Hope)	Apogee Georgia School Choice Scholarship Fund	GAC - EASP	unclear	unclear	yes
Accreditation: GAC - EASP = accredited by the Georgia Accrediting Commission (GAC) as Educational Agencies with Special Purposes		Must be accredited by one of the six entities allowed under OCGA 20-3-519	Requires 180 days and 4.5 hours a day of instruction (OCGA 20-2-690)	Includes: reading, language arts, math, social studies, and science (20-2-690)	HB 1133 requires that school be a primary or secondary school
Accreditation: GAC - NTEC = accredited by GAC as Non-Traditional Education Centers					
Accreditation: GAC - Pre-K = accredited by GAC as private Pre-Kindergarten Programs					



## APPENDIX 3

### Issues on the Purpose of "Enroll" in HB 1133

#### Representative David Casas' Press Release on HB 1133—March 4, 2008



**David CASAS** Republican  
STATE REPRESENTATIVE 103rd District

PAID FOR BY FRIENDS OF DAVID CASAS

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### Press Article

TAX CREDITS COULD AID COMPANIES, PUBLIC SCHOOLS 03.04.08

By David Casas

There is no avoiding the "tax man," so they say.

But if any Georgia business or individual taxpayer is going to have to pay the Georgia Department of Revenue, then a new option emerging from the General Assembly certainly would make writing that check more worthwhile.

The Georgia House is considering legislation to permit tuition tax credits worth up to \$50 million annually to fund scholarships for students to transfer from public schools to private schools. It would help parents who can't afford private education, such as those struggling in Clayton, DeKalb and other counties who want to leave underperforming public schools.

Corporations could donate up to 75 percent of taxes owed the state to non-profits established to provide more school choice. Individuals could designate up to \$1,000 of taxes due instead of paying the state; couples could credit a donation of \$2,500 toward their taxes.

For example, if a Georgia corporation owed the state \$100,000, it could donate \$75,000 to a nonprofit scholarship organization and only owe the Department of Revenue the balance in taxes - \$25,000. The same would apply to individual taxpayers.

Tax-credit scholarship programs have been established in Arizona, Florida, Pennsylvania, Iowa and Rhode Island and have been very successful in generating private donations from individuals or corporations that wanted to support programs providing educational choice. In Florida alone, companies such as Wachovia, Burger King and State Farm are among dozens that have contributed millions of dollars to that state's tuition tax credit program in recent years. It is easy to see why.

Georgia companies and individuals would donate their own money to private scholarship funds. There is no argument about whether or not this is a voucher program diverting funds from public schools.

A study released by six national and state organizations last week and written by an economist affiliated with the Friedman Foundation for Educational Choice found that a tuition tax credit program could save Georgia's 180 school systems \$94 million and the state about \$6 million. That's because thousands of students would take these privately funded scholarships and transfer to private schools, leaving a host of tax money available for public schools to improve their performance. Although the student would leave, most of the public funding for that student would remain in the school district.

Corporations should also see a great advantage with this tax credit proposal. It provides them a way to reduce their tax burden while increasing philanthropic giving at the same time.

Tuition tax credits are a big winner for businesses of any size, individual taxpayers, parents, students and public schools. Tuition tax credits are the logical next step in education finance and tax breaks for all Georgians.

*David Casas, a public school teacher, is a state representative from Lilburn and sponsor of House Bill 1133, the Tuition Tax Credit Act.*

(highlight added)



*David Casas' full remarks not available on YouTube; transcript from the full video as played at a Georgia SSO meeting on March 10, 2011, below:*

I just want to touch on one thing that has hit a little controversy and has been on the news—it's a word in the bill called "enrolled." I had an AJC reporter call me when she was going to run the story and she asked me three times, "Well, aren't you trying to destroy public schools with this bill?" And of course this answer is, "No, this is not about public schools, this isn't even about private schools. This is about parents. You've got your p's confused." And, well, she didn't run that part.

Then three times she asked me, "Isn't there a loophole that you think people are taking advantage of?" I said, "No, there is no loophole, there is absolutely no loophole. That was deliberately put in there. And you'll see more details in the presentation as to what 'enrolled' means." Some people felt a little bit weird about that; felt it was a little dishonest that they would take their child, enroll them in a public school and not have them actually attend, but all of a sudden they actually qualify for a scholarship. I'm telling you, we deliberately put the wording in there for that. And when the AJC reporter said, "Don't you think that's just wrong?" I said, "Well actually, I do think we need to change it." And she was like, "Oh good." And I said I think we should delete it and open it up to every student. Every kid in Georgia should be able to have an ability to get a scholarship. Well, she didn't like that answer and she didn't run that part of the story either. But that's where we're going with this—understanding that it's a bill that's going to work for you; it's a law that's in place that is going to work for you. And I just truly hope that you will take advantage of it, that you will see the opportunities that are there, that you will tell folks about it, because it's one of the best things I believe that has happened to education in Georgia.

## APPENDIX 4

### SSOs and SSO-Affiliated Schools with Issues Concerning Eligible Students

SSO-Affiliated Schools with Issues Concerning Eligible Students					
School	Affiliated SSO	School Location	District Enrollment Forms Available on School Website	Method of Instruction on Public School Enrollment	Description
Alpharetta International Academy	Georgia SSO	Alpharetta, GA	Fulton & Forsyth Counties	Direct	Website links to county enrollment forms for purposes of qualifying for the scholarship
American Heritage Academy	Georgia SSO	Canton, GA	Cherokee County	Direct	Website links to county enrollment forms for purposes of qualifying for the scholarship
Cornerstone Preparatory Academy	Georgia SSO	Acworth, GA	Cobb County	Direct	Website lists local school district contact for purposes of enrolling to qualify for the scholarship
Covenant Christian Academy	Georgia SSO	Loganville		Direct	Website instructs parents to enroll student in their local public school district
Hebron Christian Academy	Georgia SSO	Dacula, GA	Gwinnett County	Direct	Website links to county enrollment forms for purposes of qualifying for the scholarship
Ivy League Montessori	Georgia SSO	Cumming, GA	Fulton & Forsyth Counties	Direct	Website links to county enrollment forms for purposes of qualifying for the scholarship
St. Simons Christian School	Georgia SSO	St. Simons Island, GA	Glynn County	Direct	Website links to county enrollment forms for purposes of qualifying for the scholarship
Gwinnett Christian Academy	Georgia SSO	Snellville, GA	Gwinnett County	Direct	Website links to county enrollment forms for purposes of qualifying for the scholarship
Georgia Christian School	Georgia SSO	Valdosta, GA		Indirect	Scholarship application is for students who currently attend Georgia Christian School and notes that students are required to enroll in public school
Christian Heritage School	Georgia Christian Schools Scholarship Fund	Dalton, GA		Indirect	Current families can receive tuition breaks by participating in the program and encouraging others to participate

**APPENDIX 4 (CONTINUED)**  
**SSOs and SSO-Affiliated Schools with Issues Concerning Eligible Students**

<b>SSOs with Issues Concerning Eligible Students</b>		
<b>SSO</b>	<b>Method of Instruction on Public School Enrollment</b>	<b>Description</b>
Georgia SSO	Direct	Instructs parents during PowerPoint presentations on how to enroll for purposes of qualifying
Parent's Choice SSO	Direct	SSO website instructs parents to enroll their children in a public school district for purposes of qualifying for the scholarship
Golden Dome	Indirect	SSO website links to rule defining "enroll" as not attending
Corporate Giving for Education	Indirect	Donate-to-receive scholarship system; the Parent PowerPoint states, "The Department of Revenue policy ruling Rule 560-7-8-.47 'Qualified Education Expense Credit' states that existing private school students are eligible and multi-year scholarships are allowed."

## APPENDIX 5

<b>SSO Scholarship Costs per Student: 2008–2009</b>			
<b>SSO</b>	<b>Number of Scholarships</b>	<b>Amount of Tax Credits</b>	<b>Per Pupil Costs</b>
GCSS	229	\$820,559	\$3,583.23
Great SSO	47	\$231,402	\$4,923.45
ALEF	106	\$694,700	\$6,553.77
GOAL	639	\$10,609,573	\$16,603.40
SSFG	26	\$29,454	\$1,132.85
<b>Total</b>	<b>1047</b>	<b>\$12,385,688</b>	<b>\$11,829.69</b>

Source: IRS 990 Forms

**NOTE: The Georgia Student Scholarship Organization (GASSO) was excluded from these calculations since there is very strong evidence that GASSO encourages and assists students attending private schools to “enroll” but not attend public schools so that GASSO can distribute scholarships to these students. Therefore, few if any students in GASSO-affiliated private schools actually transfer from public schools, and all or most of GASSO’s tax credit funds are an additional cost to the state regardless of the per pupil costs.**

## APPENDIX 6

### Methods, Assumptions, and Calculations of this Study

As noted throughout this study, both the Georgia Department of Revenue and the Georgia Department of Education had very little information on SSOs and no information on SSO-affiliated schools. Therefore, much of the information in this study concerning activities and actions of student scholarship organizations (SSO) and SSO-affiliated schools came from public documents, communications, and the websites of the organizations and schools. The Southern Education Foundation (SEF) collected and archived this information primarily over the course of 2009 and 2010.

Most of the study's comparisons and calculations are explained in the text, but a few deserve additional explanation.

On or around the first of each month, the Georgia Department of Education publishes a list of all Student Scholarship Organizations (SSOs) in the state. Beginning in late 2009, SEF used that list to gather information about Georgia's SSOs and their affiliated schools. If an SSO listed a website, SEF visited that website to survey the SSO's list of affiliated schools. If no website was listed or if the website did not contain information about affiliated schools, Web searches were conducted to compile as complete a list as possible on affiliated schools. In addition, SEF conducted a survey that included questions about affiliated schools, and any responses received were included in this study. Some schools were found to be affiliated with multiple SSOs. In March 2011, SEF concluded its list of schools, which at that point included a total of 370, for purposes of completing the study. The counties of the SSO-affiliated schools were located by matching the list of schools to the Georgia Department of Education's list of private schools (which includes the counties of each of the schools); for any schools that were not on the Georgia DOE's list, the zip code of the school was entered into the website [www.zip-codes.com](http://www.zip-codes.com) to determine the county of the school.

In calculating whether SSO-affiliated schools failed to meet the legal standards for a private school eligible for a tax-diverted scholarship, SEF relied upon the school's own published materials in determining which students were served, what educational services were provided, under what conditions and for what length of time. These data sets were compared with the requirements of state and state-approved list of accredited schools. As noted in the text, SEF relied upon IRS Form 990 in analyzing the failure of SSOs to comply with spending requirements. In calculating the amount of tax-diverted funds an SSO obligated for grants in future years, SEF combined any reported amounts from line items for expenses and/or for liabilities that were grant or scholarship related.

In examining the distribution of Georgia GOAL's scholarships or tuition grants, SEF has explained the difference between the IRS's data on adjusted gross income (AGI) and the US Census Bureau's income. SEF compared average amounts instead of median amounts only because the SSO reported only average amounts in its statistical report. Ordinarily, a comparison of median amounts (the scholarship amounts that mark the amount that is halfway between the highest and lowest in the income group) is more representative.

In analyzing the assets and annual income of private schools in Georgia, including SSO-affiliated schools, the IRS data that SEF used included amounts for tax-exempt organizations in their last reported year. Most were for all or part of 2009, but some were for 2008 and 2007, when those were the last reported year in which they had filed an IRS 990 form.

In calculating generally the range of revenue that state and local governments in Georgia do not receive currently due to the existing tax exemptions that private schools in Georgia already enjoy, SEF used the state's corporate rate of taxation (6 percent) for income and assumed that one-half to three-fourths of the private schools' assets were taxable as real property. The property tax revenues were derived by measuring the taxable value at 40 percent and computed at the state average millage rate of 2.5 percent. These are rough computations, but they are likely low estimates. Many tax-exempt organizations report the book value of their property instead of the market value since their property is not taxable and a market value is not required. As a result, the book value of a private school's real property often reflects the original purchase price without subsequent improvements or the customary appreciation in market value over time.

## APPENDIX 7

### Georgia GOAL: A Case Study in the Hazards of Voluntary Disclosure



Georgia GOAL (“Greater Opportunities for Access to Learning”) is perhaps the largest student scholarship organization (SSO) in Georgia. Since 2008 it has apparently raised approximately \$28 million from state tax credits for private school scholarships. These funds represent approximately 39 percent of all the tax-diverted funds raised in support of private schools and appear to be the largest amount that any SSO has raised during the last three years.

Georgia GOAL is also the only student scholarship organization in Georgia that has publicly reported specific statistical information about contributions, expenditures, grants to students and schools. It has attempted to set a standard for voluntary public reporting by Georgia’s SSOs under the terms of a state law that requires almost no public accountability for how tax-funded scholarships are distributed and used by private schools.

In the fall of 2010, approximately two months after SEF distributed a survey to Georgia’s SSOs in an unsuccessful attempt to seek specific information on their operations and scholarships, the Georgia Community Foundation, whose members created Georgia GOAL, and the Economics of Education Policy Center at Georgia College and State University, circulated a questionnaire that they recommended SSOs complete and make available on their websites “to provide information to the public.” GOAL remains the only SSO to make the answers to the survey public, and no other SSO has issued a meaningful statistical report on its specific operations and private school scholarships.

The annual statistical reports Georgia GOAL has published on its website state the total number of Georgians who divert state taxes to Georgia GOAL, the total amount of tax credit funds it received during the year, and a breakdown of the number of private school scholarships awarded with GOAL’s tax-diverted funds according to a range of student family income. GOAL’s statistical report also shows what percentage of total private school tuition GOAL’s tax-funded scholarships covered according to different levels of student family income. These statistical



reports do not identify the name or number of private schools that awarded the GOAL scholarships.

The reports' statistics on the numbers of scholarships awarded according to different levels of family income apparently arise from Georgia GOAL's efforts to carry out the stated purposes of the state law establishing tax credits for private school scholarships: to provide students in low performing public schools with an opportunity to transfer to a better private school that the students' families could not afford without a scholarship.

GOAL does not require private schools to award scholarships only to low income students, but it is the only SSO that has been operating since 2008 that recommends that its affiliated private schools award SSO funds from tax credits to low income students.<sup>56</sup>

GOAL's efforts at voluntary public disclosure represent an admirable endorsement of the importance of public accountability in a system where self-selected private agencies collect and use tax-diverted funds for public purposes. The fact that no other SSO in Georgia has followed GOAL's lead in providing meaningful, voluntary public disclosure also reveals the shortcomings of Georgia's law, which has no requirements for substantial public disclosure or accountability. In fact, a recent amendment to the private school scholarship credit law actually criminalizes public disclosure of some basic information about SSO operations.<sup>57</sup>

The statistical reports prepared and released by Georgia GOAL also illustrate the real hazards of voluntary disclosure—how self-reporting without public information, guidelines, and standards by which to test the accuracy and context of data can lead to misinformation and misleading impressions.

#### [GOAL's Misleading Report on Scholarships by Income](#)

Georgia GOAL published information about the household income of students who were awarded their SSO scholarships in 2009 and 2010. None of the other SSOs have yet to follow GOAL's example. GOAL received 43.8 percent of all SSO tax credit revenue (\$10.6 million) in 2009 and 34 percent of all tax credit revenue (\$13.7 million) in 2010. Their statistical reports offer the only available data in understanding if and how SSOs are distributing scholarships to low income students.

On first impression, GOAL's numbers appear to demonstrate that low income students comprise a significant proportion of GOAL's scholarship recipients and that higher income students receive a relatively moderate percentage. This impression, however, was quite misleading (see pages 30–33).

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<sup>56</sup> Three newer SSOs, Arete Scholars Fund, Student Scholarship Foundation, and AAA Scholarship Foundation, have stated that they will limit their scholarships to students with financial need; however, a larger number explicitly state they will not impose any such requirements.

<sup>57</sup> See page 10 of report.

An accurate understanding of the Georgia GOAL data is best shown by the fact that the average AGI income for GOAL scholarship families in both years was more than four times larger than \$9,842, which was the average AGI for tax filers who comprised essentially the bottom half of all Georgia taxpayers, according to IRS data for 2007.<sup>58</sup>

#### GOAL's Erroneous Report on Tax Savings from Scholarships

The 2010 annual report issued by GOAL also claims that the SSO saved Georgia \$971 for every student it supported with a tax-funded scholarship. These claims of savings for the state government are highly exaggerated and deeply flawed.

First, GOAL selected data that was the least accurate and representative of actual state and local revenues during the last three school years (2008–2010). GOAL used revenue data for the school year that began in 2007 and ended in 2008 before any SSO raised funds for tax credit scholarships in Georgia. Their data comes from the Common Core of Data (CCD) of the Center for Educational Statistics, a federal agency that surveys state agencies for this particular data. There is more recent data reported for the last three school years (2008–2010) available from the Georgia Department of Education. Data sets from these years reflect a marked decline in state and local revenues from the prior 2007 year due to the recession's effects.

In addition, CCD data include more than local and state tax revenues. For example, CCD local revenues include revenues not only from local taxes but also revenues from investments, student activities such as textbook sales, transportation, special fees, and food service.<sup>59</sup>

In fact, most GOAL scholarships in 2009 and 2010 were not below the state's own per pupil appropriations for K-12 education. In both 2009 and 2010, the average amount of the GOAL scholarship exceeded the average per pupil allocation of the State of Georgia for public school students.<sup>60</sup> In 2009, in fact, the average amount for almost three out of every four of the GOAL tax-funded scholarships were above the state's average contribution of \$4,320 for a public school student's K-12 education. In 2010, the average GOAL scholarship for almost two-thirds of all recipients was above the state's average contribution for educating a student in Georgia public schools.

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<sup>58</sup> The latest data from federal and state tax returns that permits an analysis of average income within income groups is provided by the federal Internal Revenue Service (IRS) for 2007. Since the recession began to lower incomes of more families in Georgia in 2008 and afterwards, the use of 2007 IRS data in this comparison probably understates differences.

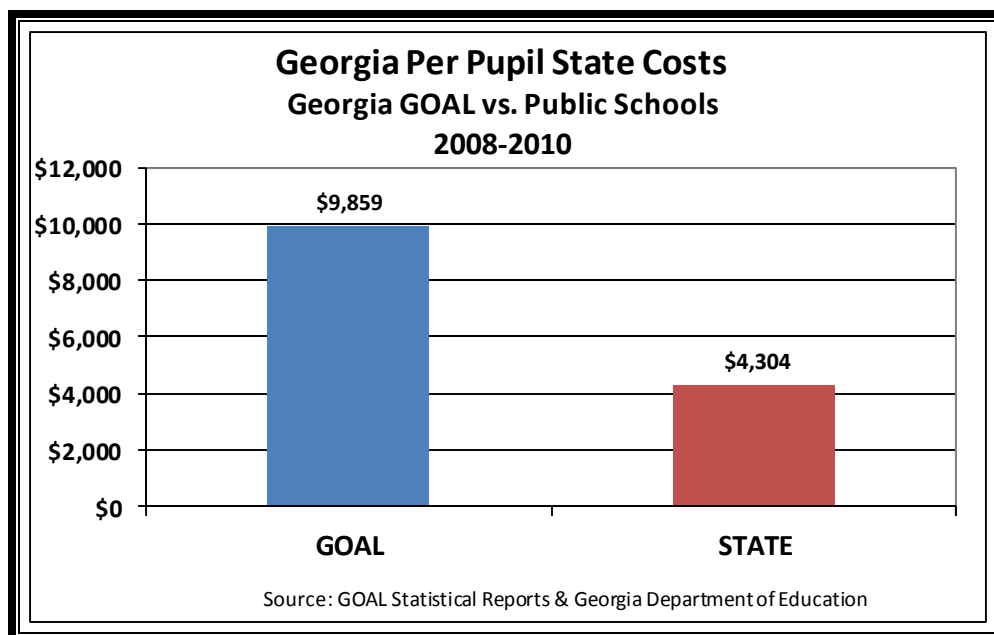
<sup>59</sup> See Steven D. Honegger and Frank Johnson, *Revenues and Expenditures for Public Elementary and Secondary School Districts: School Year 2007–08 (Fiscal Year 2008)*, NCES 2010-32, US Department of Education (Washington, DC: National Center for Education Statistics, 2010).

<sup>60</sup> Without explanation, GOAL's 2010 program report substantially revised its 2009 program report concerning the average amount of the scholarships it awarded in 2009. The 2010 report states that the average scholarship was \$3810 instead of \$4697. If the lower average is the correct number, the amount of the GOAL scholarships in 2009 was smaller than the state per pupil allocation that year. The difference is irrelevant, however, since the average amount of a GOAL scholarship is not the same as the average cost of a scholarship in diverted tax funds.

But even this comparison grossly understates the real per pupil costs that the state government has incurred during the last three years in supporting tax-funded scholarships for private schools. The average GOAL scholarship of \$4,168 reported in 2010 represents what the SSO paid to private schools in support of a student's attendance. It does not reflect the total cost to the State of Georgia, since the amount of the scholarships awarded did not reflect the total amount of state revenue from tax credits diverted to SSOs. The real cost to the state government's treasury—the amount of lost state revenue—is the total amount of revenue diverted by the SSO through tax credits, not the sum of all scholarships awarded by the SSOs.

GOAL's latest program report states that it raised \$10.6 million in 2009 that otherwise would have gone to the state government as revenue. It awarded 639 scholarships. This equals a total cost to the state of \$12,180 per student receiving a GOAL scholarship. In 2010, GOAL diverted \$13.7 million from the state treasury through tax credits and awarded scholarships to 1,877 students. GOAL therefore used \$7,298 of tax dollars per student for the scholarships awarded last year while the state spent only \$3,832 to educate each public school student.

For 2008 through 2009, based on both IRS reports and its own program reports, Georgia GOAL diverted almost \$27.9 million from state revenues and awarded 2,825 scholarships for students to attend private schools. This means that from 2008 to 2010, GOAL used \$9,859 in diverted state tax revenues for every student who received a partial scholarship from GOAL to attend a private school. During the same three years, the average state contribution to a student's education in a Georgia public school was \$4,304.

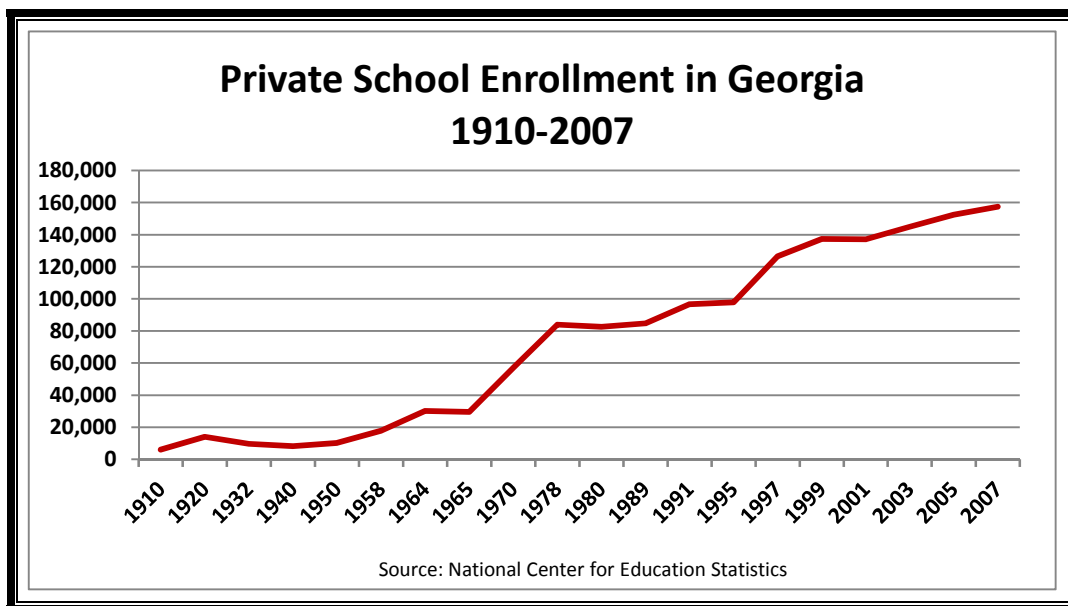


## APPENDIX 8

### Brief History of Georgia's Private Schools in Opposing Desegregation

In Georgia, public financing for students to attend private schools necessarily raises questions of race. For most of the last half of the 20<sup>th</sup> century, private schools were instrumental in efforts to resist racial desegregation of the state's public schools. Private schools in Georgia and other Southern states began to grow in numbers and enrollment only after it became clear in the early 1950s that the US Supreme Court might outlaw racial segregation in K-12 education. After the Court issued its historic decision in *Brown v. Board of Education* in 1954, schools in 109 of Georgia's 180 public school districts were involved in desegregation litigation that lasted for almost three decades. Seventy-four Georgia school districts remained under federal courts' jurisdiction as of 2007.<sup>61</sup>

Enrollment in Georgia's private schools rose rapidly after 1969, when federal enforcement of school desegregation intensified in the South.<sup>62</sup> The increases in private school enrollment in Georgia have persisted into the 21<sup>st</sup> century.



During the early days of massive resistance, the State of Georgia enacted laws providing state funding to a growing numbers of private schools. In 1956, the General Assembly passed legislation to permit the leasing of public property to private, largely segregated schools. In 1961 Georgia enacted a law to provide tax-funded scholarships and grants for students to attend any nonsectarian private school. The law boldly declared the act advanced "the constitutional rights of

<sup>61</sup> Georgia Advisory Committee to the United States Commission on Civil Rights, *Desegregation of Public School Districts in Georgia* (December 2007).

<sup>62</sup> SEF estimates that approximately one-third of the private schools affiliated with Georgia SSOs were founded between 1954 and 1979, the period of massive resistance to and White flight from public school desegregation in Georgia.

school children to attend private schools of their choice in lieu of public schools.” In 1962, the State spent approximately \$210,000 (more than \$1.4 million in 2011 dollars) financing scholarships for almost 1,200 students to escape public school desegregation by attending private schools.<sup>63</sup>

In addition, the state assisted white teachers in leaving public schools for private schools by authorizing any public school teacher “who accepts employment in a nonsectarian private school in this state attended by students who are eligible for grants from the state” to continue to belong in the state retirement system.

None of the new laws specifically mentioned “race” or racial segregation, but each had the effect of obstructing public school desegregation. All were challenged in court and discontinued within a few years. The laws remained, however, in the state’s *Code of Laws* until 2005, when the Georgia General Assembly finally repealed the legislation, including the private school tuition grants, in recognition of the 50<sup>th</sup> anniversary of *Brown*.<sup>64</sup>

According to recent scholarly research, private schools as a sector have continued to be a significant, contributing factor in the preservation of segregated education. Examining data from 1988 to 1990, a national study published in 2002 concluded, “Our results provide evidence that white families are fleeing public schools with large concentrations of poor minority schoolchildren. In addition, the clearest flight appears to be from poor black schoolchildren.”<sup>65</sup> While admitting that they had no definitive answer as to the underlying causes of this white flight, the study’s authors concluded that there was “suggestive evidence that racism toward minority schoolchildren may contribute to ‘white flight.’”

Researchers from Harvard University’s Civil Rights Project found in 2002 that “the strongest predictor of white private school enrollment is the proportion of black students in the area.”<sup>66</sup> They also found that private schools were far more segregated than public schools in the South.

Based on data from the 2000 Census, a study by North Carolina scholar Charles Clotfelter found that private schools are continuing to foster racial separation and isolation in K-12 education in the South. His analysis showed that private schools account for an average of 42 percent of the region’s school segregation in non-metropolitan areas and 16 percent in the

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<sup>63</sup> *Atlanta Daily World*, August 4, 1962; October 17, 1962.

<sup>64</sup> Gabriel J. Chin, Roger Hartley, Kevin Bates, Rona Nichols, Ira Shiflett, and Salmon Shomade, “Still on the Books: Jim Crow and Segregation Laws Fifty Years after *Brown v. Board of Education*,” *Michigan State Law Review* (Summer 2006): 458.

<sup>65</sup> Robert W. Fairlie and Alexandra M. Resch, “Is There ‘White Flight’ into Private Schools? Evidence from the National Educational Longitudinal Survey,” *The Review of Economics and Statistics* 84 (2002):21-33.

<sup>66</sup> Sean F. Reardon and John T. Yun. *Private School Racial Enrollments and Segregation*. Civil Rights Project (Cambridge, MA: Harvard University, 2002).

South's metropolitan areas.<sup>67</sup> "Combined with the general stability or growth of private enrollments in the South since 1970, these findings suggest that private schools were playing much the same role in non-metropolitan counties of the South in 1999–2000 as they were shortly after desegregation," Clotfelter concluded.

In a report issued in December 2007, the Georgia Advisory Committee to the US Commission on Civil Rights documented that "as public school districts in Georgia become more and more nonwhite, whites in that district increasingly attend private schools."<sup>68</sup> Also based on the 2000 census, this study found that 12 Georgia counties had over half of their white school-age population attending private schools, and seven other counties had one-third of the white school-age children in private schools. In addition, among the 36 Georgia counties in which black children comprised 60 percent or more of the public school enrollment, 29 had more than 20 percent of the white children enrolled in private schools.

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<sup>67</sup> Chalres T. Clotfelter. "Private Schools, Segregation, and the Southern States," *Peabody Journal of Education* 79, no. 2 (2004): 74-97.

<sup>68</sup> Georgia Advisory Committee to the United States Commission on Civil Rights, *Desegregation of Public School Districts in Georgia* (December 2007).

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