

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on February 13, 2007, in Room 123-S of the Capitol.

Committee members absent:

Committee staff present: Sharon Wenger, Kansas Legislative Research Department  
Ashley Holm, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Senator Chris Steineger  
Kevin Robertson, Kansas Dental Association  
Jodi Mackey, Kansas State Department of Education  
Ron Hein, Kansas Beverage Association  
Kelly Youngken, American Beverage Association  
Mark Tallman, Kansas Association of School Boards

**SB 170 – Sale of beverages in schools**

Sharon Wenger, Kansas Legislative Research Department, explained that the first section of the bill indicated what beverages may be sold to a pupil at an elementary school. Some of the beverages which do not comply could be sold at fund raising events by pupils of the school, but the sale of those items must take place off the school premises. Sales must take place one-half hour or more after the end of the school day. An electrolyte replacement beverage could be sold at middle and junior high schools. Vending machine sales must be sold before and after school. Beginning on July 1, 2008, no less than 50 percent of all beverages sold to a pupil before or after school must be those enumerated in paragraph 3. Beginning July 1, 2009, all beverages sold within the time limitations must be those enumerated in paragraph 3. The governing board of the school district would annually review its compliance with this law.

Jodie Mackey, Director of Child Nutrition and Wellness for the Kansas State Department of Education, informed the Committee that federal law currently limits the sale of “foods of minimal nutritional value.” These are items such as carbonated beverages and certain gums and candies, most of which would be 100 percent sugar. These items cannot be sold or given away where school meals are being served or eaten during the food service period. State wellness policy guidelines, which were adopted by the State Board of Education in August 2005, are very similar to the guidelines in **SB 170**. Approximately 75 percent of the school districts in the state have adopted the wellness policy guidelines. A decision is made at the local level as to what extent they want to adopt them.

Senator Chris Steineger, sponsor of **SB 170**, explained that he requested the introduction of the bill in response to the rising problem with obesity and type 2 diabetes nationwide among children and young adults. A comprehensive analysis of U.S. beverage consumption found that beverages supply 22 percent of the calories in the diet, with nutrient-poor, sweetened beverages as the largest contributor. He called attention to a chart in his written testimony relating to the type of beverages that could be sold in elementary, middle, and junior high schools and the time at which they can be sold under the bill. He noted that the chart was typographically wrong. He explained that the chart was meant to show that one-half hour before school, all day during school, and one-half hour after, the pupils do have access to the healthy drinks listed. He also pointed out the bill did not apply to high schools. (Attachment 1) Senator Steineger explained further that he requested the introduction to two related bills: **SB 171** dealing with nutritious foods and **SB 281** dealing with physical education in schools. He noted he decided to request the introduction of the three bills after hearing an interview with Governor Arnold Schwarzenegger last summer at a health care conference in California. The bills the California Governor supported, which passed and became law, emphasized healthy eating, healthy beverages, and physical education. He noted that **SB 170** was taken from the California legislation.

Senator Steineger called attention to written testimony in support of **SB 170** submitted by Donna Keyser, Food Service Director of the Manhattan/Ogden Schools, who was unable to attend the meeting due to the inclement weather. (Attachment 2)

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Kevin Robertson, Kansas Dental Association, testified in support of **SB 170**. He stated that the Association felt the bill was an effective way to promote overall and oral health for Kansas children. He explained how sugar drinks, candy, and carbonated drinks promote dental cavities in new and developing permanent teeth. In his opinion, there was no justification for schools to promote unhealthy and hazardous habits among children. He pointed out that the bill would not prohibit Kansas school districts from entering into exclusive contracts with soft drink companies, and it would not prohibit vending machine sales in schools. He listed several drinks (water and juices) produced by Pepsi-Cola and Coca-Cola which would be ideal nutritional options to be sold in school vending machines. (Attachment 3)

Jodie Mackey explained that the Kansas model wellness guidelines were developed by a group of 30 school nutrition professionals who gave input on national guidelines which had been developed by a variety of creditable organizations. The guidelines were further reviewed, and further input was obtained from a group of 125 health and education leaders in Kansas. Public hearings were held on the guidelines before they were adopted by the State Board of Education in 2005. She explained that the guidelines cover all food sold in schools and beverages available in schools during the school day. The guidelines include foods and beverages that are available through classroom parties or through class rewards. She explained that the bill differed from the guidelines because it addressed fruit based drinks and vegetable drinks separately composed of no less than 50 percent juice and with no added sweetener, whereas the guidelines simply addressed 50 to 100 percent juice without differentiating between fruit and vegetable juice. The guidelines include non-caloric water, which allows for water which is artificially sweetened. The guidelines also limit the calories that can be provided by milk to 360 calories. She noted that, although dental issues are very important, obesity is the driving factor in the Kansas model wellness policy guidelines. She informed the Committee that the Kansas Health Institute, in calibration with the Department of Education, recently completed an extensive survey of Kansas school personnel relating to nutrition and physical activity. The survey revealed that, when children enter high school, physical activity plummets and vending sales dramatically increase. Therefore, she was concerned that the bill did not apply to high schools.

Ron Hein, testified in opposition to **SB 170** on behalf of the Kansas Beverage Association. He contended that the bill would take local control away from school districts, and it would place a decision with the state that should be the decision of the parents. He went on to say that, although the intent behind the bill was commendable, the beverage industry had already met and exceeded the solutions the sponsor of the bill sought. He then outlined the history of the issue of the sale of soft drinks in schools. He emphasized that, during the entire process of establishing guidelines, the Association worked with groups interested in this issue and concerned about healthy beverages in schools. The Association advocates that a state mandate for local school districts is not the appropriate mechanism to deal with vending machine issues in schools. (Attachment 4)

Kelly Youongken, American Beverage Association, testified in opposition to **SB 170**. She explained that ABA has consistently advocated teaching children the importance of consuming a balanced diet and being physically active. She noted that the Alliance for a Healthier Generation asked ABA to participate in its comprehensive effort to develop model school wellness programs. ABA joined with the Alliance on a new groundbreaking nationwide school beverage policy which was announced by former President Clinton and former Governor Huckabee in May 2006. The new policy puts the focus on the school setting, not on the products. She contended that the bill was unnecessary and redundant, given the industry's voluntary leadership on this issue. For the Committee's information, she distributed copies of ABA's new school beverage guidelines. (Attachment 5)

Mark Tallman, Kansas Association of School Boards, testified in opposition to **SB 170**. He commented that, under the federal free meals act, schools are already required to establish wellness councils to advise local school boards on appropriate policies for health and nutrition. He noted that some school districts continue to allow beverage and other sales as a source of revenue for local programs which, in fact, may support physical fitness activities and sports. He argued that the Legislature should not be in the business of regulating by the minute or the percentage the time and content of beverage sales. (Attachment 6)

Mr. Tallman called the Committee's attention to an e-mail from Karen Bailey, McLouth, urging the Committee to carefully consider the effect of **SB 170** before voting on it. She wrote that it is difficult for rural schools in small towns to raise money for activities and events. In the McClouth high school, the student

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council uses the money from their school's vending machines to host school dances and pay for homecoming and graduation events. (Attachment 7)

There being no others wishing to testify, the hearing on **SB 170** was closed.

**SB 171 – Fresh start program promoting fruits and vegetables in schools**

Sharon Wenger, Kansas Legislative Research Department, explained that **SB 171** would establish a new program in the Kansas Department of Education which would encourage the provision of fresh fruits and vegetables to public school students to supplement other fruits and vegetables. The fresh fruits and vegetables would be provided free of charge to those students who are on free or reduced lunch. The fruits and vegetables, not deep fried, would be provided during the school day but not during the regularly scheduled lunch period. In addition, the bill would require that a school district give priority to the purchase of fruits and vegetables from Kansas producers. Subject to appropriations, the school districts could apply for funding for reimbursement of ten cents per meal. The fiscal note indicated that, if all districts met the requirements of the bill, it would cost the state approximately \$1.5 million. The State Board of Education would first develop rules and regulations to implement the program and then establish guidelines for the evaluation of the program.

Senator Steineger said that the goal of the bill was to attempt to help school children to be less obese and live healthier lives by setting forth some healthy food standards. He noted that the bill would serve as a preventative initiative that would save future health care costs. (Written testimony on SB 171 combined with testimony on SB 170, see Attachment 1)

Senator Steineger called attention to written testimony in support of **SB 171** submitted by Donna Keyser, Food Service Director in the Manhattan/Ogden Schools. (Attachment 8).

Mark Tallman, Kansas Association of School Boards, testified in opposition to **SB 171** because it would create a new mandate to provide food items with no guarantee of funding, it would fall hardest on districts with high numbers of free/reduced lunch students, it would raise a number of administrative issues, and it would increase school districts' expenditures for food service, which is not an instructional cost. In his opinion, if the Legislature supports the concept, it should be through a grant program. (Written testimony on SB 171 combined with testimony on SB 170, see Attachment 6)

Senator Schodorf called attention to written testimony submitted by Linda J. De Coursey, American Heart Association. Ms. De Coursey stated that the Heart Association believes it is important to create environments that support healthy eating in schools, communities, and at home to prevent childhood obesity. In her opinion, **SB 171** was a step toward promoting a healthier environment for children. (Attachment 9)

There being no others wishing to testify, the hearing on **SB 171** was closed.

The meeting was adjourned at 2:25 p.m.

The next meeting is scheduled for February 14, 2007.

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