

January 16, 2024

SUBMITTED VIA EMAIL:
amy.grady@wvsenate.gov

The Hon. Amy M. Grady, Chair
Senate Education Committee
Senate Finance Room 451-M
Charleston, WV 25305

Re: Testimony in opposition to S.B. 280 and S.B. 152

Dear Sen. Grady and Committee members:

I am writing on behalf of the FFRF Action Fund (FFRF AF) to voice opposition to Senate Bills 280 and 152. FFRF AF is an affiliate of the Freedom From Religion Foundation, a national nonprofit organization with more than 40,000 members across the country, including many members in West Virginia. We work to ensure that our laws remain secular in order to protect the vital constitutional principle of separation between state and church.

S.B. 280: Intelligent design is religious education, not science.

The current text of S.B. 280 is short on details, only stating that public school teachers of K-12 students “may teach intelligent design as a theory of how the universe and/or humanity came to exist.” This is flatly unconstitutional because it is well established that teaching intelligent design is religious instruction, and public school teachers may not include religious instruction in their lessons.

Courts have routinely found that creationism and its offshoots, including intelligent design, are based on unsupported religious claims and doctrines rather than on scientific evidence. The Supreme Court has ruled that school officials may not prohibit the teaching of evolution (in the 1968 case, *Epperson v. Arkansas*, 393 U.S. 97) and has struck down teaching “scientific creationism” in public schools (in the

1987 case, *Edwards v. Aguillard*, 482 U.S. 578). Federal courts consistently reject creationism and its ilk in the public schools:

- **Freiler v. Tangipahoa Parish Bd. of Educ.**, 201 F.3d 602 (5th Cir. 2000) (reading a disclaimer before teaching evolution violates the Establishment Clause)
- **Peloza v. Capistrano Unified School District**, 37 F.3d 517 (9th Cir. 1994) (School’s prohibition on teaching creationism is valid because permitting a teacher “to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause.”)
- **Webster v. New Lenox Sch. Dist. No. 122**, 917 F.2d 1004 (7th Cir. 1990) (School board’s prohibition on teaching “creation science” is valid because the board has a responsibility to ensure that the teacher was not “injecting religious advocacy into the classroom.”)
- **Kitzmiller v. Dover Area Sch. Dist.**, 400 F.Supp. 2d 707 (M.D. Pa 2005) (a policy requiring students to hear a statement that intelligent design is alternative to Darwin’s theory of evolution violates the Establishment Clause)
- **McLean v. Arkansas Bd. of Ed.**, 529 F.Supp. 1255 (D.C.Ark., 1982) (the Arkansas Board of Education was permanently enjoined from taking actions pursuant to a state statute mandating “balanced treatment for creation science and evolution science” because the statute violated the Establishment Clause)

Every attempt to smuggle religion into science classrooms by means of “alternative theories” has failed. Any theory that “depends upon ‘supernatural intervention,’ which cannot be explained by natural causes, or be proven through empirical investigation, and is therefore neither testable nor falsifiable” is “simply not science.” *Dover*, 400 F.Supp. 2d at 717 (quoting *McClellan* at 1267).

Creationism, intelligent design, and other claims of supernatural intervention in the origin of life or of species are not science because they are not testable by the methods of science. These claims subordinate observed data to statements based on authority, revelation, or religious faith. Documentation offered in support of these claims is typically limited to the special publications of their advocates. These publications do not offer hypotheses subject to change in light of new data, new interpretations, or demonstration of error. This contrasts with science, where any hypothesis or theory always remains subject to the possibility of rejection or modification in the light of new knowledge. *Id.* at 737 (quoting the National Academy of Sciences).

In *Edwards*, the Supreme Court overturned a statute meant to encourage “academic freedom” and make the science curriculum more “comprehensive” by “teaching all of

the evidence regarding origins of life.” These purposes were not served because existing laws already allowed schools to “[teach] any scientific theory.” 482 U.S. at 587.

Evolution, like gravity, is a scientific fact. Teaching that there is a scientific controversy about the validity of evolution is akin to teaching astrology alongside astronomy or alchemy with chemistry. No controversy exists in the scientific community regarding the fact of evolution, and the teaching of “alternative” theories or a controversy in science classrooms is not only inappropriate and dishonest but also patently unconstitutional. Time and again courts exposed these alternative theories as an attempt to foist religious beliefs onto vulnerable and impressionable schoolchildren, often after a costly legal battle.

Finally, even if a science teacher believes in creationism or intelligent design, he or she represents the interests of a much more diverse population within their school district. It is wildly inappropriate for a teacher, whose duty is to educate, not indoctrinate, to push their personal religious beliefs onto a captive audience of public school students. Any teacher who feels passionately about the merits of creationism/intelligent design is free to teach that viewpoint to his/her own children or to ask that it be taught in his/her church, but does not belong in a science classroom.

S.B. 280 would invite costly and losing lawsuits for school districts, and would place public school administrators in the unfortunate position of having to choose between following a misguided state statute or following the U.S. Constitution. This committee should instead recognize its responsibility to stand up for the Constitution it has taken an oath to uphold, rather than to appease a vocal minority seeking to impose its fundamentalist interpretations of one religion’s scripture upon everyone else via our public schools.¹ This attempt to insert religious instruction into public schools must be rejected.

Further, it is the duty of the Senate Education Committee to ensure that it does not do a disservice to the workforce future of West Virginia’s students, leaving them unprepared to work in science-literate positions and ultimately compete on a global market. The proportion of U.S. citizens who accept evolution is still below the median

¹ “The level of public acceptance of evolution in the United States is now solidly above the halfway mark, according to a new study based on a series of national public surveys conducted over the last 35 years.” *Evolution now accepted by majority of Americans*, Science Daily, August 20, 2021, available at www.sciencedaily.com/releases/2021/08/210820111042.htm.

of 19 other nations polled,² and attacks against science, such as these bills, threaten America's scientific understanding as well as standing around the world.

S.B. 152: Displaying “In God We Trust” is divisive and promotes religion.

S.B. 152 would require every public school district to display posters with the national motto, “In God We Trust,” in every school building. This bill is modeled after pre-written legislation contained in the playbook of Project Blitz, a Christian nationalist campaign.³ The project is an unvarnished attack on American secularism and civil liberties—built on the lie that “America is a Christian nation.”

The Blitz seeks to legislate a religious foundation to rewrite America's secular history in order to redefine “religious liberty” to privilege Christians with “sincerely held religious beliefs.”

The playbook explains the plan: Normalize a Christian nationalist fantasy of “religious heritage,” especially among schoolchildren, and then point to that “heritage” to justify codified discrimination based on religion, among other things. The fact that S.B. 152 stems from this playbook alone should give the committee serious pause.

Even ignoring the bill's origin, the First Amendment to the U.S. Constitution provides students with the right to a secular public school system free from religious coercion. For an overwhelming part of U.S. history, America's motto was the purely secular “E Pluribus Unum” (From many [come] one), chosen by a committee of Jefferson, Adams and Franklin, which celebrates federal unity through the diversity of states and citizens. The motto “In God We Trust” was belatedly adopted by Congress during the Red Scare in 1956. The motto has miseducated the generations that came after it that the United States is predicated on God, rather than our godless Constitution, whose only references to religion are exclusionary (such as barring any religious test for public office and any government establishment of religion). Placing a McCarthy-era religious motto in public schools violates the rights of conscience of students and their parents, sending an inappropriate message on behalf of their school and their state that they are expected to believe in a monotheistic god.

² “Majorities across global publics accept evolution; religion factors prominently in belief,” *Pew Research Center*, Dec. 10, 2020, available at

www.pewresearch.org/science/2020/12/10/biotechnology-research-viewed-with-caution-globally-but-most-support-gene-editing-for-babies-to-treat-disease/.

³ See blitzwatch.org.

Nonreligious Americans are the fastest-growing segment of the U.S. population by religious identification—35 percent of adult Americans are non-Christians, and this includes the more than three-in-ten adult Americans (29 percent) who now identify as religiously unaffiliated.⁴ Younger Americans are not just religiously unaffiliated, they are largely atheist or agnostic. A recent survey found that 21 percent of Americans born after 1999 are atheist or agnostic.⁵ It would be a gross imposition on schoolchildren to force them to view a religious slogan every day in their public schools. Religious instruction or indoctrination should be left to parents, not to public schools.

Any assertions that the phrase “In God We Trust” is inclusive of non-Christian or nonreligious students would be disingenuous. It has never been a secret that supporters of this motto intend it to convey a religious message, and it is likely no coincidence that the committee is presently considering S.B. 152 alongside a bill to place religious instruction into public schools. The intent to favor a particular religious perspective, and to ostracize non-religious students, could not be much more obvious.

Forcing schools to plaster a religious motto on the walls of every school building serves no secular purpose whatsoever, and only divides students by telling nonreligious students or those from minority religions that they are not “true” Americans.

We urge the committee to reject these misguided bills and to focus on actions that will improve, not worsen, the quality of education for West Virginia’s public school students.

Sincerely,



Ryan D. Jayne
Senior Policy Counsel
FFRF Action Fund

⁴ About Three-in-Ten U.S. Adults are Now Religiously Unaffiliated Pew Research Center (Dec. 14, 2021), www.pewresearch.org/religion/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

⁵ *Atheism Doubles Among Generation Z*, The Barna Group (Jan. 24, 2018), www.barna.com/research/atheism-doubles-among-generation-z/.