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February 3, 2021

The Honorable Kristey Williams
Chair
K-12 Education Budget Committee
Kansas House of Representatives
Room 546-S
300 Southwest 10th St.
Topeka, KS 66612

The Honorable Kyle Hoffman
Vice Chair
K-12 Education Budget Committee
Kansas House of Representatives
Room 546-S
300 Southwest 10th St.
Topeka, KS 66612

Re: Oppose HB 2119 –Private School Vouchers Are Bad Education Policy

Dear Chair Williams and Vice Chair Hoffman:

On behalf of the Kansas members and supporters of Americans United for Separation of Church and State, I write to urge you to oppose HB 2119. This bill would create an education savings account (ESA) program—also known as a private school voucher—that would fund private school education. Our public schools, which are dealing with economic uncertainty and bracing for budget cuts due to the pandemic, should not be stripped of public funds. In addition, this bill should be rejected because vouchers don't work, fund discrimination, and violate religious freedom. Public dollars should fund public schools, which serve 90% of America's schoolchildren.

Kansas Should Not Drain Additional Funds from Public Schools During the Pandemic

Especially at this time, when the COVID-19 pandemic has led to unprecedented challenges for our public-school system, the legislature should not direct additional funding to private schools. Public schools face mounting costs to ensure that students are able to safely and appropriately receive the education and services they need. At the same time, the state faces budget shortfalls that could worsen as the pandemic continues.¹ If we do not sufficiently fund our public schools, there is no fall back.

Furthermore, Kansas private schools have already received nearly \$25 million in forgivable loans through the federal Paycheck Protection Program (PPP).² For example, Wichita

¹ Titus Wu and Andrew Bahl, [Coronavirus, State Budget Among Key Issues in Kansas' 2021 Legislative Session](#), *Topeka Capital-Journal*, Jan. 10, 2021.

² This number is an estimate based on the midpoint of possible PPP large loan ranges. It does not include any loans that Kansas private schools may have received for amounts below \$150,000. Samantha Sokol, et al., Ams. United for Separation of Church & State, [The Paycheck Protection Program Has Provided Billions in Federal Funds to Private and Religious Schools](#), 6 (Jul. 29, 2020).

Collegiate School, which charges a tuition of more than \$20,000 a year,³ received between \$1 to \$2 million.⁴ In contrast, Kansas public schools, which were excluded from accessing PPP funding, only received \$84 million in Elementary and Secondary School Emergency Relief (ESSER) Funds.⁵ In short, a few dozen private schools received almost a third as much funding as the entire Kansas public school system. Congress also recently passed another COVID relief bill that provides federal funding for assistance and services in private schools. The legislature, therefore, should not send more money to private schools when public schools face extreme budget shortfalls.

Voucher Programs Don't Work

Private school vouchers do not improve educational outcomes. Studies of the Indiana,⁶ Louisiana,⁷ and Ohio⁸ voucher programs revealed that students who used vouchers actually performed *worse* on standardized tests than their peers not in voucher programs. And studies of long-standing voucher programs in Milwaukee,⁹ Cleveland,¹⁰ and Washington, DC¹¹ found that students offered vouchers showed no improvement in reading or math over those not in the program. With a record proving they don't work, there is no justification for funneling more money into vouchers.

Voucher Programs Don't Serve Rural Students

Almost half of Kansas's public schools are located in rural districts, and these schools serve more than one-fifth of the state's students.¹² Vouchers, however, don't provide an actual choice for students in these districts. Rural communities have few, if any, private school options. And students aren't guaranteed access to these schools, which have limited enrollment and may deny admission to students for any number of reasons. If students are able to gain admission with a voucher, they are generally still required to endure long, costly commutes. Vouchers are also especially harmful to the public school systems serving large rural areas because costs for facilities, transportation, administration, and instruction for public schools stay constant while state funding decreases.

³ Wichita Collegiate School, [2021-2022 Tuition Schedule \(Grades 1-12\)](#) (last accessed Jan. 30, 2021).

⁴ Kevin Hardy, [Here's Which Kansas, Missouri Businesses, Schools and Churches Got PPP Money From the Feds](#), *Kansas City Star*, Jul. 8, 2020.

⁵ U.S. Dep't of Educ., [Elementary and Secondary School Emergency Relief Fund State Allocations Table](#) (last visited Jan. 28, 2021).

⁶ Megan Austin, R. Joseph Waddington, and Mark Berends, [Voucher Pathways and Student Achievement in Indiana's Choice Scholarship Program](#), 22, Russell Sage Found., 2019.

⁷ Jonathan N. Mills and Patrick J. Wolf, [The Effects of the Louisiana Scholarship Program on Student Achievement after Four Years](#), 2, Univ. of Ark., May. 2019.

⁸ David Figlio and Krzysztof Karbownik, [Evaluation of Ohio's EdChoice Scholarship Program: Selection, Competition, and Performance Effects](#), 32, Fordham Inst., Jul. 2016.

⁹ Patrick J. Wolf, [The Comprehensive Longitudinal Evaluation of the Milwaukee Parental Choice Program: Summary of Final Reports](#), 7, School Choice Demonstration Project, Univ. of Ark., Apr. 2010.

¹⁰ Jonathan Plucker et al., [Evaluation of the Cleveland Scholarship and Tutoring Program. Technical Report 1998-2004](#), 166, Ctr. for Evaluation & Educ. Policy, Univ. of Ind., Feb. 2006.

¹¹ Ann Webber et al., [Evaluation of the DC Opportunity Scholarship Program: Impacts Three Years After Students Applied](#), 4, U.S. Dep't of Educ., May 2019.

¹² Daniel Showalter et al., [Why Rural Matters 2018-2019](#), 109, Rural School and Community Trust, Nov. 2019.

Voucher Programs Fund Discrimination

Public schools are open to and must serve all students. Private schools accepting vouchers, however, often deny students admission or expel them for a number of reasons, including based on their religion, sexual orientation, gender identity, academic abilities, disciplinary history, or ability to pay tuition. And private schools do not have to abide by federal civil rights laws that apply to public schools. For example, students with disabilities that use a voucher would forfeit many of the protections provided to students under the Individuals with Disabilities Education Act (IDEA) because they are considered parentally placed in private schools and lose the quality and quantity of services available to students in public schools.

Moreover, private religious schools can discriminate against employees by claiming an exemption from employment nondiscrimination provisions under Title VII of the Civil Rights Act and the ministerial exception.¹³ Private religious schools have used religion as a basis to fire teachers for their reproductive health choices,¹⁴ refuse to hire a teacher because of the belief that a mother should stay at home with her children,¹⁵ and fire a teacher because he is in a same-sex marriage.¹⁶ No school that receives public funds should be able to discriminate against a student or employee because of who they are.

HB 2119 Would Violate Religious Freedom

Kansas's existing voucher program funds religious schools,¹⁷ and there is no reason to believe this voucher would be different. Yet, one of the most fundamental principles of religious liberty is that government should not compel any citizen to pay for someone else's religious education. Indeed, this principle is twice enshrined in the Kansas Constitution.¹⁸ Passing HB 2119 would send more money to religious schools in violation of this core religious freedom protection.

Conclusion

For all the above reasons, Americans United opposes HB 2119. I have enclosed with this letter two documents outlining further some of the problems associated with vouchers. Thank you for your consideration on this important matter.

¹³ See 42 U.S.C § 2000e-1; *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 194 (2012) (teacher considered a minister for purposes of ministerial exception was barred from bringing an employment discrimination suit under the ADA); see also *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020).

¹⁴ See, e.g., *Herx v. Diocese of Ft. Wayne-South Bend Inc.*, 48 F. Supp. 3d 1168 (N.D. Ind. 2014); *Ganzy v. Allen Christian Sch.*, 995 F. Supp. 340 (E.D.N.Y 1998).

¹⁵ See *Ohio Civil Rights Comm'n v. Dayton Christian Schs., Inc.*, 477 U.S. 619 (1986).

¹⁶ See Dep't of Justice, [Justice Department Files Statement of Interest in Indiana Lawsuit Brought by Former Teacher Against Archdiocese](#) (Sept. 27, 2019).

¹⁷ For the 2016-2017 school year, every student who used the voucher attended either a Catholic or nondenominational Christian school. Celia Llopis-Jepsen, [Kansas Private Tuition Tax Credit Program Sees Early Growth](#), KCUR, Aug. 4, 2017.

¹⁸ Kan. Const. Bill of Rights § 7; art. VI § 6(c).

Sincerely,

A handwritten signature in black ink, appearing to read "Nikolas Nartowicz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nikolas Nartowicz
State Policy Counsel

cc: Members of the House K-12 Education Budget Committee