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**Testimony of
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Americans United for Separation of Church and State
regarding HJR 1
before the
Alaska House Judiciary Committee
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I am offering this testimony on behalf of the Alaska members and the Alaska Chapter of Americans United for Separation of Church and State. HJR 1 would strip two provisions in the Alaska Constitution that guarantee that our taxpayer dollars will support public schools—open to all students regardless of race, religion, gender, or disability—rather than private and religious schools. The purpose of HJR 1 is to remove the constitutional protections that stand in the way of a private school voucher program in Alaska. Vouchers, however, violate fundamental principles of religious freedom and are poor education policy. Instead of providing equal access to high quality education or setting high standards and accountability, voucher programs have proven ineffective, lack accountability to taxpayers, and deprive students of rights provided to public school. Accordingly, the drastic measure of repealing fundamental provisions from the Alaska Constitution should be rejected.

The Resolution

This resolution strips a portion of Article VII, Sec. 1 of the Alaska Constitution, which bars the State from using taxpayer money to fund private religious schools. Voucher proponents seek to repeal this constitutional protection because religious schools participate in voucher programs at much greater rates than private secular schools. This is because religious schools are traditionally less expensive than secular private schools and thus a voucher goes further at such schools. In the D.C. voucher program, for example, nearly 82% of the participating schools were faith-based.¹ The result of voucher programs, therefore, is the funneling of taxpayer dollars to religious education.

This resolution also amends Article IX, Sec. 6 of the Alaska Constitution in order to escape the requirement that taxpayer money be spent on a “public purpose.” If passed, HJR 1 would allow taxpayer money to be spent on the non-public purpose of funding private religious schools.

Passage of HJR 1 Would Violate Core Principles of Religious Liberty

Americans United recognizes the value of religious education, and understands that parochial schools can serve an important role in the lives of many children. But, because most parochial schools either cannot or do not wish to separate the religious components of the education they offer from the academic programs, these schools must be funded by voluntary contributions, not taxation. For example, *The Wall Street Journal* published a piece this month by Cardinal Anthony Dolan, the archbishop of New York, in which he explained that Catholic schools “won’t back away

¹ US Dep’t of Educ., Evaluation of the DC Opportunity Scholarship Program: Final Report at xxvii (June 2010) (U.S. Dep’t of Educ. Final Report).

from insisting that faith formation be part of our curriculum, even for non-Catholic students.”² Such a stance, of course, is unobjectionable when the school is supported by church funds. Our objection is to using taxpayer funding to support such curriculum.

The current Alaska constitutional provisions that bar public funding of religious schools protect religious freedom in various ways. First, they protect taxpayers from being forced to subsidize a religious education that sharply conflicts with their most sincerely held religious beliefs. For those who do not share a particular religious tradition, such taxpayer-supported religious content is an affront. Second, they keep the government out of the business of religion—the government should not be funding religious education but instead funding schools open to all students regardless of their faith. Third, they protect the autonomy of religious schools. Public funding entangles government with religious schools and weakens these schools by making them dependent upon government money. In order to protect religious freedom, therefore, the current Constitution should stand and HJR 1 should be rejected.

Alaska Should Not Adopt a Program that Aids Discrimination

Private schools can limit admission based on religion, gender, economic status, disability, and other criteria. And, religious schools can use religious hiring criteria. Most voucher schemes permit private schools to maintain these admissions and hiring criteria *and* benefit from taxpayer funded tuition. This violates the longstanding principle that government money should never fund discrimination. Taxpayers should not fund programs through tax credits that harm the fundamental civil rights of students and teachers.

Religious schools can limit admissions and hiring not just to co-religionists, but also to only those students—and the parents of students—who follow its teachings and tenets. Religious schools can expel a student for refusing to take a religious oath, for being gay, or for engaging in any other religious teaching the school prohibits. Religious schools can also segregate students or apply different policies based on gender. And, these schools can fire an unwed pregnant teacher or a teacher going through a divorce, if either violates the religious teachings of the school.

Although the State permits these schools to engage in these practices with their own private funds, such discriminatory policies should never be supported and funded with Alaska taxpayer funds.

Vouchers Do Not Improve Student Achievement or Resources

According to multiple studies of the District of Columbia,³ Milwaukee,⁴ and Cleveland⁵ school voucher programs, students offered vouchers do not perform better in reading and math than students in public schools. In 2011, the Wisconsin Legislative Audit Bureau released a five-year longitudinal study, which concluded that students in Milwaukee using vouchers to attend private and religious schools perform no better on standardized tests than their counterparts in public

²Cardinal Anthony Dolan, *The Plan to Save Catholic Schools: How to combat falling enrollment while keeping standards high*, *The Wall Street Journal*, February 1, 2013, A11,

<http://online.wsj.com/article/SB10001424127887323701904578275921970228476.html?mod=googlenews_wsj>.

³U.S. Dep’t of Educ. *Final Report*; U.S. Dep’t of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 3 Years* (Apr. 2009); U.S. Dep’t of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 2 Years* (June 2008); U.S. Dep’t of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 1 Year* (June 2007).

⁴ Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Third Year Report* (Apr. 2010); Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Second Year Report* (Mar. 2009); Witte, Wolf, et al., *MPCP Longitudinal Education Growth Study Baseline Report* (Feb. 2008); Witte, *Achievement Effects of Milwaukee Voucher Program* (Feb. 1997); Witte, et al., *Fifth Year Report Milwaukee Parental Choice Program* (Dec. 1995).

⁵ Plucker, et al., *Evaluation of the Cleveland Scholarship and Tutoring Program, Summary Report 1998-2004* (Feb. 2006); *Evaluation of the Cleveland Scholarship and Tutoring Program, Executive Report 1998-2002* (Feb. 2006).

schools.⁶ Similarly, the U.S. Department of Education studied the D.C. voucher program for five years and found the program produced no statistically significant improvements overall in educational achievement.⁷

Voucher programs also fail to offer participating students greater educational resources. In fact, the Department of Education studies of the D.C. voucher show that students participating in the program are actually *less* likely to have access to programs for English language learners, learning support and special needs programs, tutors, counselors, cafeterias, and nurse's offices than students not in the program.⁸

Vouchers Lack Accountability

Most voucher programs lack sufficient accountability measures. They lack regulation, reporting, monitoring, and transparency. The current administrator of the D.C. voucher program, for example, admitted that quality control is “a dead zone, a blind spot” of the program.⁹ And, a report issued by the Government Accountability Office (GAO) revealed that the D.C. program has failed to meet even basic statutory requirements. For example, the administrator permitted schools to participate—and allowed students to attend schools—even though they lacked a valid D.C. occupancy certificate, failed to submit required financial data, and failed to submit required annual operational reports with basic information on curriculum, teachers' education, and school facilities.¹⁰ Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to and attended those schools.¹¹

Similarly, the state of Georgia has given out 170 million dollars in tuition tax credits since 2008, yet it is difficult to determine “how the money was spent and on whom.”¹² There is no way to determine whether the private schools funded are successful or failing, whether the program is serving low-income students, or whether the program is supplying tuition to kids who were and would be attending private schools regardless of the tuition tax program.¹³

The State cannot justify using taxpayer dollars on programs that are in no way accountable to the taxpayer.

⁶ Legislative Audit Bureau, *Test Score Data for Pupils in the Milwaukee Parental Choice Program (Report 4 of 5)*, 17 (Aug. 2011) (“The project’s five-year longitudinal study shows no significant difference in the performance of Choice and similar MPS pupils after four years of participation.”)

⁷ *U.S. Dep’t of Educ. Final Report* at xv, xix and 34.

⁸ *U.S. Dep’t of Educ. Final Report* at 56, 57, 60 (June 2010).

⁹ Lyndsey Layton and Emma Brown, “Quality Controls Lacking for D.C. Schools Accepting Federal Vouchers,” *The Washington Post*, Nov. 17, 2012, <http://articles.washingtonpost.com/2012-11-17/local/35507144_1_voucher-program-voucher-dollars-private-schools>.

¹⁰ US Gov’t Accountability Office, *District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations*, Pub. No. 08-9 at 34-35 (Nov. 2007) (GAO Report).

¹¹ *Id.* at 34.

¹² Maureen Downey, “Private School Tax Credit: A \$170 million tax diversion that Georgia lawmakers cloak in secrecy. Why?” *The Atlanta Journal Constitution*, Feb. 17, 2012 < http://blogs.ajc.com/get-schooled-blog/2013/02/17/private-school-tax-credit-a-170-million-tax-diversion-that-georgia-lawmakers-cloak-in-secrecy-why/?cxtfid=blogs_get_schooled_blog>.

¹³ *Id.*