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House Education Committee

Senate Bill 2400 – March 18, 2025

Testimony of Anna Rackley, P&A Legal Team Member

Greetings Chairman and members of the House Education Committee. My name is Anna Rackley and I'm a member of the legal team at the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency established in 1977 to assert and advance the human, civil, and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

P&A opposes SB 2400 as it will divert public funding from North Dakota public schools to fund private schools and homeschooling. If this bill passes it will impact the education of all public-school students with greater impact on students with disabilities and their special and general education teachers.

Education Savings Accounts (ESA) fund private schools that are not required to follow the same rules and regulations as public schools. Private schools accepting ESA funds are not required to serve all students. They can refuse admission or limit services for students with disabilities, since they are not required to adhere to the Individuals with Disabilities Education Act (IDEA). IDEA requires public schools to provide a free appropriate public education and related services to students with disabilities. Section 504 of the Rehabilitation Act of 1973 ensures equal opportunity for individuals with disabilities to receive program benefits and services and protects students from disability-based discrimination in schools.

Rather than financially funding private schools and homeschooling with public money, the focus should be on strengthening our public schools. Arizona became the first state to implement universal school vouchers by establishing the Empowerment Scholarship Account (ESA) program in 2022. In 2024 ED Trust, a policy and advocacy organization, published Arizona ESA data with the following information:

- Vouchers created a huge additional cost for the state, most students using vouchers didn't previously have their education paid for by the state.
- Most students using the program come from private or homeschools (52.4% in 2024 and 71.2% in 2023), meaning the state wasn't previously paying for their education.

- Every public school in the state is, on average, receiving \$300,000 less in state funding because of the voucher program's growing costs.
- Despite fewer funds, Arizona's public schools continue to educate 92% of the state's students.
- Funding for the voucher program represents 53% of all new investments in K-12 education, even though only a tiny percentage of Arizona's students are using the program.

ESAs provide private schools and homeschoolers funding for services public schools are not funded to provide. These include fees, or payments for educational therapies including tutoring, and tuition or fees for nonpublic online education programs. Mental health assistance, medical appointments necessary for educational benefit and educational camps can also be paid for through ESAs. While public school lunch bills have not passed in this session, ESAs can be used to pay for meals served to students in private school buildings.

Every child deserves access to a strong public education, not a system where only a select few get the best opportunities. Public dollars should be used to strengthen North Dakota's public schools, which are for all students including those with disabilities, not for subsidizing private schools and homeschooling that serves only a few.

P&A ask that you recommend a Do Not Pass on this bill. Public education funds are crucial for maintaining a robust educational environment that benefits all children in North Dakota including students with disabilities.

Thank you for your time and consideration.

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