February 14, 2018

The Honorable Roy Cooper  
North Carolina Office of the Governor  
1 East Edenton Street  
Raleigh, NC 27601

Re: Veto HB 90 – Private School Voucher Programs Are Bad Policy

Dear Governor Cooper:

On behalf of the North Carolina chapters, members, and supporters of Americans United for Separation of Church and State, I write to oppose HB 90, which would expand the eligibility requirements for the state’s existing Personal Education Savings Account (PESA) program for students with disabilities. PESAs, a type of private school voucher, subsidize private school education for students with disabilities. In addition to the fact that voucher programs simply don’t work, you should veto this bill because it would strip away rights from the very students that the bill purports to help.

The process with which the Generally Assembly passed this provision is also deeply problematic. It rushed through this voucher expansion without a full consideration of the law. It expanded a program adopted just last year that has not even been implemented, and did so with no hearings, debate, or open discussion.

For all of these reasons, Americans United urges you to veto HB 90.

Voucher Programs Don’t Work

We support the goal of improving educational opportunities for students, but voucher programs are counterproductive. They do not improve education, but instead are often tied to decreased academic achievement and resources. Existing programs in North Carolina, for example, have led to dismal results. A majority of North Carolina voucher students, for example, scored below the 50th percentile on standardized tests for two consecutive years.1 Studies of the Indiana,2 Louisiana,3 and Ohio4 voucher programs also revealed that students

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2 Kevin Carey, Dismal Voucher Results Surprise Researchers as DeVos Era Begins, New York Times, Feb. 23, 2017
who used vouchers actually performed worse on standardized tests than their peers not in voucher programs.

North Carolina’s vouchers also have some of the weakest accountability measures in the country. Voucher schools in North Carolina do not need to be accredited, adhere to state curricular or graduation standards, employ licensed teachers, or administer state End-of-Grade tests. They also provide only limited test data, are not subject to withholding of state funds if they produce poor test results, and have effectively no financial oversight.

Furthermore, voucher schools do not provide the same rights and protections to students as public schools, such as those in Titles IV and VI of the Civil Rights Act, Title IX of the Education Amendments Act of 1972, and the Every Student Succeeds Act. And, students who attend private schools using vouchers are stripped of First Amendment, due process, nondiscrimination protections, and other constitutional and statutory rights guaranteed to them in public schools.

**PESAs Strip Rights from the Students They Assert to Help**

PESA vouchers steer students with disabilities to private schools, yet those schools are not required to adhere to the federal civil rights laws that protect those students. The Individuals with Disabilities Education Act (IDEA) ensures that students with disabilities are provided with a Free Appropriate Public Education (FAPE) that is tailored to their individual needs. Students who leave public schools with a voucher forfeit many of the protections provided to students under IDEA because they are considered parentally placed in private schools and lose the quality and quantity of services available to students in public schools, including those mandated under each student’s individualized education program (IEP). As a result, students with disabilities have been systematically excluded from voucher programs around the country. In fact, under the North Carolina program, voucher schools are not even prohibited from refusing to admit students based upon a disability.

For instance, most private schools in a Milwaukee voucher program have been found to “lack the full complement of educational programs that students with disabilities are entitled to if they receive their education in the public sector.” A 2010 US Department of Education report on the Washington, DC voucher program showed that a main reason why students didn’t use a voucher offered to them was that they were unable to find a participating school with services for their learning or physical disability or other special needs.

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5 Wettach, supra note 1, at 1.
6 Id.
7 Id. at 17.
9 Patrick J. Wolf et al., *School Choice Demonstration Project, Univ. of Ark., Special Education and the Milwaukee Parental Choice Program*, 17 (2012)
10 U.S. Dep’t of Educ., *Evaluation of the D.C. Scholarship Program: Final Report* 24-26, June 2010. According to the report, 21.6% of parents who rejected a voucher that their child was offered did so because the school lacked the special needs services that their child needed, and 12.3% of the parents who accepted a voucher for their child but then left the program cited a lack of special needs services at the school they had chosen.
This program has been sold as offering students with disabilities a better education, but it really offers them access to schools that are not even required to admit them or serve their needs.

**Taxpayers Should Not Be Forced to Fund Religious Schools and Education**

One of the most cherished principles of religious freedom is that the government should not compel any citizen to furnish funds in support of a religion with which he or she disagrees, or even a religion with which he or she does agree. PESAs, however, use public funds to pay for tuition costs at private and religious schools. In North Carolina’s existing voucher programs, the vast majority of public funding goes to private religious schools: 93 percent of vouchers have been used to pay tuition at religious schools. Furthermore, these schools can take taxpayer dollars and then reject students because they are the “wrong” religion. Surely, government funding of religious discrimination violates the religious freedom of all North Carolinians.

**Conclusion**

I have enclosed with this letter a general overview of the problems associated with vouchers and an explanation of the harms vouchers cause to students with disabilities. Thank you for your consideration on this important matter.

Sincerely,

Nikolas Nartowicz
State Legislative Counsel

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11 Wettach, supra note 1, at 6-7.