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Americans United for Separation of Church and State submits this testimony for the hearing regarding the nomination of Barbara Cargill as the Chair of the Texas State Board of Education on behalf of all our members and supporters in the state of Texas. Americans United is a nonpartisan, national organization committed to preserving the constitutional principles of separation of church and state and religious liberty. We believe that the best way to do this is to fulfill our Nation's Founding Fathers' command to keep religion a matter for the individual conscience, not for the elected official, civil servant, or public school teacher. Our freedom to worship (or not) as we see fit is inextricably linked to the separation our Constitution has established between religion and government. With this in mind, we strongly urge the Nominations Committee to question Ms. Cargill regarding the following subject areas to ensure she would stand in favor of strong and accurate curriculum, and put the education of Texas' students first.

Evolution and Science Education

In the past, Ms. Cargill has described the debate over science education as a "spiritual battle" and that she favors teaching the "strengths and weaknesses of evolution."¹ Although the term "strengths and weaknesses," may appear innocuous, it has been co-opted for decades by groups actually intending to force the inclusion of creationism, intelligent design or other supernatural and religious theories into classrooms. It is just

¹ Barbara Cargill comments at the Texas Eagle Forum in July 2011.

one of many euphemisms used to undermine students' learning about evolution.² But teaching or implying that there is a scientific controversy around evolution is just plain false.

Evolution "is the only tested, comprehensive scientific explanation for the nature of the biological world today that is supported by overwhelming evidence and widely accepted in the scientific community."³ Thus, arguments that students should learn about "fundamental weaknesses in the science of evolution are unwarranted based on the overwhelming evidence that supports the theory"⁴ and will only harm students' education. Furthermore, religion should be taught by the family, not in science classrooms. Science is "limited to the search for natural causes to explain natural phenomena."⁵ The goals of science are narrow: Science cannot provide "'ultimate' explanations for the existence or characteristics of the natural world . . . [and it] does not consider issues of 'meaning' and 'purpose' in the world."⁶ Rather, many people seek these important answers in religion.

In addition to being bad science, teaching "strengths and weaknesses" of evolution is unconstitutional. The Establishment Clause of the First Amendment to the U.S. Constitution precludes the government, including public schools, from endorsing a particular religious viewpoint. Accordingly, Courts have consistently found that creationism, "intelligent design," and all other criticisms of evolution are religious in

² Barbara Forrest, *Understanding the Intelligent Design Creationist Movement: Its True Nature and Goals* 19-22 (May 2007), available at <http://www.centerforinquiry.net/uploads/attachments/intelligent-design.pdf>.

³ Nat'l Acad. of Scis. & Inst. of Med., *Science, Evolution, & Creationism* 53 (2008), available at http://www.nap.edu/catalog.php?record_id=11876#toc.

⁴ *Id.* at 52.

⁵ *Kitzmiller v. Dover Area School District*, 400 F. Supp. 2d 707, 735-36 (M.D. Pa. 2005). Americans United served as co-counsel in this case.

⁶ *Id.* at 735.

nature, and therefore, cannot be taught in public school classrooms.⁷ Indeed, “[f]amilies entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family.” To protect impressionable young students who could otherwise be subject to religious indoctrination, courts are “particularly vigilant in monitoring” whether religious beliefs are taught in public schools.⁸

Only families should get to decide what religious beliefs they will teach to their children. And for many, disparaging evolution in order to promote creationism conflicts with their beliefs. Moreover, if religious beliefs, such as creationism and intelligent design, were to be highlighted by public schools, those who do not hold these religious beliefs would be made to feel excluded. We believe that Texas must honor all of the diverse religious beliefs of public school students and their families by teaching only science—not religion—in our classrooms.

Accordingly, we ask the Nomination Committee to safeguard strong science education by ensuring the next Chair of the Board of Education does not promote creationism in schools, and instead advocates for only the presentation of information and materials firmly rooted in established, accurate scientific fact. We urge the Committee, therefore, to question Ms. Cargill on her position regarding the teaching of evolution in public schools.

⁷ *Kitzmiller*, 400 F. Supp. 735-36.

⁸ *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987).

Bible Classes in Public Schools

Ms. Cargill has also advocated for public schools to teach Bible classes using the National Council on Bible Curriculum in the Public Schools' discredited curriculum and materials. Furthermore, she has opposed providing any more than minimal guidance to schools on how to teach these courses. She told the *Dallas Morning News* that in approving these severely lacking guidelines, the board felt that "[a] school district has the right to choose their own Bible curriculum because they know their students best."⁹

Although the Supreme Court has said that the Bible can be studied in public schools, a long line of legal decisions demonstrates that public schools have been almost uniformly unsuccessful in offering Bible courses that comply with the constitutional requirement that they be taught from a secular, objective perspective. This, of course, demonstrates the need for strict guidelines and oversight of such programs.¹⁰

Ms. Cargill's assertions that districts should have control over choosing a Bible curriculum ignores the difficulty of carrying out these course offerings in a way that abides by the Constitution. An advisory letter issued by the Texas Attorney General's Office clarifies that the office would be unable to ensure that courses developed under the State

⁹ Terrence Stutz, "Texas State Board of Education approves Bible course for high schools," *The Dallas Morning News*, July 19, 2008. Available at <http://www.texscience.org/reports/bible-curriculum-news-articles-2008July25.htm>.

¹⁰ When implemented, a Bible course must: (1) be taught in an objective and nondevotional manner with no attempt made to indoctrinate students as to either truth or falsity of biblical materials; (2) not include teaching of religious doctrine or sectarian interpretation of the Bible; (3) not disparage or encourage a commitment to a set of religious beliefs; (4) not teach the Bible as literal religious truth; and (4) expose students to critical perspectives on the Bible and a diversity of biblical interpretations. See *Herdahl v. Pontotoc County Sch. Dist.*, 933 F.Supp. 582, 592 (N.D. Miss 1996); *Doe v. Human*, 725 F.Supp. 1503, 1506 (W.D. Ark. 1989), *aff'd mem.*, 923 F.2d 857 (8th Cir. 1990); *Wiley v. Franklin*, 468 F.Supp. 133, 149-50 (E.D. Tenn. 1979).

Board of Education’s standards would be constitutional.¹¹ In fact, studies of the program in practice show that there are serious problems with the way the Bible is taught in Texas classrooms – teachers lack adequate required training, courses contain factual errors and distortions, and materials are often presented in a biased, sectarian manner.¹²

We urge the Committee to inquire whether Ms. Cargill’s views on this matter have changed, and whether she would plan to require more fervent constitutional protections, guidance, and enforcement for the teaching of Bible classes in the public school.

Politicization of School Standards

Americans United is concerned that Ms. Cargill has repeatedly put her own personal and political agenda ahead of ensuring that Texas students get a 21st-century education based on facts and sound scholarship. She has turned revisions of curriculum standards for social studies, science, and language arts and the adoption of textbooks into unnecessary and divisive “culture war” battlegrounds. These battles distract the board from its responsibility to ensure that what students learn is based on facts, and that Texas students are well-prepared for college and to compete for the jobs of the future. Speaking to the Texas Eagle Forum in 2011, Ms. Cargill explained her concern over the make up the board, saying “Right now there are six true conservative Christians on the board, so we have to fight for two votes.”¹³ Her comments indicated that Cargill viewed the Board as a one that should make decisions based on religion—not based on what scientists

¹¹ Letter from Andrew Weber, Deputy Attorney General for Legal Counsel, to State Board of Education Chair Don McLeroy, July 9, 2008. Available at http://www.tfn.org/site/DocServer/TX_AG_Letter_7.9.2008.pdf?docID=641.

¹² Mark A. Chancey, *Reading, Writing & Religion II: Texas Public School Bible Courses in 2011-2012*, Texas Freedom Network Education Fund (2013). Available at http://www.tfn.org/site/DocServer/TFNEF_ReadingWritingReligionII.pdf?docID=3481.

¹³ Barbara Cargill comments at the Texas Eagle Forum in Conroe, TX, on July 7, 2011.

recommend or what is best for Texas students—and raised questions as to whether she will continue to support policies that impose her religious beliefs on the families and students of the Texas public schools.

In 2009, as the State Board of Education prepared for the revision of social studies curriculum standards, Ms. Cargill emailed an educator who had asked to be named to the curriculum writing team. Cargill asked: “Would you consider yourself a conservative when it comes to patriotism, the constitution, the heritage of our forefathers, etc?”¹⁴ We believe such a political litmus test for educators wishing to be involved in the curriculum revision process is entirely inappropriate. The Board’s ideological manipulation of the new social studies curriculum standards approved in 2010 was actually so extreme that even a review by the conservative Thomas B. Fordham Institute slammed the state board for its “politicized distortion of history.” The report explained that the board “avoid[ed] clear historical explanation while offering misrepresentations at every turn.” And furthermore, “the leaders of the State Board of Education made no secret of their evangelical Christian right agenda, promising to inculcate biblical principles” in public hearings and press interviews.¹⁵

The Nomination Committee should ask Ms. Cargill to address these actions and statements, and clarify her priorities when it comes to setting qualifications for “experts” who would be responsible for setting the curriculum standards for Texas students.

¹⁴ Gary Scharrer, “Conservative history idea for state ed slammed,” *San Antonio Express-News*, August 20, 2009. Available at <http://www.mysanantonio.com/news/education/article/Conservative-history-idea-for-state-ed-slammed-842689.php>.

¹⁵ Jeremy A. Stern and Sheldon M. Stern, *The State of State U.S. History Standards 2011*, Thomas B. Fordham Institute (2011). Available at http://www.edexcellencemedia.net/publications/2011/20110216_SOSHS/SOSS_USHistory_Texas.pdf.

Conclusion

In conclusion, Americans United has serious concerns about Barbara Cargill's nomination for the State Board of Education Chair position based on her record. We strongly urge the Nominations Committee to ask her to clarify her views regarding the use of accurate, evidence-based science education materials, the curriculum, guidelines, and oversight of Texas' Bible classes, and the use of her position to politicize education standards. The Chair of the State Board of Education must be willing to put students first when setting education policy for the state, and we urge the Committee to ensure that any candidate for the position would do so.