

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2344

2007 SENATE EDUCATION

SB 2344

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2344

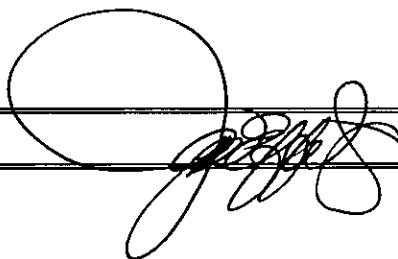
Senate Education Committee

Check here for Conference Committee

Hearing Date: January 30, 2007

Recorder Job Number: 2262, 2326

Committee Clerk Signature



Minutes:

Chairman Freborg opened the hearing on SB 2344, a bill relating to the preparation and provision of meals by institutions of higher education and school districts. All members were present.

Senator Gary Lee introduced the bill. (Written testimony attached)

Nicki Weissman, North Dakota Hospitality Association, testified in favor of the bill. (Written testimony attached)

Senator Flakoll asked if she could explain the differences in tax structure.

Ms. Weissman said she is not a tax expert. She believes the colleges get advantageous tax treatment.

Senator Flakoll said last week he heard a bill that involves school children raising a garden and ultimately selling their produce at a farmer's market. Would this bill prohibit that project?

Ms. Weissman asked if he meant the colleges or the farmers.

Senator Flakoll said the school district.

Ms. Weissman said if it was a town of under 5000 people, it would not be a problem.

Senator Taylor said the meals on wheels shows a \$1.3 million on the fiscal note, are there other institutions that could provide those meals?

Ms. Weissman said in Minot the city does it. Pete Zimmerman with the Holiday Inn brought up that example and he says it works very well. She does not have knowledge of Bismarck.

Senator Taylor said if the city does it, is that helping private business?

Ms. Weissman said that is a good point.

Senator Bakke asked the estimated loss to the private sector because of this issue.

Ms. Weissman said she doesn't know. If the Holiday Inn catered a dinner for 1000 people and it was \$16 - \$18 per person, that would be a big potential amount of dollars. There are many hotels across the state that run into this. The hoteliers are the one who don't like to compete against the colleges.

Chairman Freborg said the fiscal note showed a \$1.3 million negative on revenue.

Senator Gary Lee asked if she agrees with the fiscal note. Is there a portion businesses would like to capture themselves?

Ms. Weissman said she doesn't know but she is sure they wouldn't mind having that.

Senator Flakoll said he has a case in his community where one non profit could not find anyone to bring their food in but they were able to work it out with one of the campuses at a good rate. If someone else was going to come in and charge a rate say \$2 per person more, won't the state be subsidizing those private businesses because they are going to be paying for the non profit.

Ms. Weissman said does he mean the state is paying for it because they are funding the non profit?

Senator Flakoll said in the case where the non profit receives money from the state to provide meals for certain sectors, free and reduced for example, in a non school setting. We have to pay for that by the state but we can't get the best rate, won't the state be subsidizing the private businesses?

Ms. Weissman said that is probably a good point. There are several people across the state, for example in Steele, but that person could not be here because of an illness with her husband and the hoteliers have very busy schedules but they are concerned.

Senator Flakoll asked why it is limited to 5000.

Ms. Weissman said that is where they wanted to go with it.

Dixie Schultz, Child Nutrition Director for Mandan Public Schools, testified in opposition to the bill. (Written testimony attached)

Ms. Schultz submitted testimony from Mark Lemer, Business Manager and Jan Sliper, Food Services Director, West Fargo Public Schools. (Written testimony attached)

Chairman Freborg asked if she is sure furnishing food for a school board meeting would be prohibited by the bill? Would that not be considered a program affiliated with the school?

Ms. Schultz said she wasn't sure, it would be difficult if some people could have a meal and some could not.

Chairman Freborg said he wouldn't think it would matter who attends a school board meeting, it would be considered a school function.

Prakash Mathew, Vice President for Student Affairs, NDSU, testified in opposition to the bill. (Written testimony attached)

Senator Gary Lee asked if the Meals on Wheels contract is a competitive bid.

Mr. Mathews said yes, someone else will speak about that.

Senator Flakoll asked if the Alumni Center is considered off campus.

Mr. Mathews said they consider it to be on campus. The only income that they get that is from events not affiliated with the university is \$50,000. That is unsolicited.

Senator Flakoll asked how many non duplicated senior meals are served per year.

Mr. Mathews said he did not know.

Senator Taylor asked of the \$50,000 off campus, they are not alumni groups or other groups organized by the university?

Mr. Mathews said the events are not organized by the university, the people are affiliated with the university and may have attended an event at the alumni center and liked the quality of service and the product so they come to NDSU for those food services. It is 6 or 7 small events.

Senator Gary Lee asked if they would not be able to provide services to the Alumni Center.

Mr. Mathews said they are assuming no change in the alumni center, they are one of 7 caterers that serve the alumni center. The customers can pick and choose.

Brian Arett, executive director of the Fargo Senior Commission, testified in opposition to the bill. (Written testimony attached)

Linda Glaser, Director of Child Nutrition Programs, Department of Public Instruction, testified in opposition to the bill. (Written testimony attached)

Bev Neilson, North Dakota School Boards Association, testified in opposition to the bill. The way the bill is worded, in Higher Education it is permitted to serve on their own property but it does not say that for the public schools, it would clarify a lot if that wording was changed.

Those community schools which choose to serve child care centers or head start programs are doing a service for their communities by serving those non profits. In the Fargo area, this bill would be great for Concordia's food services.

Chuck Fleming, Marketing Director for the North Dakota Department of Agriculture said he was not necessarily opposed to the bill but is concerned about its affect on their joint project with Department of Public Instruction and Extension for school gardening. They worked with the 4th grade in Burlington and the Granville FFA in planting gardens. At Granville, they sold at the

farmer's market. If they were in communities over 5000 population, they would not be able to sell at the farmer's market and that is an important part of their projects.

Chairman Freborg closed the hearing on SB 2344.

Senator Gary Lee said he was ready to shoot the dog but the parties have an interest in fixing the bill. He will have an amendment by tomorrow.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2344

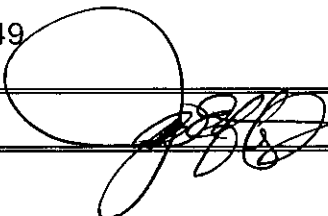
Senate Education Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2449

Committee Clerk Signature



Minutes:

Chairman Freborg opened the discussion on SB 2344.

Senator Gary Lee the intent of the bill is to level the playing field between university and school district food services and private business. The universities and school districts had some issues. He sat down with all parties and they have worked out a solution which is a hog house amendment to the bill. In a lot of cases the school district or university food service is the only possible provider of these meals and services. It would allow NDSU to continue providing meals for the Meals on Wheels program. It makes the bill better; it cleans up the areas of concern and may take away the fiscal note.

Senator Gary Lee moved amendment 70832.0102, second by Senator Flakoll.

Senator Taylor said if it takes away the fiscal note, it has not really removed the concerns of private industry.

Senator Gary Lee said one issue was Meals on Wheels, now NDSU would be able to keep providing that service.

Senator Taylor asked how the amendment still permits Meals on Wheels. He reviewed the language and thinks he now understands.

Senator Flakoll confirmed the legislative intent is to allow NDSU to furnish meals for Meals on Wheels.

Senator Gary Lee said that is correct, that is the intent and the agreement. Anita Thomas wrote the amendment.

Chairman Freborg discussed the need for a new fiscal note. Senator Gary Lee will check into it.

The motion passed 5-0-0.

Senator Gary Lee moved a Do Pass As Amended on SB 2344, second by Senator Taylor.

The motion passed 5-0-0. Senator Gary Lee will carry the bill.

FISCAL NOTE
 Requested by Legislative Council
 04/16/2007

Amendment to: Engrossed
 SB 2344

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$175,000)		(\$175,000)
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Limits off-campus catering to those events organized predominantly for persons and events affiliated with the institution.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Loss of auxiliary revenues in dining services.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Estimated loss of revenue to dining services based on limiting off-campus catering events. The off-campus events help subsidize the cost of dining services, which helps keep down meal costs for all students. Largest revenue loss at UND from bakery service sales to Altru Hospital.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Laura Glatt	Agency:	NDUS
Phone Number:	328-4116	Date Prepared:	04/16/2007

FISCAL NOTE
 Requested by Legislative Council
 03/16/2007

Amendment to: Engrossed
 SB 2344

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$200,000)		(\$200,000)
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Limits off-campus catering to those events organized predominantly for persons and events affiliated with the institution.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Loss of auxiliary revenues in dining services.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Estimated loss of revenue to dining services based on limiting off-campus catering events. The off-campus events help subsidize the cost of dining services, which helps keep down meal costs for all students.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Laura Glatt	Agency:	NDUS
Phone Number:	328-4116	Date Prepared:	03/19/2007

FISCAL NOTE
 Requested by Legislative Council
 02/02/2007

Amendment to: SB 2344

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$200,000)		(\$200,000)
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Limits off-campus catering to those events organized predominantly for persons and events affiliated with the institution.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Loss of auxiliary revenues in dining services.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Estimated loss of revenue to dining services based on limiting off-campus catering events. The off-campus events help subsidize the cost of dining services, which helps keep down meal costs for all students.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Laura Glatt	Agency:	NDUS
Phone Number:	328-4116	Date Prepared:	02/02/2007

FISCAL NOTE
 Requested by Legislative Council
 01/22/2007

Bill/Resolution No.: SB 2344

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				(\$1,320,000)		(\$1,500,000)
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Limits off-campus catering to those events organized predominantly for persons and events affiliated with the institution.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Loss of auxiliary revenues in dining services.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Estimated loss of revenue to dining services based on limiting off-campus catering events. The off-campus events help subsidize the cost of dining services, which helps keep down meal costs for all students. Also, catering services are provided for community needs at times, such as Meals of Wheels, were no other alternatives are available.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Laura Glatt	Agency:	NDUS
Phone Number:	328-4116	Date Prepared:	01/24/2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15-10-17.4 and 15.1-35-08 of the North Dakota Century Code, relating to the provision of catering services by institutions of higher education and school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-17.4 of the North Dakota Century Code is amended and reenacted as follows:

15-10-17.4. Contract - Preparation and provision of meals - Policy. An institution under the control of the state board of higher education may enter a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the institution and may provide catering services for an event that is not held on property owned by the institution if the event is organized predominantly for persons affiliated with the institution, the event is held predominantly for persons enrolled in the institution, or the event is held under the auspices of the institution, provided the institution first establishes a policy regarding such contracts services and specifically ~~addressing~~ addresses issues related to competition with private sector entities. An institution under the control of the state board of higher education may not advertise to the general public its willingness to provide ~~meals, snacks, or other food services for persons or programs not affiliated with the institution~~ the services permitted under this section.

SECTION 2. AMENDMENT. Section 15.1-35-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-35-08. Contract - Preparation and provision of meals.

1. The board of a school district may enter into a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the school district and may provide catering services for an event not held on property of the school district, ~~provided any person that wishes to enter a contract with the board under this section first demonstrates to the satisfaction of the board that there are no~~ if the event is organized predominantly for persons affiliated with the school district, the event is held predominantly for persons enrolled in or employed by the school district, or the event is held under the auspices of the district, provided the board of the district first establishes a policy regarding such services and specifically addresses issues related to competition with private sector entities ~~able and willing to enter into such a contract.~~
2. The board of a school district may not advertise to the general public its willingness to provide ~~meals, snacks, or other food services for persons or programs not affiliated with the district~~ the services permitted under this section.
3. ~~An institution under the control of the state board of higher education may not advertise to the general public its willingness to provide meals, snacks, or other food services for persons or programs not affiliated with the institution."~~

Renumber accordingly

Date: 1/31/07
Roll Call Vote #: ✓

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number 70832.0102

Action Taken Move Amendment

Motion Made By Sen. Lee Seconded By Sen. Flakoll

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Flakoll	✓		Senator Bakke	✓	
Senator Gary Lee	✓				

Total Yes 5 No 0

Absent 0

Floor Assignment _____

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

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2341

Senate Education Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen. Lee Seconded By Sen. Taylor

Senators	Yes	No	Senators	Yes	No
Senator Freborg	✓		Senator Taylor	✓	
Senator Flakoll	✓		Senator Bakke	✓	
Senator Gary Lee	✓				

Total Yes 5 No 0

Absent 0

Floor Assignment Sen. Lee

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

REPORT OF STANDING COMMITTEE

SB 2344: Education Committee (Sen. Freborg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2344 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 15-10-17.4 and 15.1-35-08 of the North Dakota Century Code, relating to the provision of catering services by institutions of higher education and school districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-17.4 of the North Dakota Century Code is amended and reenacted as follows:

15-10-17.4. Contract - Preparation and provision of meals - Policy. An institution under the control of the state board of higher education may enter a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the institution and may provide catering services for an event that is not held on property owned by the institution if the event is organized predominantly for persons affiliated with the institution, the event is held predominantly for persons enrolled in the institution, or the event is held under the auspices of the institution, provided the institution first establishes a policy regarding such ~~contracts~~ services and specifically addressing addresses issues related to competition with private sector entities. An institution under the control of the state board of higher education may not advertise to the general public its willingness to provide ~~meals, snacks, or other food services for persons or programs not affiliated with the institution~~ the services permitted under this section.

SECTION 2. AMENDMENT. Section 15.1-35-08 of the North Dakota Century Code is amended and reenacted as follows:

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1. The board of a school district may enter into a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the school district and may provide catering services for an event not held on property of the school district, provided any person that wishes to enter a contract with the board under this section first demonstrates to the satisfaction of the board that there are no if the event is organized predominantly for persons affiliated with the school district, the event is held predominantly for persons enrolled in or employed by the school district, or the event is held under the auspices of the district, provided the board of the district first establishes a policy regarding such services and specifically addresses issues related to competition with private sector entities able and willing to enter into such a contract.
2. The board of a school district may not advertise to the general public its willingness to provide ~~meals, snacks, or other food services for persons or programs not affiliated with the district~~ the services permitted under this section.
3. ~~An institution under the control of the state board of higher education may not advertise to the general public its willingness to provide meals, snacks, or other food services for persons or programs not affiliated with the institution."~~

Renumber accordingly

2007 HOUSE EDUCATION

SB 2344

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2344**

House Education Committee

Check here for Conference Committee

Hearing Date: **12 February 2007**

Recorder Job Number: **3382**

Committee Clerk Signature



Minutes:

Senator Gary Lee, District 22, introduced the bill. (Testimony Attached.) He advised the Committee that there may be some more work to be done on this bill. There may some more questions on the language of the bill.

Senator David O'Connell, District 6, also a sponsor of the bill, testified in favor of the bill except in Section 2, I am worried about the campus at Bottineau and where it says school district in the bill. I talked to the university system upstairs and they think it should mention "campus"—any campus under 5000. In Bottineau they are the only ones in the city that does this kind of work. That's the concern we have. I talked to Senator Lee and if that change could be made, it would be good.

Chairman Kelsch: So it would read "any school district or campus under 5000."

Representative Herbel: Do you want it to read campus under 5000? Or city of 5000?

Senator O'Connell: It should be city under 5000.

Robert Harms, lobbyist for the ND Hospitality Association, testified in favor of the bill.

(Testimony Attached.) We are in favor of getting publicly-funded entities out of the catering business where they compete unfairly with private sector catering businesses. He discussed some amendments the Hospitality Association proposed. **(Attached.)**

Representative Wall: Would you clarify for me the 5000 persons?

Harms: What we are proposing in the amendment that in higher education there be three exceptions that can cater and those are in communities of 5000 or less if the board is satisfied that no one else can provide those services then they can enter into catering activity. I wanted also to mention one other thing. We've had discussion with NDSU and members of the higher education community who were supportive of the amendment that Senator O'Connell mentioned that would accommodate smaller colleges such as Bottineau and Mayville. Secondly, I wanted to add that we have spoken with NDSU particularly and they have a program where they provide service for meals on wheels and we think the current bill the way it is written accommodates that and we support that provision.

Chairman Kelsch: What precipitated the changes?

Harms: Over the last couple of years we have heard of a couple of instances where, particularly on the higher education side, are catering events off campus where they are essentially competing private business and they have the advantage of being publicly funded and paying considerably less for insurance, wages, overhead, and facilities. That's the driver for the bill. The K-12 component was less of a concern and we're not intending to have any impact on concessions in the schools that are currently taking place.

Chairman Kelsch: How does it affect the programs that currently provide meals for Head Start or other programs such as that?

Harms: There is a program with Head Start in place and I think you will hear from proponents on that. The current law says that if the school satisfies itself that no one else in the community is willing and able to provide those services; we think the engrossed bill probably expands that activity. That's one of the reasons we advanced that amendment you have in front of you. From the Hospitality standpoint, we think we may have lost ground in Section 2 of the engrossed bill. But we would be comfortable with that.

Representative Haas: What about the instance where a university contracts with a private enterprise third party for food services? There are instances of that now.

Harms: What we would envision is if the university is using a third-party contractor, that contractor steps into the shoes of the university. I don't think we make a distinction there. It's just where the university or their third-party contractor is competing off campus then they have to satisfy one of those exceptions in the engrossed bill.

Representative Mueller: It is conceivable that a food service company within the community of the college might exist could be that third party that was referenced. How would that work in to the position you are taking on the bill.

Harms: If the third party, in the bill as it is written, applies to the institutions of higher education, not to those they contract. For example, let's say I'm the president of Dickinson State and I have a contract with a company in Dickinson to provide our food service for Dickinson State, you also have your independent company that is engaged is catering activities. We don't think the bill would affect your private business activities competing with another private food company that is located in the same community for catering services. I don't think the bill is intended to impact private sector activities. It is designed to apply to higher education.

Representative Wall: Under letter "c" it says unless the event is held under the auspices of the college. What do auspices mean to you?

Harms: The usual and ordinary meaning of the word. Let's say NDSU is hosting a NCAA event at the Ramada—it would be under the auspices of NDSU. What we are getting to is when the Chamber of Commerce has a function at the Ramada, that function is not to be catered by NDSU.

Janna Stoskopf, dean of Student Life at North Dakota State University, testified in favor of the bill. (Testimony Attached.)

Representative Hunskor: What is your response to the proposed amendments?

Stoskopf: Although I have not seen the proposed amendments, from the discussion I don't anticipate it would have any affect on us.

Brian Arett, executive director of the Fargo Senior Commission, Inc., testified in favor of the bill as engrossed. (Testimony Attached.)

Representative Mueller: Maybe you are seeing something in this bill that I am not. You said in lines 7-9 you are reading into it that catering work by NDSU for the seniors program wouldn't be affected. Explain to me how you are finding that in those lines.

Arett: The key is may. . . That tells me that if you are a program as we are, they will be able to enter into contract with us.

Representative Mueller: Did I hear you say your program is affiliated with NDSU.

Arett: No, only that we contract with them. If this language is not accomplishing what I think it is, then we don't support this bill as it will have a significant impact on our program and it needs to be clarified to make an allowance for meals for the elderly. I would ask that that change be made. That would be a significant impact on our agency. It would be quite a disruption if we were not able to work with NDSU. It may drive us to catering business across the river. There are a couple of higher education institutions that we would have to contact to try to control our costs.

Representative Herbel: Speaking of that—does Morehead State do any catering services?

Arett: They do catering. I don't know the extent of the catering they do. More than Morehead State, Concordia College does a significant amount of catering with organizations not affiliated with the University.

Opposition:

Jim Borkowski, Minot State University in Bottineau, testified in opposition to the bill. We are in opposition to the bill for several reasons. I want to make a point of clarification.

