



NDSBA
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SB 2354

**Testimony of KrisAn Norby-Jahner
Senate Education
February 10, 2025**

Chair Beard and members of the Senate Education Committee, for the record my name is KrisAnn Norby-Jahner. I am in-house legal counsel for the North Dakota School Boards Association. The NDSBA represents all 168 North Dakota public school districts and their boards. The NDSBA currently supports and has assisted in the development of similar legislation as proposed in [HB 1160](#), but also offers support and proposed amendments to SB 2354.

The NDSBA is supportive of legislation that allows school districts to maintain local control in accordance with the individual needs of a specific student body and community. Local control allows school boards and administration to work directly with students, parents, and educators in a school district to develop policies that reflect the direction each district wants to take in addressing wireless communication devices. There are a number of positive aspects and capabilities of electronic devices in the educational environment that make it preferable for a school district to maintain flexibility, particularly in relation to an educator's preferred method of instructional use and a student's need for support in relation to medical needs, disability-related needs, individualized education programs, ELL needs, etc.

The proposed legislation in SB 2354 appropriately maintains local control and provides exceptions for instructional use, the management of a student's health care, and use in accordance with a student's Individualized Education Program (IEP) or Section 504 plan. Our additional proposed amendments to SB 2354 are outlined below with accompanying rationale:

1. **Lines 13-16 (page):** *Except as provided in subdivisions b and c and subsection 3, minimizes or prohibits a student from using a wireless communication device during ~~school hours~~ instructional time;*

Rational for Revision: As a practical matter, a public student's time in school buildings and educational activities is often classified as "instructional time" and "non-instructional time." The NDSBA is supportive of [HB 1160](#), which specifically defines and differentiates between the two. We would support a revision that provides a similar distinction.

2. **Lines 16-17 (page 1):** Authorizes the school board, administration or a teacher to allow a student students to use a wireless communication device for educational purposes during instructional time or to use a wireless communication device during non-instructional time;

Rationale for Revisions: Public school districts typically formulate and adopt policies and regulations at the school board and administrative levels that apply to all students. In order to ensure consistency in current practice for policy development and application (particularly after a school district receives stakeholder input as required in subsection 4 of the proposed SB 2354), schools need to be able to maintain control at all three levels – school board, administration, and teacher.

In addition, some school districts currently allow (and may want to continue to allow based on stakeholder input) for electronic device use during non-instructional time.

3. **Lines 18-17 (page 1):** Permits a student to use a wireless communication device to manage the student's health care, as ~~determined~~ documented by a licensed ~~physician~~ treating provider or in accordance with an Individual Health Plan;

Rationale for Revision: School districts are required to accommodate a student's documented disability in accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, as documented by a treating provider (which may include a physician, physician's assistant, nurse practitioner, etc.). However, Individualized Health Plans (IHPs) which are more typically created to address a student's medical needs in the school environment are actually developed and "determined" by a team that also includes the student's parents and school personnel.

4. **Lines 23-24 (page 1); Lines 1-2 (page 2):** The policy under subsection 2 may not prohibit a student from using a wireless communication device during school hours if the use of the wireless communication device is included in the student's individualized education program in accordance with the Individuals with Disabilities Education Act [29 U.S.C. 1400], or plan developed under section 504 of the federal Rehabilitation Act of 1973 [29 U.S.C. 794], or in accordance with any other applicable law.

Rational for Revision: There are additional plans that may be developed under special education laws that may require accommodation (including behavioral intervention plans and individual learning plans). Also, because the legislature cannot anticipate every new law or regulation that may come into effect, this additional language provides flexibility for compliance without having to continually revise state legislation.

Thank you for your time in considering these proposed amendments, information, and rationale provided for each proposal.