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**SB 2303**

**Testimony of Amy De Kok  
Senate Education  
February 4, 2025**

Chairman Beard and members of the Senate Education, my name is Amy De Kok. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 168 North Dakota public school districts and their governing boards. I am writing to express our opposition to SB 2303, I am here to express my strong opposition to Senate Bill 2303, which proposes the creation of an Education Savings Account (ESA) voucher program. While the intent of this legislation may be to expand educational choice, it lacks critical accountability measures to ensure public funds are spent appropriately and presents a substantial financial burden to the state of North Dakota.

**Lack of Appropriate Accountability Measures**

SB 2303 provides for the allocation of public funds to private and home-school students but includes minimal oversight regarding how those funds are actually spent. Although the bill states that ESA funds must be used for "qualified expenses," it does not establish an effective enforcement mechanism to prevent misuse, nor does it provide for strong penalties for those who misappropriate funds.

The proposed auditing requirement—limited to random annual audits—is inadequate to ensure financial integrity. Unlike public schools, which are required to submit detailed budgets, financial reports, and undergo frequent state audits, this bill places trust in ESA recipients to self-report their expenses with little oversight. There is no systematic verification process for all participants, meaning a vast majority of funds could go unchecked.

Moreover, the bill does not specify who will be responsible for investigating improper expenditures beyond referring cases of "substantial misuse" to law enforcement. This vague standard makes it unclear what threshold would trigger an investigation and leaves taxpayers without confidence that their dollars are being properly managed.

Another major issue is the lack of clarity around what constitutes a "qualified" educational expense. The bill lists broad categories, such as "curriculum," "private tutoring," and "computer hardware or software," without defining what is necessary or educationally appropriate. This ambiguity has led to

abuse in other states, where ESA funds have been used for items ranging from concert tickets to expensive luxury goods, rather than legitimate educational expenses.

### **Examples of Fraud and Misuse in Other ESA Voucher Programs**

We have seen how similar ESA voucher programs in other states have led to widespread fraud and abuse due to insufficient oversight. Consider the following examples:

#### **1. Arizona's ESA Voucher Program:**

- A 2018 audit of Arizona's ESA program revealed more than \$700,000 in fraudulent purchases made with taxpayer funds. Parents used ESA money to buy non-educational items, including cosmetic surgery, movie tickets, and even athletic apparel. Because there was no requirement for direct payments to approved providers, some parents simply withdrew the funds and spent them however they pleased.
- The Arizona Auditor General also found that ESA funds were being used for unapproved expenses at an alarming rate, with many cases slipping through due to poor oversight. Even when the state identified misuse, it failed to recover the lost funds in many cases.

#### **2. Florida's ESA Voucher Program (Gardiner Scholarship Program):**

- Florida's program suffered similar issues when an investigation revealed that parents spent ESA funds on non-educational purchases such as televisions, clothing, and theme park tickets. The state had no mechanism in place to verify whether purchases were truly educational, leading to significant taxpayer losses.
- Some private schools that accepted ESA funds were later found to be failing to provide basic education, with little to no academic accountability standards.

#### **3. Nevada's ESA Voucher Program:**

- When Nevada launched an ESA voucher program, hundreds of applicants were found to be ineligible but still attempted to claim funds.
- The state also faced challenges in tracking and approving expenses, leading to potential fraud and significant delays in processing payments, frustrating both families and state officials.

These cases illustrate the dangers of implementing an ESA voucher program without strict safeguards in place. If North Dakota follows the same path without adding stronger accountability provisions, we will likely see similar instances of fraud and waste.

## The Substantial Cost to the State

Beyond the accountability concerns, the cost of this program is staggering. Based on the estimates provided in the fiscal note:

- **Non-Public School Students:**
  - Year 1: 7,945 students x \$8,858 = **\$70,376,810**
  - Year 2: 7,986 students x \$8,858 = **\$70,376,988**
  - **Total for Non-Public School Students: \$141,116,798**
- **Home-School Students:**
  - Year 1: 5,537 students x \$8,858 = **\$49,046,746**
  - Year 2: 5,566 students x \$8,858 = **\$49,303,374**
  - **Total for Home-School Students: \$98,350,374**
- **Implementation and Additional Costs:**
  - **Management System: \$3,500,000**
  - **Multi-Level Marketing Package: \$100,000**
  - **Grand Total: \$243,067,172 for the biennium**

This represents an enormous financial burden on the state, diverting public funds away from the public education system, where money is subject to much stronger accountability measures.

SB 2303 lacks the necessary safeguards to ensure fiscal responsibility and would place an unsustainable financial burden on the state. Without proper oversight, public dollars could be misallocated, fraud could become widespread, and taxpayers would have no way of ensuring their money is being used to truly benefit students.

The lessons from other states are clear: ESA voucher programs without robust accountability measures lead to misuse, fraud, and the diversion of public funds to unapproved expenses. North Dakota should not make the same costly mistakes. Instead of implementing a loosely regulated ESA voucher program, efforts should focus on improving our public education system, where taxpayer dollars are already subject to transparent and effective oversight.

For these reasons, I respectfully urge the committee to oppose SB 2303. Thank you for your time and consideration. I welcome any questions.