May 7, 2018

The Honorable Nancy Landry  
Chair  
Committee on Education  
Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

The Honorable Jeffrey Hall  
Vice Chair  
Committee on Education  
Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

Re: Oppose SB 253 and SB 512 – School Employees May Not Attend and Participate in Student Prayer During the School Day

Dear Chair Landry and Vice Chair Hall:

On behalf of the Louisiana members and supporters of Americans United for Separation of Church and State, I write to express our opposition to SB 253 and SB 512, which would allow public school teachers and other employees to participate in prayer with students during the school day.

Although students have the right to engage in voluntary, student-initiated, and student-led prayer, the First Amendment to the U.S. Constitution prohibits school employees from initiating or participating in the practice with them. Passage of these bills could make students of a different faith from the teacher or no faith feel pressured to join in prayer with teachers and coaches to feel included or avoid consequences. These bills would violate the Constitution, which would likely result in costly litigation. Accordingly, we urge you to oppose this bill.

These Bills Would Violate the U.S. Constitution

The Establishment Clause of the First Amendment requires that government officials and employees act neutrally with respect to religion.1 Public school officials, coaches, and teachers may not communicate a message either of endorsement or disapproval of religion.2 When school employees pray with students, however, it places the imprimatur of the school on the religious practice, violating the First Amendment.3 This is true whether

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1 See, e.g., McCreary Cnty. v. ACLU of Kentucky, 545 U.S. 844, 860 (2005).
3 See e.g., School Dist. v. Schempp, 374 U.S. 203, 222–26 (1963) (school officials violated Establishment Clause by leading students in recitation of Bible verses and the Lord’s Prayer at beginning of school day); Engel v. Vitale, 370 U.S. 421, 430–33 (1962) (school officials forbidden to lead students in classroom prayer at beginning of school day); Doe v. Duncanville Indep. Sch. Dist., 70 F.3d 402, 406 (5th Cir. 1996) (basketball
the school employee initiates or leads the prayer, vocally joins a student-led prayer, or even participates in a prayer by bowing their head or taking a knee with students.⁴

When school employees participate in these prayers, students feel pressured to join as well. Indeed, the Supreme Court has noted there are “heightened concerns” with protecting students from the “subtle coercive pressure in the elementary and secondary public schools” that comes from school-endorsed religious activities.⁵ Because students are “impressionable, and their attendance is involuntary,” courts are “particularly vigilant in monitoring compliance with the Establishment Clause in elementary and secondary schools.”⁶

In fact, the Fifth Circuit Court of Appeals, which governs Louisiana, has already struck down a prayer practice similar to that in SB 512. In that case, the school board authorized each classroom teacher to ask every day if a student wanted to offer a prayer in the classroom and, if not, to allow the teachers to offer the prayer.⁷ To participate in the prayer, a student had to turn in a permission slip from a parent.⁸ The court held the policy violated the Establishment Clause because allowing teachers to participate in prayer during the school day and on school property violates the fundamental constitutional principle that schools must not promote religion.⁹ This was true even though the policy required students to get written permission from their parents to join in prayer because a “violation does not depend upon the presence of actual governmental coercion.”¹⁰ Therefore, SB 512’s “parent-signed request” for students does not cure its constitutional violation.

**Louisiana Should Respect All Students Who Attend Louisiana Public Schools**

Praying is inherently religious, and choosing to engage in prayer is a deeply personal decision. No person, least of all a student in a public school, should feel compelled to pray to fit in or to gain favor from a teacher. But that is what SB 253 and SB 512 would do.

A student of a different denomination or minority religion might feel required to join in prayer with a teacher to earn a good grade in class and a student athlete might feel that he must pray to play. And because SB 512 requires that all students turn in a signed form to allow teacher prayer, a student with no religious beliefs may feel pressured by other students to turn in a form so that other students may pray. That student could even face
bullying or harassment for being a lone holdout or because it was made clear that they have different or no religious views.

Louisiana’s public schools serve students from a wide array of backgrounds, both religious and nonreligious. Decisions about whether, when, or how to pray should be left to parents and students themselves. No students should ever feel pressured by a teacher to pray or feel excluded at school because of their faith or beliefs. Instead, all students should feel welcome, whether they choose to pray or not.

These bills encourage school employees to violate settled constitutional law that prohibits school employees from participating in prayer during the school day. If either bill were enacted, they would make students feel pressured to join their teacher’s religious practices in order to feel welcome. Passage would certainly result in litigation, the costs of which local school boards will be forced to bear. Accordingly, we urge you to reject SB 253 and SB 512.

Sincerely,

Nikolas Nartowicz
State Legislative Counsel

cc: Members of the House Committee on Education