

February 28, 2023

The Honorable Joe Ellington
Chair
Education Committee
West Virginia House of Delegates
State Capitol Complex
Charleston, West Virginia 25305

**Re: Oppose SB 619—Teaching Intelligent Design in Public Schools Undermines
Science Education and Violates the Constitution**

Dear Chair Ellington:

On behalf of our West Virginia members and supporters, Americans United for Separation of Church and State urges you to oppose SB 619, which would authorize public schools to teach intelligent design—otherwise known as creationism—as a “theory of how the universe and/or humanity came to exist.” This is a clear violation of the U.S. Constitution.

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.”¹ Creationism, in contrast, is not science at all, but rather a religious teaching about “creation and the origin of man.”² Accordingly, federal courts, including the U.S. Supreme Court, have consistently and repeatedly held that public schools cannot teach creationism.³ Public schools are likewise prohibited from teaching

¹ Nat’l Acad. of Scis. & Inst. of Med., [Science, Evolution, & Creationism](#), 53 (2008).

² *McLean v. Arkansas*, 529 F. Supp. 1255, 1259 (E.D. Ark. 1982).

³ See *Epperson v. Arkansas*, 393 U.S. 97, 109 (1968) (striking down a state statute prohibiting the teaching of evolution in public schools, and explaining that the law was not religiously neutral because its “effort was confined to an attempt to blot out a particular theory because of its supposed conflict with the Biblical account.”); see also *Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707, 721 (M.D. Pa. 2005) (prohibiting the school district from requiring teachers to refer to “intelligent design” in science class because it is “nothing less than the progeny of creationism.”); *Freiler v. Tangipahoa Parish Bd. of Educ.*, 185 F.3d 337, 348 (5th Cir. 1999) (striking down an oral disclaimer casting doubt on evolution and referring to “biblical” alternatives); *Peloza v. Capistrano Unified Sch. Dist.*, 37 F.3d 517, 522 (9th Cir. 1994) (holding that a science teacher was properly required by his school district to teach evolution and refrain from discussing his religious views); *Daniel v. Waters*, 515 F.2d 485, 491 (6th Cir. 1975) (striking

intelligent design, which one federal court described as “nothing less than the progeny of creationism” that “cannot uncouple itself from its creationist, and thus religious, antecedents.”⁴

In *McLean v. Arkansas*, a federal judge struck down an Arkansas statute that required public schools to teach creation science alongside evolution, explaining that “[s]ince creation science is not science, the conclusion is inescapable that the only real effect of [the law] is the advancement of religion.”⁵ Subsequently, in *Edwards v. Aguillard*,⁶ the Supreme Court invalidated a Louisiana statute requiring the “balanced treatment” of evolution and “creation science” in the public schools. The Court declared the law unconstitutional because its “preeminent purpose . . . was clearly to advance the religious viewpoint that a supernatural being created humankind.”⁷ The Court explained that creationism “embodies a particular religious tenet” and efforts to promote it in public schools “endorse[] religion in violation of the First Amendment.”⁸ Because this bill would allow public schools to teach creationism in violation of the Constitution, it will inevitably⁹ result in expensive and losing court battles.¹⁰

In *Epperson v. Arkansas*, the Supreme Court struck down a state statute prohibiting the teaching of evolution in public schools, explaining that “the First Amendment does not permit the State to require that teaching and learning must be tailored to the principles or prohibitions of any [religion].”¹¹

Nonetheless, many denominations have issued statements explaining that their faith and evolutionary theory are not irreconcilable. As of February 22, 2023, nearly 16,000 Christian clergy members from across the country have signed a letter stating, “We the

down statute requiring schools teaching evolution to devote equal time to other theories, including Biblical account of creation).

⁴ *Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707, 721, 765 (M.D. Pa. 2005).

⁵ 529 F. Supp. 1255, 1272 (E.D. Ark. 1982).

⁶ 482 U.S. 578 (1987).

⁷ *Id.* at 591.

⁸ *Id.* at 593.

⁹ Allowing public school teachers to teach creationism, rather than requiring that they do, does not save this bill. Indeed, the Supreme Court has held that the “absence of any coercion . . . is irrelevant to questions arising under the Establishment Clause.” *Comm. for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 786 (1973); see also *Sch. Dist. Of Abington Twp. V. Schempp*, 374 U.S. 203, 223 (1965) (holding that Establishment Clause violations need not be predicated on coercion).

¹⁰ These costs would not be insignificant: The Dover Area School District paid \$1 million in legal fees to opposing counsel after losing the *Kitzmiller* case. Jim McClure, [15 Years Ago the Dover Intelligent Design Case Roiled Our Community. Here's What Happened](#), *York Daily Record*, Dec. 9, 2020.

¹¹ 393 U.S. 97, 106 (1968).

undersigned, Christian clergy from many different traditions, believe that the timeless truths of the Bible and the discoveries of modern science may comfortably coexist.”¹²

To be sure, the goals of science and religion are different. Science is “limited to the search for natural causes to explain natural phenomena.”¹³ 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.”¹⁴ It is religion where many people seek these important answers. But only families get to decide what religious beliefs they will teach to their children. And for many, promoting creationism conflicts with their beliefs.

Americans United is committed to protecting students’ and parents’ rights to have sound science, rather than religious belief, taught in public-school classrooms. Passing this bill will only harm West Virginia’s students, parents, and teachers by dragging them into a “legal maelstrom, with its resulting utter waste of monetary and personal resources.”¹⁵ We therefore urge you to reject SB 619.

Sincerely,



Nikolas Nartowicz
State Policy Counsel

cc: Members of the House Education Committee

¹² Clergy Letter Project, [An Open Letter Concerning Religion and Science](#), (last accessed Feb. 22, 2023).

¹³ *Kitzmiller*, 400 F. Supp. 2d at 735–36.

¹⁴ *Id.* at 735.

¹⁵ *Id.* at 765.