March 6, 2012

Representative Scott Dieckhaus, Chair

House Elementary and Secondary Education Committee

Missouri House of Representatives

201 West Capitol Avenue

Jefferson City, MO 65101

**Re: Oppose HB 1718 – “Bryce’s Law”**

Dear Chairman Dieckhaus,

On behalf of Missouri’s members of Americans United for Separation of Church and State in, I urge you to **oppose HB 1718**, which establishes a special needs scholarship tax credit program known as “Bryce’s Law.” Americans United is a nonpartisan, national organization committed to preserving the constitutional principles of separation of church and state and religious liberty. We oppose this tax credit scheme because it is nothing more than a back-door voucher system, and has the same constitutional flaws inherent in voucher systems, as they are both subsidized by the state. Further, a backdoor voucher system for special needs students undermines the very purpose of civil rights legislation intended to benefit these children. This bill represents misguided education reform policy, and, in turn, we urge your opposition.

Backdoor vouchers for special needs students – like vouchers for all students – do not improve education. A March 2008 study of the Ohio Autism Scholarship concluded that vouchers are “a poor model” that “should not be emulated in other states.”[[1]](#footnote-1) The study explained that the voucher is not “sound education policy” and that it “exacerbates inequality.”[[2]](#footnote-2) Likewise, a 2007 study of Florida’s McKay Scholarships for Students with Disabilities found that that the McKay voucher was “seriously flawed”[[3]](#footnote-3) and created “[m]ore [p]roblems [t]han [s]olutions.”[[4]](#footnote-4)

Students who leave the public schools with a backdoor voucher forfeit many of the protections provided to students under the Individuals with Disabilities Act (IDEA). In addition, students accepting vouchers would not receive all of the services that are listed on their individualized education plans (IEPs) that they are currently receiving in their public school. And, parents lose any due process rights to raise concerns about their child’s special education services.

Further, backdoor vouchers for students with special needs run contrary to IDEA’s fundamental purpose as a civil rights law,whichisto bring students with disabilities into the public school system, provide them access to the general education curriculum, and protect against the history of exclusion of students with disabilities from public schools. Vouchers place students in private schools—institutions that do not have to follow the same inclusionary practices as public schools—and thus may isolate students with disabilities from their nondisabled peers. With the Ohio autism voucher, for example, fully 75% of claims for vouchers were for use at providers “created to primarily or exclusively serve disabled students.”[[5]](#footnote-5) **Under IDEA when a public school cannot provide students with the special needs services they require, the government may place the student in a private school**.Unlike with a backdoor voucher, however, the tuition is **fully covered** by the government and the students **maintain their IDEA protections**.

Most private schools, and most schools that will opt to accept students under this scheme, will likely be religious in nature;[[6]](#footnote-6) thus, this backdoor voucher system serves just as a way to divert public money to religious schools. As a result, students could be forced to participate in religious activities, despite the fact that their school expenses are being paid by the state. Moreover, all state taxpayers, regardless of their religious affiliation, will be paying for religious education. These outcomes are anathema to constitutional notions of religious freedom.

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Americans United is committed to the protection of public education. However, we strongly believe that the nation’s civil liberties must be upheld even in difficult circumstances. It is inappropriate to capitalize on the plight of special needs students by attempting to push through a divisive and unsound tax credit proposal that would severely undermine a longstanding commitment to public education. If you have any questions about this legislative proposal, please do not hesitate to contact me at (202) 466-3234 x 243 or [rolat@au.org](mailto:rolat@au.org).

Sincerely,



Amanda Rolat

State Legislative Counsel

1. Policy Matters Ohio, *Analyzing Autism Vouchers in Ohio*, Executive Summary, 2 (Mar. 2008) (*Analyzing Autism Vouchers).* [↑](#footnote-ref-1)
2. *Id.* at 41. [↑](#footnote-ref-2)
3. Sara Mead, *Information Underload: Florida’s Flawed Special-Ed Voucher Program,* Education Sector 1 (June 2007) (*Information Underload).* [↑](#footnote-ref-3)
4. *Id.* at 6. [↑](#footnote-ref-4)
5. *Analyzing Autism Vouchers in Ohio*, 41 and Executive Summary, 2. [↑](#footnote-ref-5)
6. For example, in *Zelman v. Simmons-Harris,* the Supreme Court found that, of the 3,700 students participating in Ohio’s Pilot Project Scholarship Program in the Cleveland City School District, 96% enrolled in religiously affiliated schools. *See Zelman v. Simmons-Harris,* 536 U.S. 639, 647 (2002). Indeed, approximately 80% of the students participating in the DC voucher program attend religious schools. *See* U.S. Dep’t of Ed., *Evaluation of the D.C. Scholarship Program: Final Report,* 17-18 (June 2010). [↑](#footnote-ref-6)