

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1451

2007 HOUSE EDUCATION

HB 1451

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1451**

House Education Committee

Check here for Conference Committee

Hearing Date: **24 January 2007**

Recorder Job Number: **1761**

Committee Clerk Signature

Jan Prindle

Minutes:

Chairman Kelsch opened the hearing of HB 1451.

Representative Scott Kelsh, District 11, introduced the bill. This bill is essentially a prohibition on the sale of carbonated beverages to elementary and middle school children during school hour. I've become aware of the alarming rise of obesity in our children and I thought that one way to stem that tide is to take schools out of the business of selling soda pop to our children. I think it creates behavioral problems notwithstanding other health problems. I think we should take a policy position. I can quote you some figures. There's a 54% increase in obesity among kids since 1960. For every soda consumed there's a 1.6% increase in the risk of obesity for kids. Calcium levels and phosphate levels in the bloodstream were superimposed in the bones. That can be a major contribution to osteoporosis in later life. It's time to make this change try to get our kids a little bit healthier.

Representative Herbel: Which is more of a problem? Kids going home after school and sitting on the couch to watch TV and eat potato chips and drink pop at home or drinking soda pop in school.

Representative Kelsh: They are both problems. It is a problem we are facing as a society and I think we are going to pay a price later on. This may be the first generation of kids that may have a shorter life span than their parents.

Representative Herbel: So then do we legislate that the TV goes off at 4 o'clock or supertime or something like that?

Representative Kelsh: No, but this is an area that the state has control over.

Chairman Kelsch: So this bill doesn't directly address the sugar issue like we heard in the last session. This would address strictly carbonated beverages that would include carbonated water as well. Is that correct.

Representative Kelsh: It would include carbonated water. It does not address sugar issues.

Representative Herbel: In our school Pepsi and Mountain Dew have a big logo in the middle of the gym because they reimburse us some of their profits. That would probably require them to remove that logo because they are not going to make a profit. How do we deal with that?

Representative Kelsh: It's a very good question and good point. This bill, I think, gives the school board some help because they can say we have a state law that prevents us from doing this.

Chairman Kelsch: This says during the school day. What about a tournament that would be held in a school gym that would have concessions that may not be outside of the school day. Some of those take place at one o'clock in the school day.

Representative Joyce Kingsbury, District 6, testified in favor of the bill. I signed on to the bill because it is a good bill. It would help promote healthy diet habits for students. School lunches started making changes in this direction and I think this is another positive step. As far as removing the logo, I believe the machines can be locked during the school day. They can be open for tournaments and holidays and ready for sale. We cannot control what people do in their daily life. We should just promote some healthy habits for our students. I would urge your support for this bill.

Representative Herbel: We lock our machines during tournaments and sell from the concession stand. There is more profit involved.

Representative Kingsbury: It's the same product that comes out of the machine.

June Herman, senior advocacy director, American Heart Association, testified in favor of the bill. **(Testimony Attached.)** She urged the committee to adopt an amendment to have school districts when they renegotiated their vending contracts to use the national Memorandum of Understanding between the American Heart Association Alliance for a Healthier Generation negotiated with the beverage companies.

Representative Herbel: Education is the way to go. Educating kids in the significance of health habits. I think the schools did fine to change the hot lunch program. Because of the education that we're doing, do you have any statistics that indicate that kids are using less carbonated beverages in the schools? Has that kind of thing declined at all?

Herman: We have schools that have made the change to healthier vending. They show that kids are buying more milk and other beverages. Children are shifting over. Education is a major part of our program nation wide. We also need a support system. That's why our organization sought out the national beverage contract. We're also encouraging states to take a look at what they can do by working together.

Vice Chairman Meier: How many other states have adopted these policies?

Herman: Each state is continuing to take a look at vending policies. The amendment I brought to you today is unique but I was looking for a solution to reach the issue that Representative Kelsh and the cosponsors were bringing forth. I do want to build awareness to the fact that we do have a national agreement. I think this is a good step for ND to take. It is hard for a state to put their arms around what beverage guidelines to use. That debate is going on in a number of legislatures across the nation. I can't provide the Committee with

what has existed up to this point but I will say this amendment making reference to a national agreement is probably the first step of any state.

Representative Haas: That memorandum of understanding you provided has it been distributed to all the beverage companies in the state? If so, how long have they had it?

Herman: I defer that question to a representative here today. I know they are aware of the memorandum of agreement. It was signed in 2006 and there was some national media to it.

Representative Mueller: I'm excited about this arrangement you are talking about. Is in the agreement any education component? Education can help with the problem we will have by not paying attention to these health issues. Is that in this agreement? Education?

Herman: It speaks to a cooperative arrangement by all to continue to work on this issue. The material provides a web link to the Alliance. If you were to go there you would see that there is information for parents, schools, industry. We are looking at all facets of this issue to start building a healthier generation. There's also a pilot project going on that extends from the schools in MN, the Healthier Schools Program. Also in Wisconsin, we have people to work with the schools on healthier policies. It may be hard for individual schools to keep track of what is recommended for not just beverages, but school foods. They are building wellness plans in those schools in the whole school environment and for the family to help educate them. I would say there's a great deal of commitment and work that's going on.

Representative Mueller: What is the beverage industry going to get out of this agreement? We're going to hear this issue from some of the school districts as to what benefits they have received by allowing some of this stuff to go on. Is there any indication that the beverage industry will not support schools and facilities in the way they have in the past?

Herman: We have the major beverage companies all signing on board so they are committed to change over the offerings for the students in the school. I imagine they would remain as competitive as always in getting their product into the schools. I would see that all carrying on.

Representative Herbel: When I look at calorie intake, class exercise and that type of thing, I would say that the calories in juice are greater than in pop, why would you not include that?

Herman: If you look at the agreement, there is an explanation why juice is acceptable at some levels where they provide some benefit.

Dr. Todd Twogood, pediatrician at MedCenter One, and president of the American Academy of Pediatrics for ND, testified in favor of the bill. **(Testimony Attached.)** I'm here with a team of people who have been working closely together for the last several years to fight childhood obesity. This is a national priority. The American Academy of Pediatrics has put forth pillars of priority and this is at the top. It is one the nation's leading agendas and has become our state agendas as well. We have set some fine examples: Bismarck Public Schools have taken vending machines out of the school system. It's successful. If we take this and say we in ND will be the first state in US to have this sort of priority we will set an example across all states. It would be a proud day for ND. There are other examples that have taken the vending machines out of the schools, but not a statewide process. In Brainerd MN where they have taken harmful beverages out of the schools, the beverage companies have been competitive about putting the school logo on bottled water to preserve their representation there. It hasn't disrupted the process of reimbursement towards the schools. What we want to do is put forth that effort in the US to say we are the example for fighting childhood obesity and preventing health issues in our children.

Dr. Parag Kumar, pediatrician, MedCenter One Health Systems, testified in favor of the bill. **(Testimony Attached.)** His testimony included some significant facts about the dangers to children from drinking soda pop.

Karen Ehrens, registered dietician, and member of the Healthy School Alliance, testified in favor of the bill. **(Testimony Attached.)** She provided the Committee with a position statement on school vending issues. **(Attached.)**

Opposition: None

Neutral:

Tom Woodmansee, representing MidWest Cocoa Cola: We do not appear in opposition to HB 1451, but only encourage that if you choose to pass this legislation do adopt the amendments presented by June Herman. All the major beverage companies, in May of 2206, agreed to this. We haven't even got to a full year yet as to the implementation of the coalition. To the best of my knowledge all of the bottlers in ND, as contracts come due, have tried to follow the guidelines. Give us the chance to see what we can do. It's only been there since May. I guess that's the decision this Committee will have to make whether they mandate what individual school districts may or may not. Give the school districts a chance to follow this policy and if not, address it again as we did last session.

Representative Haas: Why can't the existing contracts be modified before their termination date?

Woodmansee: I don't know. I suppose they could. I talked to the bottler out in Dickenson and they assure me they have done everything they can with all the districts they work with to encompass these guidelines. I suspect they could. I was told yesterday that all the bottlers as the contracts come due, have attempted to follow this national guideline. Again, it's only been in place since May.

Representative Mueller: What's the length of these contracts? I suppose they are all over the board.

Woodmansee: They are. I think most of them are on a year to year basis. Based on the competition between the two major bottlers, Pepsi and Coke, some may ask for two, three, or four years depending upon the dollar amount invested.

Linda Glaser, director of Child Nutrition Programs, DPI, testified neutral on the bill.

(Testimony Attached.)

Representative Hunskor: If there is pop in schools, kids buy that pop. If there is no pop in school a couple of superintendents have indicated that students sneak the pop in one way or the another and have a foreign substance in the pop for whatever kick they may get out of it. Have you heard from any districts that this is a problem.

Glaser: I have heard comments regarding that at schools that have taken all beverages out of the schools. I would say that would be something that we would need to be monitoring at the school level.

Representative Mueller: You talk about polls. You found no elementary schools selling carbonated beverages. Did this poll include everybody? Is it a sampling?

Glaser: The poll was a message that was sent out to the 12 largest school districts in ND. We received responses from 8 and they said they do not sell carbonated beverages at all in elementary or middle school. If there are machines in those schools, they are shut off until after the school day.

Representative Mueller: You also mentioned guidelines in your testimony in terms of dealing with some the issues that are about healthy activities and healthy schools. What does that mean when you set guidelines? Are there any standards by which those guidelines need to be set?

Glaser: There are dietician guidelines, there are many models at the national level and the state level that every district has developed. School districts can use those when developing their standards. There are a variety depending on the school districts size and the point they are at in addressing their local wellness policies. I do know that at the federal level there is some legislation initiative that would address our national standards.

Representative Herbel: Why not remove all artificially sweetened drinks from the school not just carbonated.

Glaser: This is a step by step process and there is income taken in by those vending machines. Children do need the opportunity for beverages to remain hydrated.

There being no further testimony, Chairman Kelsch closed the hearing of HB 1451.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1451

House Education Committee

Check here for Conference Committee

Hearing Date: 29 January 2007

Recorder Job Number: 2188

Committee Clerk Signature



Minutes

Chairman Kelsch opened discussion of HB 1451. I know that there are some amendments that have been offered. What are your thoughts on the bill?

Representative Herbel: The beverage dealers are working on a program that will do exactly what those people want. I guess I wouldn't mind seeing that be implemented through those recommendations that they have instead of trying to amend it. Let it happen.

Vice Chairman Meier: I think that is an excellent idea.

Representative Haas: I have had several emails from the major beverage distributor in Dickenson. He said they had been working with the Dickenson School District for the past five years on changing what they put in their beverage machines to have more healthy choices. He said they have a set of criteria to make these decisions. I wrote back asking him to send me a copy of his criteria. It was identical to the document we received in Committee that the National Alliance had put together with the major beverage distributors at the national level. I think it is probably being done.

Representative Mueller: I'm not sure this isn't happening but can just blanket it and say it's going on all over the place and everything is fine. My suggestion is to look at it in a subcommittee setting and see if there are some pieces and parts. I think it's a big issue. The school health thing is not going away and I think we should play a part in making a better

situation of this. I would not support a do not pass. We need to look at it in a little more

depth by looking at the agreement. Maybe we do not need to do anything, but I don't think we know that at this time.

Representative Herbel: I agree to some degree. At the same time if people are working on this and we mandate something, I'm not sure what their efforts have accomplished. I think it is being addressed and I'm not sure I want to support legislation to not effectively work with these people.

Representative Hanson: If Dickenson has been working on it for 5 years, it's a slow process. We had a bill like this two years ago and nothing has happened. I think we need to go through with the bill either up or down.

Representative Karls: I think we need to take more of a look.

Chairman Kelsch: One question that comes to my mind, if we chose the course to let this new standard criteria evolve and then come back in two years and look at the progress. June (Herman), how successful do you think the new program is going to be.

June Herman, American Heart Association: I brought an amendment that emphasized the work that we are seeing done at the national level. I think we will run into the same situation in two years where you will have one element coming forward to ask the legislature to take action. You will hear the same arguments again. We think that by stepping forward with a bill that puts the spotlight on the national agreement as a standard, you can level the playing field.

Chairman Kelsch appointed a subcommittee to look at options and bring recommendations to the Committee. Serving are **Representatives Herbel, Karls and Mueller.**

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1451

House Education Committee

Check here for Conference Committee

Hearing Date: **5 February 2007**

Recorder Job Number: **2797**

Committee Clerk Signature



Minutes:

Representative Herbel: There was an amendment that was offered by the Heart Association that simply says, "At the end of the current contracts, the school district shall renegotiate all vending contracts. . . ." It appears the schools are heading that way now and many are already in compliance with Alliance for Health. This amendment would at least require they do this. I talked to Tom Woodmansee and he said they are all heading in that direction themselves. At the breakfast last Monday with the superintendents, a fair number said they were doing it now. Just to make sure they do it, **I move the amendments included in the testimony of the American Heart Association.**

Vice Chairman Meier: I second.

Representative Herbel: I know you are getting emails from beverage dealers that don't want the bill but they are not aware of the amendment. The amended version would be satisfactory to the beverage industry.

Representative Mueller: The other important thing about the amendments is that they eliminate some of those harsher prohibitions. That is important.

A voice vote was taken on the Amendment. The amendment was accepted.

Representative Karls: I move a Do Pass as Amended.

Representative Herbel: I second.

Representative Herbel: I think this is the right move because we recognize the obesity

problems we are facing nationwide. As a state legislature this gives us an opportunity to take a step in making statement that we do support healthy choice even without mandating that schools make significant changes, I think this is the right way to go.

Vice Chairman Meier: The Bismarck School District currently does not allow carbonated beverages. I had a chance to visit with some of the students and they are not missing them.

Representative Herbel: As far as the districts losing revenue, there are other items than can be placed in these machines.

Representative Karls: Something came to mind while attending the St. Mary's carnival. They have a whole bank of pop machines. Do private schools need to follow this policy?

Chairman Kelsch: This would only apply to public schools.

Representative Johnson: This is just one more piece of legislature that we are introducing where schools are already doing it. What are we trying to accomplish with this?

Vice Chairman Meier: There are actually some that do not have this policy.

Representative Mueller: I would like to think that there are a great number already doing it. Title 1 of the federal policy says you need to develop wellness policies in your schools. There is no choice for those that want to get Title 1 funds, but what we are doing with this legislation is that it supplements and adds to the requirements of Title 1. I don't think they have all done it and I think this adds those that aren't doing it. They will now.

A roll call vote was taken: Yes: 11, No: 0, Absent: 2 (Haas and Solberg)

HB 1451 passed as amended.

Date: 5 Feb 09
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1451

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amended per Am Heart Assn

Motion Made By Herbel Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep Hanson		
V Chairman Meier			Rep Hunskor		
Rep Haas			Rep Mueller		
Rep Herbel			Rep Myxter		
Rep Johnson			Rep Solberg		
Rep Karls					
Rep Sukut					
Rep Wall					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

Passed

If the vote is on an amendment, briefly indicate intent:

Date: 5 Feb 07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1451

House Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do Pass as Amended

Motion Made By Karls Seconded By Herbel

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓		Rep Hanson	✓	
V Chairman Meier	✓		Rep Hunskor	✓	
Rep Haas	0		Rep Mueller	✓	
Rep Herbel	✓		Rep Myxter	✓	
Rep Johnson	✓		Rep Solberg	0	
Rep Karls	✓				
Rep Sukut	✓				
Rep Wall	✓				

Total Yes 11 No 0

Absent 2 (Haas + Solberg)

Floor Assignment Herbel ()

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1451: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1451 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "prohibition on" and remove "carbonated"

Page 1, line 6, remove "- Prohibited", replace "The" with "At the expiration of all current school vending contracts, the", and replace "may not allow the" with "shall renegotiate all vending contract extensions or new contracts to meet or exceed the 2006 school beverage criteria established by the American beverage association and national industry leaders for school vending"

Page 1, remove lines 7 through 9

Page 1, line 10, remove "which elementary or middle school students have access" and replace "prohibition" with "directive"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1451, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1451 was placed on the Sixth order on the calendar.

Page 1, line 8, after the second "the" insert "alliance for a healthier generation and adopted by the"

Renumber accordingly

2007 SENATE EDUCATION

HB 1451

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1451

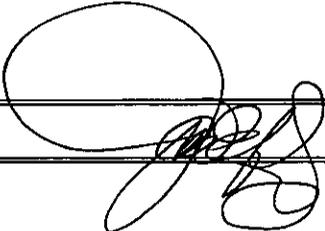
Senate Education Committee

Check here for Conference Committee

Hearing Date: March 5, 2007

Recorder Job Number: 4329, 4332

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on HB 1451, a bill relating to the sale of beverages on school property. All members were present.

Representative S. Kelsch introduced the bill. He took a personal interest in this issue when he heard of the increased obesity rates in children; most of the reason behind it is soda. We should take the schools out of the business of selling soda. In the House, an amendment was added to meet or exceed the criteria set by the Alliance for a Healthier Generation. This could be the first generation that fails to outlive their parents. He supports the hog house amendment made in the House.

June Herman, American Heart Association, testified in favor of the bill. (Written testimony attached)

Senator Gary Lee asked if the schools already have access to the information she provided and how are current contracts aligning with the guidelines.

Ms. Herman said a number of schools have improved their policies. There is no mechanism in Department of Public Instruction to capture the information about contracts.

Senator Taylor asked if any other states are using the language in the policy.

Ms. Herman said in many other states, they have established nutritional guidelines. We would avoid this by referring to the guidelines. It gets very specific in some other states.

Karen Ehrens, North Dakota Dietetic Association, testified in favor of the bill. (Written testimony attached) She also distributed written testimony from Dr. Mike Goebel.

Senator Gary Lee asked how her school was able to become a place where her child is not exposed to soda.

Ms. Ahrens said her school district put together a team and developed a wellness policy that addresses daily exercise and foods sold outside mealtime.

Parag Kumar, pediatrician at Medcenter One, testified in favor of the bill. (Written testimony attached)

Jerry Messer, dairy producer from Richardton, testified in opposition to the bill. (Written testimony attached)

Senator Taylor asked if dairy producers participated in the group that established the guidelines.

Mr. Messer said yes, and they will continue their work to help them understand their stand on the issue. They are trying to work as an industry on this issue. They are also working with the industry to develop round resealable plastic containers that can be used in vending machines.

Senator Taylor said he is a whole milk drinker. Will children drink more milk with fewer choices available?

Mr. Messer said in North Dakota they will drink less milk. Their choices will be more limited in vending machines or on the Ala carte line.

Mary Wahl, North Dakota Council of Educational Leaders, testified in opposition to the bill.

Federal law required all schools to develop a wellness policy by the first day of school in 2006 school year. It has happened across the state, all schools have addressed wellness. They

have established policies that work for them. In the fall of 2006, Department of Public Instruction did a survey to see if North Dakota schools have met the requirements to develop a wellness policy. Of the 229 North Dakota school districts, over 150 responded to the survey. She distributed a summary of the survey results (attached). Most school districts had nutritional guidelines and had made changes to the beverages and foods offered in the schools. The school districts will continue to massage their policies as needed. The schools have responded to the federal laws. They have done it locally, it might not be the way you would do it but it is the way the local folks want to do it. They can change their policy if they want to.

Bev Nielson, North Dakota School Board Association, testified in opposition to the bill. Mary did a good job of explaining their stance on the bill. It is unnecessary and micro managerial. The schools are working with their policies.

Senator Bakke said if the districts are already doing this, why she objects to it.

Ms. Nielson said it is unnecessary to put it into law. We do this at the local level. Some things don't happen overnight.

Senator Taylor said as the local policies were developed, were there any issues dealing with the dollars involved in beverage contracts by the schools.

Ms. Nielson said in the last couple of years it has not been an issue. Before that, it was an issue. Now the beverage companies see the writing on the wall. The beverage companies will continue to make money.

Tom Woodmansee, representing Midwest Coca Cola, testified in opposition to the bill. They would like the word "exceeds" deleted from the bill if it passes.

Senator Bakke asked if Coke has other products to put in the vending machines.

Mr. Woodmansee said yes, bottled water, juices. Their concern is the word exceed.

Senator Bakke asked if there is a move in the industry to provide healthier options in vending machines.

Mr. Woodmansee said yes.

Lance Gokey, Pepsi bottler from Minot, testified in opposition to the bill. He agrees with the guidelines. He doesn't like being told what to do. His son is an athlete and does not drink pop during the swimming or tennis seasons. Telling kids not to do something is an invitation to do it. He has had vending machines in the schools for years and they are turned off until an hour after the final meal of the day is served. He would hate to see the guidelines become law because they could change. They produce no calorie flavored water, Gatorade and juices. People should be free to choose. In the Minot schools, no Pepsi, Coke or Mountain Dew is available outside the teachers lounge. We tend to pick on soft drinks. The schools give kids inadequate time to eat, cheese burgers and fries for lunch and inadequate gym classes and wonder why kids are fat. He feels put upon.

Linda Glaser, Director of Child Nutrition Programs, Department of Public Instruction, testified in a neutral position. (Written testimony attached)

Senator Bakke asked about food choices, candy and chips. We are resting this on the beverage companies.

Ms. Glaser said the local wellness policies address all foods and include fundraising and school parties.

Senator Bakke said this bill pinpoints beverages, are other foods an issue?

Ms. Glaser said people are aware of beverages; most schools are starting with vending machines.

Senator Taylor asked if schools are ignoring the milk part of the guidelines.

Ms. Glaser said many schools are not considering milk.

Chairman Freborg closed the hearing on HB 1451.

Senator Taylor said we heard there is a problem with the word exceed. If we deleted it, could the schools still exceed the guidelines or would they be limited? He then said after looking at written testimony from June Herman, the word exceed is necessary if a school district wants to go beyond the guidelines.

Senator Bakke said for discussion, this is only going after the beverages. A student during the break pointed out to her that there are convenience stores close to many schools where students go to buy soda and candy. Maybe more education is needed. There are other bad eating choices that kids make.

Senator Taylor said we have seen similar bills in previous sessions and the different approach is appreciated. The bills are usually about beverages. He is concerned about milk. There is a lot of good in whole milk. One has to consider the good fat/bad fat issue. There should be a flavor option in the cafeteria. If the bill just applied to vending and concessions, take out cafeteria, that would help. That would allow high calorie milk in the cafeteria.

Senator Bakke asked if the banned beverages would be available in the school building for adults.

Chairman Freborg pointed out there are no nutrients in diet soda but V8 has a lot of sugar.

Senator Flakoll asked if high energy drinks were discussed.

Senator Bakke said we heard about flavored water and Gatorade.

Chairman Freborg said pep drinks were not discussed. We did talk about flavored milk.

Senator Bakke said some kids won't drink milk unless it is flavored.

Chairman Freborg said some good strides have been made since we heard a similar bill last session.

Senator Bakke asked if there is a wellness program requirement in Century Code.

Chairman Freborg said he doesn't know.

Ms. Herman who was sitting in the room said it is a USDA federal law.

Chairman Freborg said we need to confine our discussion to the committee.

Senator Bakke had the intern look for the wellness policy in Century Code and he did not find it.

Senator Flakoll said the Alliance for a Healthy Generation says in the document distributed during testimony at the bottom of page 6 it is "not the intent to set standards or change any laws."

Senator Taylor said as he reads the bill and looks at the MOU, the bill is referencing just the beverage criteria, the other language doesn't pertain.

Senator Flakoll asked what the penalty for a violation of this law would be.

Chairman Freborg said he doesn't know.

Senator Taylor said he opposed the bill two years ago. He gives them credit this time for defining the good and bad beverages and defining nutrition, based on calories and serving size. He doesn't believe the milk part.

Chairman Freborg asked if it allows pop at extra curricular activities.

Senator Bakke said yes, the vending machines are plugged in after school.

Chairman Freborg said concessions take in lots of money during games.

Senator Bakke said the trend is nice, many athletes don't drink pop. They seem to be getting the message.

Senator Flakoll said he wonders how much pop is brought into the school buildings.

Chairman Freborg said some convenience stores have to limit the number of kids who can be in the store at once.

Chairman Freborg said the kids like to go downtown and buy candy and pop.

Senator Bakke said we can impact these things when they are in school. She has a problem with the milk issue.

Chairman Freborg asked if students can bring in pop in their backpacks.

Senator Bakke said it is usually not allowed. If they bring it in, it is confiscated. The school serves them cheese burgers.

Senator Gary Lee said the dietitian said her school was doing a good job. They have the information. It is not necessary to put it in law. Compared to what they used to do, they are making progress.

Senator Gary Lee moved a Do Not Pass on HB 1451, seconded by Senator Flakoll.

Senator Taylor said he would like to satisfy the milk issue. He doesn't know what he would do on the floor but he will not support the motion because he would prefer to take the time to work on the milk issue.

The motion passed 3-2-0. Senator Gary Lee will carry the bill.

REPORT OF STANDING COMMITTEE (410)
March 5, 2007 12:57 p.m.

Module No: SR-41-4447
Carrier: G. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1451, as reengrossed: Education Committee (Sen. Freborg, Chairman) recommends DO NOT PASS (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1451 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1451

Heart Disease and Stroke. You're the Cure.

HB1451
24 Jan 07

American Heart
Association 

Learn and LiveSM

**Testimony
House Bill 1451**

**House Education Committee
Wednesday, January 24, 2007**

**June Herman
Senior Advocacy Director
American Heart Association**

**American Stroke
Association.**

A Division of American
Heart Association 

Good morning, Chairman Kelsch and members of the House Education Committee. My name is June Herman, and I am the Senior Advocacy Director for the American Heart Association. I am here today to present an amendment to House Bill 1451.

Attached to my testimony is the following:

1. Suggested amendment
2. The national Memorandum of Understanding
3. An explanation of the School Beverage Guidelines

What this amendment does:

1. Provides North Dakota structure to a national Memorandum of Understanding signed by health and beverage representatives
2. Provides districts flexibility to implement stronger policies
3. Accommodates current contractual agreements

Helping schools provide healthy settings for their students is a top priority for the American Heart Association and for the Alliance for a Healthier Generation. Childhood obesity has no one cause, and there is no one solution. That's why the Alliance is taking bold, innovative and far-reaching steps to help our children live longer and improve the health of our nation.

Fifty-four million students attend nearly 123,000 elementary, middle, and high schools nationwide, making schools a primary environment for developing healthy habits in young Americans – habits they can carry with them throughout their lives. For these reasons the Alliance has launched a multi-faceted initiative called the Healthy Schools Program to help kids build healthy habits – learning to balance the calories they consume with the calories they burn by eating healthy and participating in regular physical activity.

American Heart Association • Advocacy Department
PO Box 1287 Jamestown, ND 58402
Phone 701-252-5122 or 1-800-437-9710 • Fax 701-251-2092
www.americanheart.org

As one part of this overall program, the Alliance has worked with the nation's largest beverage companies to develop a set of guidelines to help schools provide lower calorie and nutritious beverages to their students. These school beverage guidelines are developmentally appropriate and balance children's nutritional and hydration needs with appropriate caloric consumption. The guidelines were developed using current nutrition science, including the *Dietary Guidelines for Americans, 2005* as well as the American Heart Association's *Dietary Guidelines for Healthy Children* and *2006 Diet and Lifestyle Recommendations*.

These guidelines were developed to serve as the beverage criteria for the Healthy Schools Program supported by the Alliance and other key national partners. They will accelerate the shift to lower-calorie and nutritious beverages that children consume during the regular and extended school day. These guidelines have been adopted by the American Beverage Association, PepsiCo, Coca-Cola and Cadbury Schweppes as their new school beverage policy.

Under the terms of the agreement, the beverage industry will work to spread these standards to 75% of the nation's schools prior to the beginning of the 2008-2009 school year. The industry will strive to fully implement these guidelines prior to the beginning of the 2009-2010 school year, provided schools and school districts are willing to amend existing contracts.

Inclusion of this amended language in House Bill 1451 will enable the beverage industry to achieve their goal. We have an opportunity to build health, industry and school efforts toward one piece of the solution for improving the health of North Dakota children.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1451

Page 1, line 2, delete "prohibition on" and "carbonated"

Page 1, line 6, delete "Prohibited."

Page 1, line 6, after "drinks." insert "At the expiration of all current school vending contracts,"

Page 1, line 6, after "district" delete all remaining language until line 10, up to and including the word "access".

Page 1, line 6, after "district" insert "shall renegotiate all vending contract extensions or new contracts to meet or exceed the 2006 school beverage criteria established by the Alliance for a Healthier Generation and adopted by the American Beverage Association and national industry leaders for school vending".

Page 1, line 10, after "the" delete "prohibition" and insert "direction"

Revised Language would then state:

1. A BILL for an Act to create and enact a new section to chapter 15.1-06 of the North Dakota
2. Century Code, relating to the sale of beverages on school property.
3. **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**
4. **SECTION 1.** A new section to chapter 15.1-06 of the North Dakota Century Code is
5. created and enacted as follows:
6. **Sale of certain drinks.** At the expiration of all current school vending contracts, the board of
7. a school district shall renegotiate all vending contract extensions or new contracts to meet or
8. exceed the 2006 school beverage criteria established by the Alliance for a Healthier
9. Generation and adopted by the American Beverage Association and national industry leaders
10. for school vending. The direction in this section includes cafeteria sales, vending machine
11. sales, and concession sales except those occurring outside the regular school day.



Understanding the Alliance School Beverage Guidelines

The American Heart Association and the William J. Clinton Foundation have joined together to form the Alliance for a Healthier Generation, to combat the spread of childhood obesity and the serious diseases associated with it such as heart disease and diabetes and to empower kids nationwide to make healthy lifestyle choices.

Childhood obesity has no one cause, and there is no one solution. That's why the Alliance is taking bold, innovative and far-reaching steps to help our children live longer and improve the health of our nation. Join us and do your part beginning by adopting these School Beverage Guidelines in your school.

Fifty-four million students attend nearly 123,000 elementary, middle, and high schools nationwide, making schools a primary environment for developing healthy habits in young Americans – habits they can carry with them throughout their lives.

For these reasons the Alliance has launched a multi-faceted initiative called the Healthy Schools Program to help kids build healthy habits – learning to balance the calories they consume with the calories they burn by eating healthy and participating in regular physical activity. As one part of this overall program, the Alliance has worked with the nation's largest beverage companies to develop a set of guidelines to help schools provide lower calorie and nutritious beverages to their students.

These school beverage guidelines are developmentally appropriate and balance children's nutritional and hydration needs with appropriate caloric consumption. The guidelines were developed using current nutrition science, including the *Dietary Guidelines for Americans, 2005* as well as the American Heart Association's *Dietary Guidelines for Healthy Children* and *2006 Diet and Lifestyle Recommendations*.

Along with the Alliance's other school strategies – establishing systems to promote health in schools, improving snack foods and meals available to students, and increasing physical activity and physical education – these guidelines can empower children to learn and practice healthy and active lifestyles every day in school.

Why are only water, milk, and 100% juice permitted for elementary and middle school students under these guidelines?

Younger children's ability to choose among a broad spectrum of food and beverage options, balancing treats with healthier items across meal and snack occasions, is more limited than for older children and adults. Outside the school environment, parents and other adult caregivers can provide needed guidance. In schools, children need and parents want added help so kids can make healthy decisions on their own. Limiting choices in school for children of these ages achieves this. As such, younger children are only offered water, fat-free or low-fat milk and 100% juice. This meets the need of young children for hydration and nutrition while managing their caloric consumption.

Why is bottled water available in all grade levels under these guidelines?

Water is essential for good health. Bottled water allows children, particularly those in warmer climates, to stay hydrated during the regular and extended school day. Its portable and resealable packaging enables them to drink water whether they're in the lunchroom or on the athletic field.



Why do all caloric beverages allowed under these school beverage guidelines – juices, milk, sport drinks, and light juices – have calorie and serving size limits?

Schools provide an ideal setting to teach and reinforce the concepts of calorie and portion control. For this reason we have set age appropriate serving sizes that are consistent across all caloric beverages permitted at a given grade level. We have paired these serving sizes with consequent calorie limits to ensure we are achieving our goals of managing caloric consumption.

Why are serving sizes for 100% juice set at 8 oz, 10 oz, and 12 oz for elementary, middle, and high school, respectively, under these guidelines?

School children ages 5-18 need 1-2½ cups of fruit each day, based on their age, gender, and physical activity level. An 8 oz. serving of 100% juice is counted as one cup of fruit towards this daily fruit requirement. The USDA Dietary Guidelines for Americans suggest that the majority of our recommended daily fruit intake be consumed as whole fruits (fresh, frozen, canned, dried) rather than fruit juice to ensure adequate fiber intake.

Many children do not consume enough fruit. Juice makes consumption convenient and enables fruit servings to be available in schools in a form that is readily consumed by children.

The serving sizes defined in these guidelines incorporate and balance these data and provide appropriate portions for children as they grow.

Why are juices required to have at least 10% Daily Value (DV) for a minimum of 3 vitamins and minerals under these school guidelines?

These guidelines balance children's fruit, nutrition, and caloric consumption requirements. Juices can add significant nutritional value to the diet but are concentrated sources of calories. Some juices are richer in vitamins and minerals than others. These more nutrient rich juices often contain vitamins and minerals that children need more of, such as calcium, potassium, and magnesium. The requirement for at least 10% DV for a minimum of 3 vitamins and minerals ensures that the juices offered in school provide adequate nutrition within the upper limit of 120 calories per 8 oz for all juices.

Why are sports drinks and light juices permitted in high schools under these guidelines?

By the time students reach high school, they are making many of their own food and beverage choices. Sports drinks and light juices provide variety in their diets at relatively low caloric density. These beverages are available only in high schools and are limited to 12 oz portions with no more than 100 calories – an amount which can fit into an overall healthy diet for most high school students. Moreover, this serving size is consistent with all other caloric beverages permitted in high schools.

Why are flavored milks permitted under these school guidelines?

Milk is one of the major sources of calcium in the diet. There is evidence that flavoring increases milk consumption and that the added calories in some flavored milks can be incorporated into a healthy dietary pattern. Many flavored milks with up to 150 calories per 8 oz are commercially available, and studies have shown that children show no taste preference for flavored milks with significantly more added sugars that raise calorie levels above 150 calories per 8 oz.

Why are whole and reduced fat (2%) milk not permitted under these school guidelines?

Fat free and 1% milk provide the same nutritional benefit without the unnecessary extra saturated fats and calories found in 2% and whole milk. Whole and reduced fat milk are not permissible because these dairy products are the single greatest contributor of saturated fat to children's diet. Both the American Heart Association and the American Academy of Pediatrics recommend limiting whole milk after the age of two.



Why are beverages containing sugar substitutes excluded from elementary and middle schools but permitted in high schools under these guidelines?

There have been well over 350 studies on the health impact of sugar substitutes concluding that sugar substitutes consumed in reasonable amounts are safe in all age groups, including children. Their use has been approved by regulatory agencies around the world and is endorsed by the American Dietetic Association as a helpful way to reduce caloric consumption.

Despite these facts some parents are concerned about their children consuming sugar substitutes, especially during developmental years. However, by high school young people are making many of their own food and beverage choices, and diet drinks are considered a reasonable alternative to full calorie beverages.

Aren't some of the beverages allowed under these school guidelines high in sodium?

Sports drinks and diet drinks do contain some sodium but not nearly as much as people think they do. A 12 oz diet soda is able to meet the FDA claims for low sodium, having generally fewer than 50 mg, and a 12 oz sports drink typically has around 150mg – less than the amount of sodium in low fat milk or a slice of bread.

What should I do if my school or school district is subject to different standards than those outlined in these school beverage guidelines, because of state or local legislation or regulation?

At a minimum your school and district must comply with all existing laws and regulations. These guidelines are not intended to undermine them. If existing laws and regulations are stricter than the Alliance guidelines, then adherence to them is sufficient. However, if existing laws and regulations are less strict, following these science-based, age appropriate guidelines will provide lower calorie and nutritious beverages to your students and reinforce the important lessons of calorie and portion control. These guidelines were designed using the *Dietary Guidelines for Americans, 2005* as well as the American Heart Association's *Dietary Guidelines for Healthy Children* and *2006 Diet and Lifestyle Recommendations* in order to balance children's nutritional needs with the requirement to manage caloric consumption.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) sets forth the agreement among

- The Alliance for a Healthier Generation;
- The American Heart Association;
- The William J. Clinton Foundation;
- The American Beverage Association;
- Cadbury Schweppes Americas Beverages, a subsidiary of Cadbury Schweppes plc;
- The Coca-Cola Company; and
- PepsiCo, Inc.

regarding a new school beverage policy.

Overview

The Alliance for a Healthier Generation ("Alliance"), a joint initiative of the American Heart Association and the William J. Clinton Foundation, under the leadership of President William J. Clinton and Governor Mike Huckabee, has joined with representatives of the American Beverage Association (ABA) and Cadbury Schweppes Americas Beverages, a subsidiary of Cadbury Schweppes plc; The Coca-Cola Company; and PepsiCo, Inc. (the three signatory companies) to create a new school beverage policy in the United States that will supersede current policy.

Fifty-four million children attend nearly 123,000 schools nationwide. Influencing and helping school districts and schools to provide healthy environments is one of the most efficient and effective ways of shaping the health, education and well-being of America's children. The purpose of this new policy is to accelerate the shift to lower-calorie and nutritious beverages that children consume during the regular and extended school day. This new policy shifts the focus to calories and the educational environment in which those calories are consumed.

The ABA and the three signatory companies will make diligent efforts to encourage their bottlers to adopt this policy as soon as possible for beverage sales to school children through vending machines, a la carte lines, and school stores, in full compliance with the law and their existing contract obligations. Moreover, the Alliance, the ABA and these companies will also make diligent efforts to encourage other members of the beverage industry to adopt this policy and to sell to schools only the product mix it outlines.

School Beverages

Elementary School

- Water
- ≤8 oz servings of milk and juice
- Fat free or low fat milk and nutritionally equivalent (per USDA) milk alternatives
- Fat free or low fat nutritionally equivalent flavored milk with ≤150 cal/8 oz
- 100% juice with no added sweeteners, ≤120 cal/8 oz & ≥10% DV for ≥3 micronutrients

Middle School

- Same as elementary school with the following exceptions: juice and milk that meet the elementary school criteria may be available in 10 oz servings.
- As a practical matter, if middle school and high school students have common access to areas where beverages are sold on a common campus or in common buildings, then the school community has the option to adopt the high school standard.

High School

- Water
- No or low calorie beverages with ≤ 10 cal/8 oz (e.g., diet sodas, unsweetened or diet teas, low calorie sports drinks, fitness waters, flavored waters, seltzers)
- ≤ 12 oz servings of milk, light juice, juice and sports drinks
- Fat free or low fat milk and nutritionally equivalent (per USDA) milk alternatives
- Fat free or low fat nutritionally equivalent flavored milk with ≤ 150 cal/8 oz
- 100% juice with no added sweeteners, ≤ 120 cal/8 oz, and $\geq 10\%$ DV for ≥ 3 micronutrients
- Light juices and sports drinks with ≤ 66 cal/8 oz
- $\geq 50\%$ of beverages are water and no or low calorie options (≤ 10 cal/8oz)

Time of Day

This school beverage policy applies to beverages sold on school grounds during the regular and extended school day when events are primarily under the control of the school or third parties on behalf of the school. The extended school day can be defined as the time before or after the official school day that includes activities such as clubs, yearbook, band and choir practice, student government, drama, and childcare / latchkey programs.

This beverage policy does not apply to School-Related Events where parents and other adults are a significant part of an audience or are selling beverages as boosters during intermission, as well as immediately before or after such school-related events. Examples of these events include interscholastic sporting events, school plays, and band concerts.

Implementation Goals

The three signatory companies will make diligent efforts with their bottlers to ensure that only beverages described in this policy will be included in all future school contracts. In order to accelerate migration to lower-calorie and nutritious beverages in schools, the Alliance, as well as the ABA and three signatory companies working with their bottlers will work with schools and school districts in the spirit of mutual financial fairness to amend the terms of existing contracts to change the product mix described therein to include only the beverages outlined in this policy.

We recognize that some sales of beverages to schools are currently made by independent food and beverage distributors and contract operators in response to tenders issued by school districts. We also recognize some beverages are purchased by schools from retail locations for sale through a la carte lines and school stores. The Alliance, the ABA, and the three signatory

companies will make diligent efforts to encourage independent food and beverage distributors and contract operators to adopt this policy within three years. Together we will also seek to encourage those organizations whose members comprise the individuals in school food service who develop RFPs to adopt and promote this policy to its members within 1 year.

It is the goal of the parties to achieve implementation of this policy for 75% of schools under contract with bottlers prior to the beginning of the 2008-2009 school year. The parties will strive to achieve implementation of the policy for all schools prior to the beginning of the 2009-2010 school year.

Reporting

Beginning in August 2007, and annually every year thereafter, the signatories to this MOU will support an annual analysis that will disclose the impact and status of this policy. This information will be made public by ABA on its website and/or by press release. The analysis will include the following:

1. Beverage sales to students in schools through all venues, similar to the Wescott study dated November 28, 2005. It shall include beverages children purchase at schools through vending machines, a la carte lines, school stores, or other venues. It would ideally distinguish between beverages supplied directly to schools by bottlers for consumption during the regular and extended school day, versus those supplied for School-Related Events or indirectly through other channels, such as food and beverage distributors and contract operators.
2. For contracts executed after signing this MOU, the percent of then valid contracts that comply with this policy on the following basis:
 1. Percent of school district contracts.
 2. Percent of elementary school contracts.
 3. Percent of middle school contracts. Companies will list middle schools that follow the high school standard with a valid justification for their exception.
 4. Percent of high school contracts that comply with this policy.
3. For contracts executed before signing this MOU, the percent of then valid contracts that have been amended to comply with this policy.
 1. Percent of school district contracts.
 2. Percent of elementary school contracts.
 3. Percent of middle school contracts. Companies will list middle schools that follow the high school standard with a valid justification for their exception.
 4. Percent of high school contracts that comply with this policy.

Healthy Schools Program Standard and Other Standards

This policy will represent the only beverage standard used for school recognition that is part of the Alliance for a Healthier Generation's Healthy Schools Program.

We do, however, recognize that some state legislation, district policy, or other standards may be different than this policy. This policy does not undo those efforts or usurp the authority of

¹ Provided schools and school districts are willing to amend school contracts in existence at the time of this MOU

parents, educators, and their elected representatives. It is not the intent of this policy to undermine any local initiatives to set standards or change any laws.

Communications

All parties will actively support the new policy and their commitment to the standards of the policy, including the beverages provided in schools, on an ongoing basis.

All use of names or representations in association with this agreement of President Clinton, Governor Huckabee, the American Heart Association, and the Alliance for a Healthier Generation must be approved in writing in advance by the Clinton Foundation, Governor Huckabee, the American Heart Association, and the Alliance for a Healthier Generation respectively. This agreement does not permit the usage of the American Heart Association trademarks or service marks without prior written permission.

All use of names and representations with this agreement of Cadbury Schweppes Americas Beverages, The Coca-Cola Company, PepsiCo, as well as their products, and the American Beverage Association must be approved in writing in advance by the American Beverage Association on behalf of these companies. This agreement does not permit the usage of the Cadbury Schweppes, Coca-Cola or PepsiCo trademarks or service marks without prior written permission.

Organizations who are signatories to this agreement will develop and jointly approve standard language and terms of use for each to use to represent their support of this policy.

Changes to Policy

All parties recognize that compelling new scientific evidence may arise at any time that could cause us to revisit this policy.

[Signatures of Authorized Representatives of Parties to this MOU appear on next page.]

ACCEPTED

Alliance for a Healthier Generation
55 West 125th Street
New York, NY 10027

By: _____
Printed Name: Robert S. Harrison
Title: Executive Director
Date: May 3, 2006

American Beverage Association
1101 16th Street NW
Washington, DC 20036

By: _____
Printed Name: Susan K. Neely
Title: President & CEO
Date: May 3, 2006

American Heart Association
7272 Greenville Avenue
Dallas, TX 75231

By: _____
Printed Name: Robert H. Eckel, MD
Title: President
Date: May 3, 2006

Cadbury Schweppes Americas Beverages
5301 Legacy Drive
Plano, TX 75086

By: _____
Printed Name: Gilbert Cassagne
Title: President & CEO
Date: May 3, 2006

Clinton Foundation
55 West 125th Street
New York, NY 10027

By: _____
Printed Name: Ira C. Magaziner
Title: Chairman, Clinton Foundation Policy
Board
Date: May 3, 2006

The Coca-Cola Company
P.O. Box 1734
Atlanta, GA 3030

By: _____
Printed Name: Donald Knauss
Title: President, Coca-Cola North America
Date: May 3, 2006

PepsiCo, Inc.
700 Anderson Hill Road
Purchase, N.Y. 10577

By: _____
Printed Name: Dawn Hudson
Title: President & CEO, Pepsi-Cola North
America
Date: May 3, 2006

Our Founders

William J. Clinton Foundation

"The Alliance for a Healthier Generation can help turn young people's lives around and give them hope for a healthier future."
- President Clinton

Through the William J. Clinton Foundation, President Clinton promotes the values of fairness and opportunity for all. His vision is the Foundation's mission: to strengthen the capacity of people in the United States and throughout the world to meet the challenges of global interdependence. Together with the generosity of citizens and volunteers, President Clinton and the Foundation are vigorously working to advance those principles that move us beyond differences to a common future of shared responsibility, shared benefits, and shared values.

Learn more about the William J. Clinton Foundation: <http://www.clintonfoundation.org>

American Heart Association

"More and more kids are being diagnosed with adult diseases like high blood pressure and type II diabetes, but it doesn't have to be that way. The Alliance is working to ensure that all kids have healthy futures."

- **Robert Eckel, MD, Immediate Past President of the American Heart Association**

Founded in 1924, the American Heart Association today is the nation's oldest and largest voluntary health organization dedicated to reducing disability and death from cardiovascular diseases and stroke. These diseases, America's No. 1 and No. 3 killers, claim more than 910,000 lives a year. To fight them, the association supports research, professional and public education, advocacy and community service programs to help all Americans live longer, healthier lives.

Learn more about the American heart Association: <http://www.americanheart.org>.

Our Partners

The Robert Wood Johnson Foundation

The nation's leading health foundation dedicated exclusively to improving the health and health care of Americans awarded the Alliance \$8 million to support its innovative Healthy Schools Program.

Learn more about the Robert Wood Johnson Foundation: <http://www.rwjf.org/index.jsp>

Nickelodeon

The Alliance and the number one kids' brand, Nickelodeon, have joined forces through its national "Let's Just Play" pro-social campaign that reaches kids through all media platforms and inspires them to take charge of their health and lead their own "Go Healthy" movement.

Learn more about the [Let's Just Play Go Healthy Challenge](#)

Governor Mike Huckabee of Arkansas

Republican Governor Mike Huckabee of Arkansas has made his state a leading example of what can be done to create healthier schools. He has joined the Alliance to help make these changes across the United States.

Learn more about Healthy Arkansas: <http://www.arkansas.gov/ha/>

Alliance for a Healthier Generation

About Us

The Alliance for a Healthier Generation is a partnership between the American Heart Association and the William J. Clinton Foundation. We have come together to fight one of our nation's leading health threats – childhood obesity.

Along with our partner Governor Mike Huckabee of Arkansas, the Alliance will work nationally to create awareness and real solutions for the childhood obesity epidemic.

Our Mission

To eliminate childhood obesity and to inspire all young Americans to develop lifelong, healthy habits.

Our Goals

The goal of the Alliance is to stop the nationwide increase in childhood obesity by 2010 and to empower kids nationwide to make healthy lifestyle choices.

The Alliance will positively affect the places that can make a difference to a child's health: homes, schools, restaurants, doctor's offices, and the community.

Our Programs

Healthy Schools Program

- Increasing opportunities for students to exercise and play
 - Putting healthy foods and beverages in vending machines and cafeterias
 - Providing resources for teachers and staff to become healthy role models
- [Learn More About the Healthy Schools Program](#)

Industry Program

- Influencing restaurants and snack companies to make substantially healthier meals, drinks and snacks for kids.
- [Learn More About the Industry Program](#)

Kids Movement

- Motivating kids to take charge of their health and to lead their own Go Healthy movement.
- [Learn More About the Let's Just Play Go Healthy Challenge created with Nickelodeon](#)

Healthcare Program

- Giving tools to healthcare providers so that they can better diagnose, prevent and treat obesity.
- [Learn More About the Healthcare Program](#)

House Bill 1418 1451
January 24, 2007

Testimony from the North Dakota American Academy of Pediatrics
Todd Twogood MD, FAAP (president)

The epidemic of childhood obesity in our state and in our nation has been a concern of the American Academy of Pediatrics (AAP) for some time and has become one of the leading priorities in the health of our young. For children of today are dealing with diseases that traditionally have only been seen in the adult population. Diseases such as diabetes, heart disease, and bone loss. All of these have been linked to obesity and are preventable. There are three reasons why this is happening; including lack of activity (exercise), unhealthy diets (fast foods), and sugared drinks such as pop.

As advocates for our children we must provide an environment which is safe and free of influences which may sway them into making bad choices. One of the ways to accomplish this is to remove the temptation to chose pop as a daily beverage, therefore, reducing a risk factor know to cause undo weight gain. There are opportunities in there surroundings to obtain pop from other sources, however, by removing pop and other sugared drinks from vending machines in the schools, it not only removes the immediate temptation but it also delivers a message that we care about their health. What better place to set an example then the place they spend most of their time (in school). It has been shown that by providing alternative healthy choices, there can be a change in patterns and an awareness overall.

This is one small step in making a difference for many. A priority which is consistently sited as a preventative tool in reducing the risk of childhood obesity. The national AAP has for a long time seen that the removal of pop from the schools a major victory in the fight of childhood obesity. If North Dakota chooses to adopt this bill, we would be the first state in the nation to do so, setting an example for the whole nation that we care for our children's health in this manner. Let's shine as a state that cares for our kids and be victorious in the battle to prevent obesity and it's associated risk factors. Stop the pop, and be a champion.

HB 1451
24 Jan 07

TESTIMONY for House Bill 1451
Prohibiting the Sale of Certain Drinks in Schools.
House Education Committee.
January 24, 2007.
Parag Kumar, MD, FAAP.
Pediatrician, MedCenter One Health Systems.
Associate Professor of Pediatrics – UND School of Medicine.

Good morning, Chairperson Kelsch and members of the House Education Committee. My name is Parag Kumar. I am a pediatrician at Medcenter One in Bismarck and Associate Professor of Pediatrics at UND School of Medicine and Health Sciences. I am also as a parent of 2 school going children. I am here to speak in favor of HB 1451.

I have been a pediatrician at Medcenter One for 5 years. Before that I was in Fargo. I am one of 6 pediatricians who see approximately 30,000 patients annually in a 175-mile radius of Bismarck. We are truly alarmed by the increase in number of overweight children and diseases associated with being overweight.

The intake of carbonated soft drinks is linked to childhood obesity, lowered bone mineral content, and can contribute to tooth decay and dental caries. It also has caffeine, which is addictive. Schools should be a safe haven from the unhealthy behaviors that contribute to obesity, diabetes, heart disease, osteoporosis, caffeine dependence and dental cavities.

What we know:

- Children who drink more than 12 ounces of sweetened drinks a day gain significantly more weight than do children who drink fewer than 6 ounces a day. (American Academy of Pediatrics)
- The percentage of overweight 7th and 8th graders increased from 10.3% in 1999 to 12.8% in 2005. (ND Youth Risk Behavior Survey 2005). (Self reporting). Actual data indicate that 16% of ND Youth are overweight.
- In 7th and 8th grade 43.6% of students report drinking more than 13 ounces of sugar sweetened beverages per day. (ND Youth Risk Behavior Survey 2005)
- Children who drink more than 16 ounces of sweetened drinks a day consume less milk. (Journal of the American Dietetic Association 1999)
- Children who do not drink milk for prolonged periods have low calcium intake, low bone mineral density, and sustain more fractures than children who drink milk. (Journal of the American Dietetic Association 2004)
- Soft drinks sipped over long periods can contribute to tooth decay and the low pH of soft drinks may contribute to dental caries. (Dairy Council Digest 2000).

I'm used to seeing really significant increases with infectious diseases (like the winter surge in Influenza), but in my experience it's almost unparalleled to see such a significant change for a chronic condition like obesity. I don't believe it's simply a collective loss of personal responsibility. Some thing is going wrong.

Those speaking in opposition will say: "It is up to people's individual choices to facilitate their individual diets."

Merely informing people about healthy choices is not the best way to tackle the growing problem. That has never worked in the past for public health and I don't think it will help in the future. The rates of Obesity have nearly tripled nationwide. The industry representatives (American Beverage Association), under intense pressure from health professionals and their own conscience have pledged to remove pop from schools by 2010. This was announced in May of 2006. This agreement-the Alliance for a Healthier Generation_was made possible by AHA and Clinton foundation. So we need to move beyond just public education. My reasoning is WHY WAIT TILL 2010? . If pop in schools is not right after 2010 how can it be right now? It was a mistake to allow it in the first place. Kick back from these pouring contracts is morally wrong. We are not practicing what we are preaching. This bill is a step in that direction.

It is our responsibility to ensure that our school children consume fewer calories and fats and eat more of the foods that will give them a decided advantage in the classroom, in sports and in life. Obesity is a societal problem, and as parents, business, civic and political leaders we have an obligation to help change the often-overlooked factors that contribute to it.

What is perhaps most frustrating of all is the failure of prevention programs due to governments' fears of being branded nanny states. When beverage industry representatives and school administrators advocate choice- what they are protecting is brand loyalty and revenue. As a clinician I think and talk in very simple terms. Please excuse my saying so, but I feel that over next three years they want to squeeze every single penny at the expense of our children.

Parents are not present in schools to guide their children's choices. Schools have the responsibility to teach, encourage, and model healthy behaviors. Promoting healthy beverage options and limiting access to sweetened/carbonated beverages is one way schools can positively impact student's health. Since last session, I have worked with Bismarck schools, and am pleased to report that we have developed an even stronger policy than the national agreement. I urge the passage of this beverage bill to set a time line towards a goal for at least a base level of beverage policies across the state.

Please give your 'YES' vote and earn the gratitude of children, parents and health professionals. Thank you. Any questions are welcome.

HB 1451
24 Jan 07



January 24, 2007
Testimony
HB 1451

Chairwoman Kelsch and Members of the Education Committee:

Good Morning and thank you for the opportunity to speak to the issue of soda in vending machines in North Dakota's schools. I am Karen Ehrens, a Registered Dietitian, member of *Healthy School Nutrition Alliance* and mother of a third grader. The 280 Licensed, Registered Dietitian (LRD) members of the North Dakota Dietetic Association, with a mission to support the public through the promotion of optimal health and nutrition, ask that you consider legislation to ensure that all children in North Dakota have equal opportunity to make healthful choices while they are at school.

This photograph shows my daughter's 3rd grade class. These 20 kids were born two years before the turn of the century. It's estimated that one in three children born in 2000, or about 6 or 7 of these kids will go on to develop diabetes in their lifetime. I'm here because I want to help these kids, and all kids across North Dakota, beat those odds.

I am a member of the Bismarck Public Schools Health Council, a team of teachers, parents, students, administrators, and health professionals who has been working together to write and implement a local wellness policy. As a result of federal legislation, all schools that receive funds are to have wellness policies in place this year. Bismarck's strong policy permits students to purchase only milk, water or 100% fruit juice during the school day. As a parent, I have one less thing to worry about when I send my daughter to school knowing that she is in an environment where she does not have access to soda pop or other sweetened beverages.

However, at other schools in the state, students still have access to soda pop and other sweetened beverages at times during the school day. Each local wellness policy is different, and in some cases, the policies and practices in those schools allow children access to beverages that can displace healthy drinks from diets, contribute calories and caffeine without nutrition to their bodies, contribute to cavities, and leach calcium from growing bones. The parents at these schools are not able to rest with the same assurances of a healthy environment for their children.

I am not aware of how many local North Dakota bottlers are following the "encouragement" of the three large beverage companies to ascribe to the voluntary guidelines for school beverage sales or of how many schools are seeking contracts that meet the voluntary guidelines. While this memorandum of understanding brokered by the Alliance for a Healthier Generation is a very positive step, it is still a voluntary step.

So that schools can make a few dollars and schools can have "local control", the health of some of the children in North Dakota is suffering. I would encourage the legislators in the state to use the backing of law combined with the progress being made with local wellness policies and the voluntary national agreement to ensure that every student in North Dakota will be in an environment that supports their health, and as a result supports their opportunity to learn to the best of their ability.

TESTIMONY ON HB 1451

House Education Committee

January 24, 2007

by Linda Glaser, Director Child Nutrition Programs

328.4565

Department of Public Instruction

Good Morning Chairperson Kelsch and members of the House Education Committee. My name is Linda Glaser, Director of Child Nutrition Programs for the Department of Public Instruction (DPI). I am here today to provide neutral testimony regarding carbonated beverages in schools – House Bill 1451.

North Dakota schools are already meeting the requirements set forth by this bill. As of the beginning of school year 2006-2007, schools receiving United States Department of Agriculture (USDA) funds for meal programs (all but 8 small school districts receive funds) were required to develop a Local Wellness Policy. Under USDA 7 CFR Part 210 & 220, they must establish standards to address all foods and beverages sold or served to students including those available outside the school meal program. The following items were to be considered when setting nutrition standards for all available foods during the school day.

- Set guidelines for foods and beverages in ala cart sales in the food service program on school campuses.
- **Set guidelines for foods and beverages sold in vending machines, snack bars, school stores, and concession stands on school campuses.**
- Set guidelines for foods and beverages sold as part of school-sponsored fundraising activities.
- Set guidelines for refreshments served at parties, celebrations, and meetings during the school day.

North Dakota schools have accepted this challenge whole-heartedly. By being allowed to approach the issues at the local level, districts accept the responsibility of providing a healthy education environment for their students. Providing healthier beverages such as water, 100% juice, and low fat milk has been a priority for the majority of North Dakota schools.

Survey data shows that schools are making positive changes in beverage sales and vending. In September 2006, DPI surveyed school districts regarding their Local Wellness Policies. Of those districts responding to the survey, more than 80% of the policies specifically address foods and beverages sold in vending machines. In

addition, a recent poll of North Dakota's larger school districts shows that no elementary or middle schools sell carbonated beverages during the school day.

The DPI would like all schools to be healthy nutrition environments. As studies have shown, healthy nutritional intakes are part of overall health and directly related to children's ability to maximize their academic potential. Children's health is not solely dependent on their school, but the school can assist children by creating an atmosphere that teaches, supports and provides opportunities for healthy behavior.

This concludes my testimony and I'll be happy to answer any questions you may have.

Testimony
House Bill 1451
Senate Education Committee

Chairman Freborg, members of the Senate Education Committee. My name is June Herman, and I am the Senior Advocacy Director for the American Heart Association. I am here today to testify in support of House Bill 1451, and to explain the current bill language to the committee. AHA was the lead organization that presented an amendment to the original bill on the House side, and that amendment became HB 1451.

The following explains the core elements of the bill:

At the expiration of all current school vending contracts:

This language recognizes the current legal contractual obligations of existing contracts. When these contracts are up, the soda beverage criteria guidelines agreed upon by the soda beverage companies and the Alliance for a Healthier generation would then be considered as baseline soda vending criteria.

The board of a school district shall renegotiate all vending contract extensions or new contracts to meet or exceed the 2006 school beverage criteria:

This language addresses three core elements:

- 1) Meets: By using the 2006 beverage criteria for "meets", a level playing field is established for the benefit of schools and vendors, and especially our kids. Vendors are able to compete for business, knowing no other vendor can offer a sugar heavy soda contract as a customer option. This in turns keeps the value of healthier vending contracts up for our schools.
- 2) Exceeds: Some schools have already established stronger local vending policies and contracts. HB 1451 should not require them to lessen their current desired soda vending options
- 3) 2006: By stating the year of the agreement, any new national agreement with soda vendors would not take effect without North Dakota legislative review

school beverage criteria established by the alliance for a healthier generation:

This language has two elements:

- 1) Criteria: Attached to my testimony is the school beverage criteria which guides the MOU agreed to by the soda beverage companies. These school beverage guidelines are developmentally appropriate and balance children's nutritional and hydration needs with appropriate caloric consumption. The guidelines were developed using current nutrition science, including the *Dietary Guidelines for Americans, 2005* as well as the American Heart Association's *Dietary Guidelines for Healthy Children and 2006 Diet and Lifestyle Recommendations*.

- 2) Alliance for a Healthier Generation: Information on the Alliance for a Healthier Generation is attached to my testimony. The Alliance for a Healthier Generation is a bi-partisan effort involving the leadership of Governor Huckabee, the funding and leadership of the William J. Clinton Foundation, and the American Heart Association. This special initiative follows in the model of other cooperative bi-partisan initiative efforts that bring leadership from two distinct political parties – leading even President Bush senior to refer to President Clinton as his “other son”.

and adopted by the American beverage association and national industry leaders for school vending.

Attached to my testimony is the national Memorandum of Understanding with soda beverage vendors on which we seek as a baseline standard for North Dakota school soda beverage contracts.

What this bill does in total:

1. Provides North Dakota structure to a national Memorandum of Understanding signed by health and soda beverage representatives
2. Provides districts flexibility to implement stronger policies
3. Accommodates current contractual agreements
4. Utilizes age appropriate nutritional guidelines based on the nutritional science recommendations of the American Heart Association.
5. Limits the scope to the 2006 MOU soda beverage MOU, allowing North Dakota legislators to assess future MOUs for application in North Dakota. These guidelines have been adopted by the American Beverage Association, PepsiCo, Coca-Cola and Cadbury Schweppes as their new school beverage policy.

Under the terms of the agreement, the soda beverage industry will work to meet the MOU, provided schools and school districts are willing to amend existing contracts.

Engrossed House Bill 1451 will enable those beverage industries to achieve their goal with a level playing field for successfully bidding for contracts, and as a result, good for schools as the contract competition will occur on agreed upon beverage guidelines. We hope that future interim considerations could lead to exploring a similar MOU already signed related to school snack products, and we hope a milk MOU will be coming our way soon for consideration of items offered through dairy distributors.

We have an opportunity to build health, industry and school efforts toward one piece of the solution for improving the health of North Dakota children. We ask for a “do pass” recommendation from this committee.



March 5, 2007
Testimony
HB 1451

Chairman Freborg and Members of the Education Committee:

Good Morning, and thank you for the opportunity to speak to the issue of soda in vending machines in North Dakota's schools. I am Karen Ehrens, a Registered Dietitian, member of *Healthy School Nutrition Alliance* and mother of a third grader. The 280 Licensed, Registered Dietitian (LRD) members of the North Dakota Dietetic Association, with a mission to support the public through the promotion of optimal health and nutrition, ask that you consider legislation to ensure that all children in North Dakota have equal opportunity to make healthful choices while they are at school.

This photograph shows my daughter's 3rd grade class. These 20 kids were born two years before the turn of the century. It's estimated that one in three children born in 2000, or about 6 or 7 of these kids will go on to develop diabetes in their lifetime. I'm here because I want to help these kids, and all kids across North Dakota, beat those odds.

I am a member of the Bismarck Public Schools Health Council, a team of teachers, parents, students, administrators, and health professionals who has been working together to write and implement a local wellness policy. As a result of federal legislation, all schools that receive funds are to have wellness policies in place this year. Bismarck's strong policy permits students to purchase only milk, water or 100% fruit/vegetable juice during the school day. Other schools in the state whose policies exceed the standards set by the National Agreement include Valley City and Grand Forks.

As a parent, I have one less thing to worry about when I send my daughter to school knowing that she is in an environment where she does not have access to soda pop or other sweetened beverages that provide no nutritional value, and that she does have access to beverages that provide important nutrients. 100% fruit/vegetable juices provide vitamins, minerals and other plant nutrients. Dairy products provide calcium, vitamins, protein and other minerals. Studies have shown that children and teens who drink flavored milk consume more milk overall, and that children and teens who consume flavored dairy products have better diets than those who regularly drink sodas and sweetened fruit-flavored drinks. At this time, consumers in North Dakota have limited choices to dairy beverages that meet the proposed guidelines. We encourage dairy processors to continue to move toward adding a variety of flavors and package sizes.

At other schools in the state, students still have access to soda pop and other sweetened beverages at times during the school day. Each local wellness policy is different, and in some cases, the policies and practices in those schools allow children access to beverages that can displace healthy drinks from diets, contribute calories and caffeine without nutrition to their bodies, contribute to cavities, and both hinder adequate calcium consumption and a critical time and leach calcium from growing bones. The parents at these schools are not able to rest with the same assurances of a healthy environment for their children.

I am not aware of how many local North Dakota bottlers are following the "encouragement" of the three large beverage companies to ascribe to the voluntary guidelines for school beverage sales or of how many schools are seeking contracts that meet the voluntary guidelines. While this memorandum of understanding brokered by the Alliance for a Healthier Generation is a very positive step, it is still a voluntary step.

So that schools can make a few dollars and schools can have "local control", the health of some of the children in North Dakota is suffering. I would encourage the legislators in the state to use the backing of law combined with the progress being made with local wellness policies and the voluntary national agreement to ensure that every student in North Dakota will be in an environment that supports their health, and as a result supports their opportunity to learn to the best of their ability.



Position Statement School Vending Issues

Healthy North Dakota is a framework supporting North Dakotans in their efforts to make healthy choices by focusing on wellness and prevention – in schools, workplaces, senior centers, homes and anywhere people live, learn, work and play. Committees comprised of more than 400 North Dakotans representing about 150 agencies, organizations and businesses from across the state are identifying strategies to build a healthy North Dakota.

The *North Dakota Healthy School Nutrition Alliance* combines the efforts of Healthy North Dakota, North Dakota Action for Healthy Kids, Team Nutrition and Coordinated School Health to help promote a healthy school nutrition environment. This collaborative effort by dietitians, nutritionists, school food service professionals, teachers, administrators, school nurses, oral health professionals and physicians provide schools and communities with reliable nutrition information, consistent messages, human resources and other services. Together, the Alliance members encourage and promote a healthy nutrition environment.

Issue

Soft drink intake is linked to obesity, poor nutrition and increased cavities in school-age children. The more access students have to soda pop, the more they will drink. High soft drink intake leads to poor nutrition, which, in turn, affects a student's ability to learn.

Position Adopted

Establish healthy school nutrition environments for all North Dakota students. Healthy school nutrition environments are ones that include (1) sales of 100 percent water, 100 percent low or nonfat milk and 100 percent juice from one-half hour before school to one-half hour after school; and (2) vending machine graphics that feature only healthy options or educational messages.

Justification

- Children who drink more than 12 ounces of sweetened drinks a day gain significantly more weight than do children who drink fewer than 6 ounces a day. (American Academy of Pediatrics)
- In 2002, 16 percent of sixth grade students in North Dakota were overweight. (North Dakota Sixth Grade Survey, 2002)
- The percentage of overweight high school students in North Dakota increased from 7 percent in 1999 to 11 percent in 2005. (North Dakota Youth Risk Behavior Survey, 2005)
- Frequent consumption of carbonated beverages and sweetened beverages increases the risk of dental cavities. (Community Dental Health, 1999)
- Children who drink more than 16 ounces of sweetened drinks a day consume less milk. (Journal of American Dietetic Association, 1999)
- Children who do not drink milk for prolonged periods have low calcium intake, low bone mineral density, and sustain more fractures than children who drink milk. (Journal of the American Dietetic Association 2004)
- In 2005, 47 percent of high school students in North Dakota drank 13 ounces or more of sugar-containing beverages per day, during the past seven days. (North Dakota Youth Risk Behavior Survey, 2005)

Summary of Current Policy/Related Issues

Students have easy access to vending machines throughout the school day, which increases their intake of soda/sweetened beverages. Promoting healthy beverage options and limiting access to sweetened beverages is one way schools can positively impact the health of their students.

Contact for Further Information

Patrice Anderson, Healthy School Nutrition Alliance, *Healthy North Dakota*, psanderson@nd.gov, 701.328-2265

Prepared by the North Dakota Healthy School Nutrition Alliance and pending approval of all Healthy North Dakota partners.

3/2/2007

Karen Ehrens.

Testimony
House Bill 1451
Senate Education Committee
Michael Goebel DDS
Pediatric Dentist

Chairman Freborg, members of Senate Education Committee. I am Mike Goebel, a pediatric dentist practicing in Bismarck.

The facts are:

1. Dental disease has steadily increased since the 1980's and our nation's dietary habits are to blame.
2. Soft drinks are sugar and acid which is the ultimate tooth decalcifier.
3. Increased dental disease is expensive for individuals, families, and company benefit plans and state Medicaid programs.
4. Oral health manifestations are probably minor compared to the general health implications such as obesity, diabetes, heart disease, etc.

I strongly support healthy choices for our children. As a pediatric dentist, I recommend a "do pass" from this committee.

Thank you,

Mike Goebel

Karen Ehrens

Testimony
House Bill 1451
Senate Education Committee
Parag Kumar, MD, FAAP
Pediatrician, MedCenter One Health Systems
Associate Professor of Pediatrics – UND School of Medicine

Chairman Freborg, members of the Senate Education Committee. My name is Dr. Parag Kumar, and I am a pediatrician with Medcenter One. I am here today to testify in support of House Bill 1451.

The ND Chapter of American Academy of Pediatrics commends the work by the ND legislature to reinforce the important progress achieved through health and soft drink vendors working together nationally to improve the health of our kids. The announcement from the major U.S. beverage distributors that they soon will stop sales of all soft drinks to elementary and middle schools and will sell only diet soft drinks to high schools demonstrates that food and beverage companies can play a major role in fighting today's epidemic of childhood obesity. Soft drinks are a significant source of calories consumed by some children and young people, and pediatricians welcome the efforts of distributors to improve the quality of beverage choices for students. Because childhood obesity is such a pressing public health problem, reducing potential sources of excess calories in the diet represents an important step forward.

More children than ever are suffering from the effects of poor nutrition and lack of exercise. Without early intervention, these problems and habits are likely to continue into adulthood.

- **Soaring Rates:** The number of overweight children and adolescents ages 6-19 has nearly tripled since forty years ago.
- **Overweight Toddlers:** More than 10% of children between the ages of 2 and 5 are overweight, up from 7% in 1994.
- **Carrying Health Problems into Adulthood:** Overweight adolescents have a 70% chance of becoming overweight or obese adults.
- **Rising Number of Overweight Adults:** Today, 65% of all Americans adults are overweight or obese. If current trends continue, that percentage will rise even higher as this generation of children reach adulthood.

Obese & Overweight Children are at Risk for Serious Health Problems

Rising levels of overweight and obesity are already having a negative effect on our kids' health and quality of life.

- **Diabetes on the Rise:** Type II diabetes used to be called "adult-onset diabetes." Now, the rise in childhood obesity is linked to a dramatic rise in the number of children suffering from type II diabetes, what was previously thought to be an adults-only disease.
- **Heart Trouble at Middle Age:** If current trends continue, adolescents with type II diabetes may experience heart troubles beginning as young as 30 or 40.
- **Increased Risk of Heart Failure:** Being overweight or out of shape makes the heart work harder. Overweight children are more likely to grow up to be overweight adults and more likely to develop heart problems.
- **Chronic Medical Conditions:** Obesity is associated with more chronic (continuing) medical conditions than smoking or excessive drinking.
- **Higher Risk of Asthma:** There may be a link between the rise in childhood obesity and the rise in childhood asthma. Extra weight can make it harder to breathe and can inflame the respiratory tract. Children with serious asthma are more likely to be overweight.

Obesity Related Healthcare Costs are Soaring

Americans already spend 5% of their total medical costs on obesity-related illnesses, and that amount will only increase if the current trends continue.

- **High Personal Costs:** Severely overweight people spend more on health care and medicine. In fact, they often spend more on health care than current smokers do.
- **Direct National Cost:** The direct costs of treating obesity-related diseases are estimated at \$61 billion.
- **Indirect National Cost:** The indirect costs of obesity (such as missed work days and future earnings losses) have been estimated at \$56 billion dollars per year.
- **Rising Disability Claims:** Being severely overweight makes it much harder to manage basic activities like bathing, dressing, and getting out of bed. The number of people filing for disability is rising rapidly, and the fastest growing cause of disability is type II diabetes.

Given the facts above, the Senate Education would be taking an important step in looking at the piece you can impact, and to provide a supportive North Dakota structure for this collaborative work on soft drink vending to succeed. You can do that by giving HB 1451 a Do Pass recommendation.

Senate Education Committee
Monday, March 5, 2007

Jerry Messer, Dairy Producer, Richardton, ND
701-974-3973 jerm@ndsupernet.com

Milk Varieties Offered in School
Vending and School Cafeterias

Chairman Freborg and Members of the Senate Education Committee:

Good morning and thank you for your time. I am Jerry Messer, a dairy producer from Richardton, ND. father of four and grandfather of one.

Please be advised that I am presenting this testimony as a private citizen and not on behalf of Dairy Management Inc., the American Dairy Association or Midwest Dairy Association, who all are under USDA oversight and are prohibited from lobbying or from taking an official position in support of or against legislation.

I am here to provide some of the facts about the importance of milk in schools.

Milk is the principal source of calcium and a leading source of several other important nutrients in the American diet, making it a key contributor to improving the diet of school children. Surveys have shown that if you provide milk to kids in a variety of flavors and packages they like, kids drink more milk. This is not only good for the nutritional well being of the child, but also for the economic well being of the dairy producer.

Studies have found that children who drank flavored milk were more likely to meet their daily calcium requirements than those who didn't drink flavored milk. The flavored milk drinkers consumed more calcium, without increasing their total added sugar or fat intake.

Students also prefer milk served in plastic containers which are popular options in a la carte, school stores, and concession stands and the only type of container available for vending.

Kids are in a calcium crisis – they need more milk, more often. To get the nutrients they need, it is important that kids are encouraged to drink more milk not only at home, but also at school.

Vending and offering milk in the school cafeteria on the ala cart menu are two ways to help address the concern that most children don't get the three daily dairy servings

recommended in the Dietary Guidelines for Americans, and backed by the American Academy of Pediatrics and the American Academy of Family Physicians.

In my opinion the guidelines developed by the Alliance for a Healthier Generation and written in House Bill 1451 will limit the milk options available in schools. The Guidelines state that milk can be offered in 8 oz serving for Elementary, 10 oz in Middle School and 12 oz in High School as long as they provide less than 150 calories per 8 oz serving. The guidelines apply to all beverages sold on school grounds during the regular and extended school day. This will include vending, ala cart, school stores and concessions. In reviewing the milk options available to North Dakota schools at this time – in terms of package sizes and calories -- and comparing those options to the proposed guidelines. **Slightly more than half of the options currently available from North Dakota would not be allowed in school vending, ala cart, school stores and concessions during the school day therefore limiting the milk options available to school age children.**

In closing, I do support efforts in eliminating carbonated beverages in schools but I also support giving schools more flexibility to offer the types of milk children enjoy drinking. The proposed limits on serving sizes and calories may limit dairy options in vending and other areas where milk is offered in school. therefore limiting nutritious options. It's critical for kids and teens to get the calcium they need. This is a time for more choices for milk, in more places at schools – not fewer. There is no doubt that if their choices are restricted, our kids will drink less milk. Most kids don't get enough dairy every day and offering beverages like flavored milk in schools can help kids meet their dairy recommendations. It's important for my children and grandchild, and for all of the children in North Dakota.

Copies of my written testimony are available.

Thank you for your time today.

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To Promote relationships and enhance partnerships that provide quality nutrition education and nutrition services for the people of North Dakota.

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Send mail to dpi@nd.gov if you have any questions or comments.

North Dakota Department of Public Instruction
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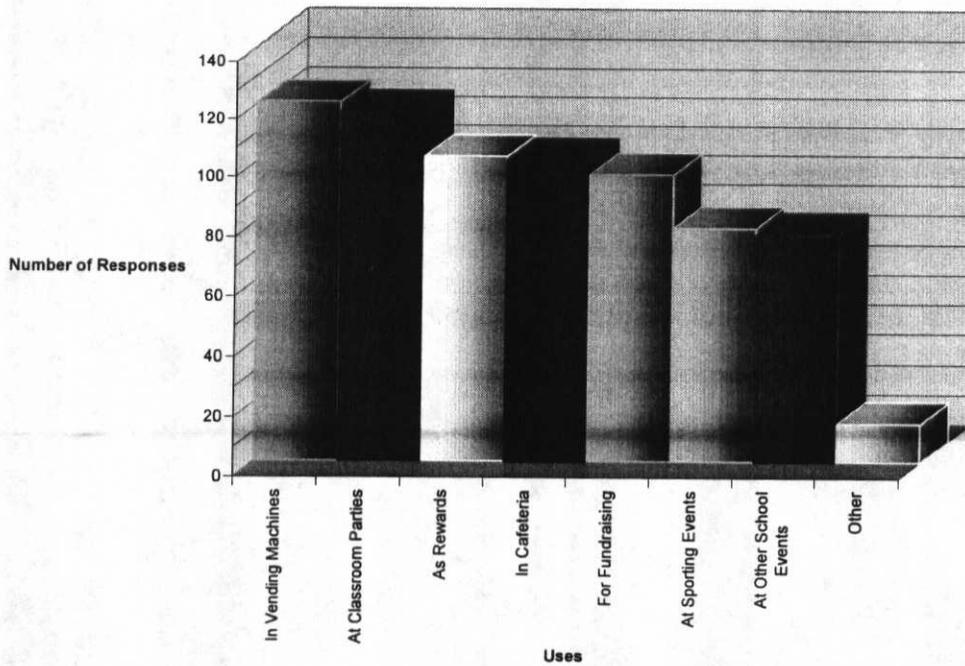
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Local Wellness Policy Survey Results

Last month we surveyed school districts on progress and content of their Local Wellness Policies. Thanks to all of you, the survey was a great success. We received responses from 152 of our 229 school sponsors to equal a 66% response rate! Here's some interesting information that we collected:

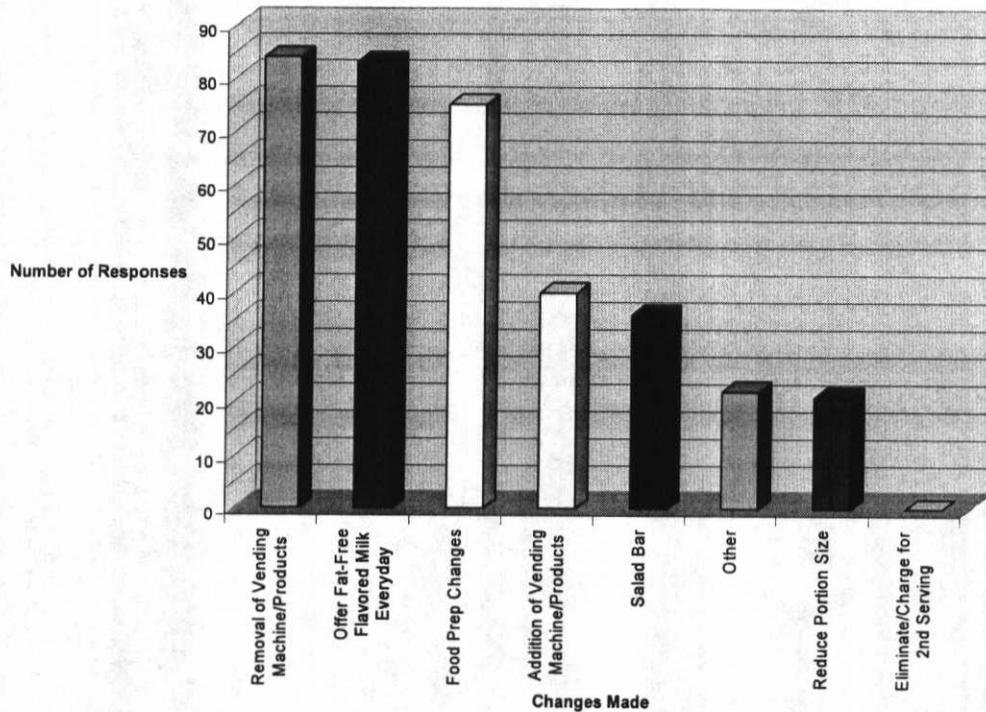
- Almost all sponsors (95%) have adopted their Local Wellness Policy.
- Most policies (68%) have general or broad nutrition guidelines for foods and beverages.
- In most cases, superintendents and other administrators are responsible for ensuring compliance of their wellness policy.
- Wellness policies address foods that are sold/served at school.

Wellness Policy Addresses Food Sold/Used

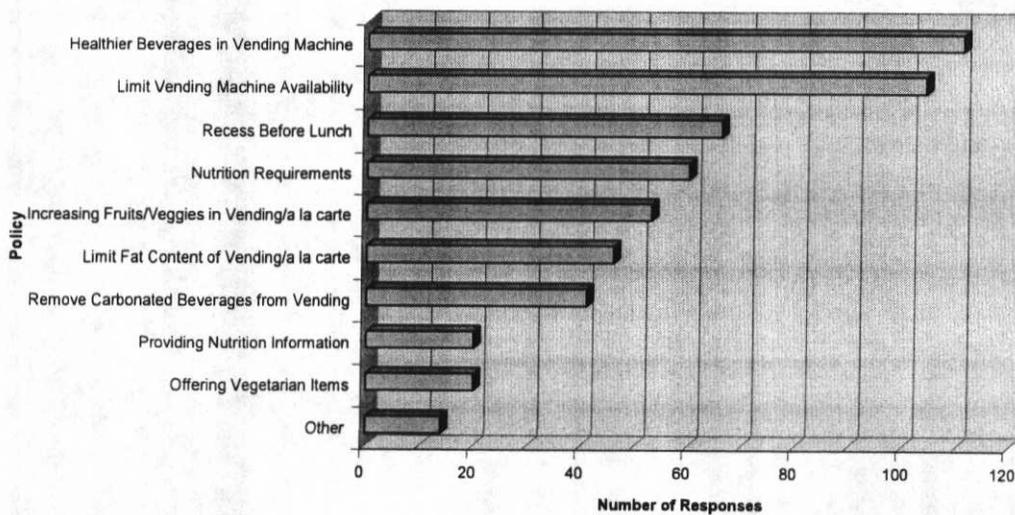


- Wellness policies include changes in the food and beverages that schools offer. (Insert question 8 graph and question 9 graph)

Changes in Food/Drink Offerings



Food Policies in Place



- Recess before lunch has been implemented in 43% of the responding schools.
- Most comments regarding the policies are optimistic. In addition to offering healthier foods and limiting less healthy items, many sponsors indicate improvements in the eating environment, including longer meal times and recess before lunch.

This information provides a strong base from which we can build additional training and technical assistance. As we move into policy implementation and evaluation, we encourage our school sponsors to share their efforts, successful and not. By working together we gain support and knowledge to help us grow. Thank you for your dedication to the health of your students.

For a detailed summary of the survey, contact Nancy Darling in our office at ndarling@nd.gov.

TESTIMONY ON HB 1451

Senate Education Committee

March 5, 2007

by Linda Glaser, Director Child Nutrition Programs

328.4565

Department of Public Instruction

Good Morning Chairman Freborg and members of the Senate Education Committee. My name is Linda Glaser, Director of Child Nutrition Programs for the Department of Public Instruction (DPI). I am here today to provide neutral testimony regarding vending contracts in schools – House Bill 1451.

The intent of this bill means well. We are all concerned with the increasing number of overweight children within our state and nationwide. In 2004 Congress, recognizing this problem, passed legislation to increase school efforts in improving their health and nutrition environment. As of this school year, North Dakota's public school districts and private schools have developed Local Wellness Policies. The policies address nutrition and physical activity goals and guidelines for foods and beverages sold in the school foodservice program as well as those sold in vending machines, snack bars, school stores, etc.

HB 1451 sets forth requirements for schools when entering into vending contracts. In the past vending contracts were known as a means for schools to receive large sums of money or other school equipment in return for selling and promoting products sold by large beverage corporations. Though relatively common even five years ago, it would be very difficult to find a similar contract in place at any school in North Dakota today.

In May 2005 the Alliance for a Healthier Generation developed and adopted the beverage guidelines. Since the inception of these guidelines beverage companies and schools have worked together to change the types of beverages sold at schools and to create a healthier school environment. The guidelines, in addition to the schools' local wellness policies have assisted schools in providing a school environment which supports and promotes healthy choices to its students and staff.

Schools understand that selling beverages with unnecessary calories, sugar, and caffeine in schools, contradicts nutrition education lessons and sends students the message that good nutrition is not important. When students receive nutrition

education in the classroom and healthy choices are available throughout the school, students may take what they learn and practice in school home to parents and their communities. Promoting healthy beverage options and limiting access to sweetened beverages is one way schools have positively impacted student's health.

This concludes my testimony. I'd be happy to answer any questions you may have.