

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:23 P.M. on February 2, 2005 in Room 526-S of the Capitol.

Committee members absent:

Representative Delia Garcia- excused
Representative Geraldine Flaharty- excused
Representative Patricia Kilpatrick- excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Rena Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Teresa Schwab, Oral Health Kansas (proponent)
Cindy D'Ercole, Senior Policy Analyst, Kansas Action for Children (proponent)
Sarah Hampl, MD, American Academy of Pediatrics (proponent)
Bobbe Mansfield, Baker University School of Nursing and Prairie Family Medical (proponent)
Chris Wilson, Executive Director, Kansas Dairy Association (proponent)
Elaine Schwartz, Executive Director, Kansas Public Health Association (proponent)
Jerry Slaughter, Executive Director, Kansas Medical Society (written only, proponent)
Ron Hein, Kansas Beverage Association (opponent)
Leslie Bonci, Sports Nutrition Director, University of Pittsburgh Medical Center (opponent)
Donna Whiteman, Assistant Executive Director for Legal Services, Kansas Association of School Boards (opponent)
Brad Stauffer, Communications Director, Topeka Public Schools (opponent)
Noah Welch, Lawrence High School student (opponent)
Mark Desetti, Director of Political Action and Government Relations, Kansas National Education Association (opponent)
(written only) Kevin Fisk, Grocery Manufacturers of America (opponent)
(written only) Stephen Lodge, National Confectioners Association (opponent)

Others attending:

See attached list.

The Chair made several announcements regarding electronic committee protocols.

The minutes for February 1, 2005, were approved.

Representative Paul Davis requested the committee sponsor a bill dealing with breast feeding, stating that a constituent had requested the bill. A motion was made, seconded, and passed to sponsor the bill.

CONTINUATION SHEET

MINUTES OF THE House Health and Human Services Committee at 1:23 P.M. on February 2, 2005 in Room 526-S of the Capitol.

The Chair opened the hearing on [2137](#), a bill dealing with health food choices in school vending machines.

Teresa Schwab, Executive Director, Oral Health Kansas, spoke in favor of the bill. ([Attachment 1](#)) She said that bacteria in the mouth converts sugar to acid, eating away tooth enamel. She noted that one of the most common childhood diseases is early childhood caries, saying that soft-drink vending machines in schools send a mixed message to students.

Cindy D'Ercole, Senior Policy Analyst, Kansas Action for Children, testified in support of the bill. ([Attachment 2](#) and [Attachment 2a](#)) She stated that the growing obesity epidemic as well as early childhood caries are problems that can be prevented, noting that the bill does not ban the sale of soft drinks, but allows options for students, saying that nutritional value is the key issue since this bill looks at foods of low nutritional value. She said passage of this bill is one step on a path to improve the health of Kansas children.

Sarah Hampl, MD, representing the American Academy of Pediatrics, testified that childhood obesity is a growing problem, saying that one in three American children is overweight and one in six is obese, noting that many health problems are directly related to obesity. ([Attachment 3](#)) She said studies have shown that obese children have plaques in their arteries as early as age six, observing that many vending machines offer what would amount to 2 or 3 servings of high-fat, high-calorie foods. She stated that outside the classroom, students are presented with a wide array of high-carbohydrate foods; schools should provide an oasis from these messages. This bill provides an opportunity to improve the health of Kansas kids.

Bobbe Mansfield, Baker University School of Nursing and Prairie Family Medical, spoke as a proponent. ([Attachment 4](#)) She said that any effort to prevent obesity is commendable, which this bill does. She commented that about 41% of Shawnee County are overweight or at risk of becoming overweight, a problem compounded by a food industry that generates 3800 calories per person per day. She said that research shows that efforts such as this bill will encourage better nutrition, increase revenue, and improve student behavior.

Chris Wilson, Executive Director, Kansas Dairy Association, commended the goal of the bill to improve vending machine choices. ([Attachment 5](#)) She said that the Kansas Dairy Association for the first time began research regarding revenue produced by vending machines in small schools. She reported that four of nine of the schools lost money. Nevertheless, eight of the nine schools continued with the machines because they wanted to offer wider choices for students. She said the association is working with schools to help them be successful and profitable, even though machines cost \$3000 to \$4500.

Elaine Schwartz, Executive Director, Kansas Public Health Association, spoke as a proponent of the bill. She said the association has 500 members committed to working for a healthier Kansas. ([Attachment 6](#)) She said childhood obesity and early childhood oral health are two concerns about which the bill offers action in a positive direction, noting that studies show that giving healthy snacks and encouraging physical activity have been found effective in reducing body mass.

CONTINUATION SHEET

MINUTES OF THE House Health and Human Services Committee at 1:23 P.M. on February 2, 2005 in Room 526-S of the Capitol.

Jerry Slaughter, Executive Director, Kansas Medical Society, provided written testimony as a proponent of the bill. ([Attachment 7](#))

Members questioned proponents regarding their testimony:

Jodi Mackey said that the school lunch program has strict procedures regarding calorie intake, fat content, and nutritional impact, noting that in the past 10 years school lunches have become much more nutritious.

Cindy D'Ercole said the bill starts the conversation about providing options in school vending machines. She also observed that about 10 beverages on the Coca-Cola website would qualify as healthy alternatives.

Chris Wilson said that even though dairy machines do not always produce revenue for the school, students appreciated wider variety of choices.

Members commended the presence of dairy machines as a means of adding calcium to a student's diet and expressed concern that the sugar in some beverages not only encourage weight gain, but impinge on a student's immune system.

Ron Hein, Kansas Beverage Association, spoke in opposition to the bill. ([Attachment 8](#), [Attachment 8a](#) and [Attachment 8b](#)) He agreed that there is an obesity problem, but stated that there is room for sugar in a healthy, nutritious diet. He expressed appreciation for the intent of the bill, but stated that it is a small part of a very complicated problem, noting that the beverage industry has moved toward more healthy choices, citing lower soft drink consumption and a wider variety of choices. He said the bill will have an adverse financial impact on schools, often hurting programs that encourage physical activity. Saying that the bill is a simple solution to a complicated problem and creates many unintended consequences, he stated that over the last 20 years caloric consumption has gone up 1%, but physical activity is down 13% over same period, commenting that this bill not the solution to a very wide problem.

Leslie Bonci, Sports Nutrition Director, University of Pittsburgh Medical Center, and registered dietician, spoke as an opponent. ([Attachment 9](#)) She said that all food eventually turns into glucose in the body, and that targeting certain foods is not the answer to a complex problem that can be better addressed by increasing physical exercise. She noted that vending machines always offer a controlled amount, something not provided by convenience stores or home settings. Commenting on oral health, she said that solid types of carbohydrates are worse than liquids, the former adhering to teeth for a longer period of time.

Donna Whiteman, Assistant Executive Director for Legal Services, Kansas Association of School Boards, spoke in opposition to the bill. ([Attachment 10](#)) She testified that the association had developed eight policy statements, all of which were listed in her written testimony. She highlighted three of these verbally, saying that the responsibility to manage vending machines should be left to the 2100 school board members whose duty it is to oversee the 1416 school buildings under their jurisdiction. Further, she said most junior and senior high schools have existing contracts with vending machines companies, the machines generating significant income for school districts. Third, she stated that the federal Child Nutrition and WIC Reauthorization Act became effective June 30, 2004, an act which addresses childhood

CONTINUATION SHEET

MINUTES OF THE House Health and Human Services Committee at 1:23 P.M. on February 2, 2005 in Room 526-S of the Capitol.

obesity and requires school districts to establish wellness policies by June 30, 2006, policies which may well obviate the need for this bill.

Brad Stauffer, Director of Communications, Topeka Public Schools, spoke as an opponent, noting that the Topeka Public Schools have a contract with Pepsi that garners about \$385,000 each year for the district, \$30,000 of which goes to Topeka High. ([Attachment 11](#)) He stated that these funds are used for a variety of purposes, including paying the mortgage for Hummer Sports Park. He observed that in the past few years sugar-carbonated drinks have decreased from 62% of sales to 54% of sales and, concomitantly, healthier choices have increased.

Noah Welch, a student at Lawrence High School and general manager of the Lion's Den, the school store, testified as an opponent. ([Attachment 12](#)) He said removing soft drinks from the school will simply transfer profits from the school to the local convenience store, noting that removing carbonated drinks will cut revenue by 30% in his school store.

Mark Desetti, Director of Political Action and Government Relations, Kansas National Education Association, (also representing the United School Administrators) spoke as an opponent. ([Attachment 13](#)) He said enrollment costs, activity fees and other costs to parents are often offset or reduced by revenue from vending sales. Regarding the portion of the bill that prohibits using sweets as a reward, he said it was a small issue better addressed by site councils; he recommend that section be stricken.

Two individuals provided written testimony in opposition to the bill: Kevin Fisk, Grocery Manufacturers of America ([Attachment 14](#)) and Stephen Lodge, National Confectioners Association. ([Attachment 15](#))

Members queried opponent conferees, who gave the following answers:

Regarding questions about loss of revenue, Mark Desetti said schools with open lunch will probably not lose revenue with the bill, but those with exclusive contracts will. Brad Stauffer said Pepsi's contract nets the Topeka Public School District \$105,000 off the top; the bill may prompt Pepsi not to renew the contract. Donna Whiteman noted that many contracts with school districts stipulate that changes in state law can automatically void the contract.

A member observed that if school districts are receiving important revenue from vending contracts, these sources of revenue should be reported to the legislature. Another member commented that most food-vending companies have a variety of healthy products, so the bill should not be a problem. Mr. Stauffer said the issue should be addressed at the local level. Mr. Hein said the bill blurs two issues—obesity and limited nutritional values, issues which require different approaches.

Mr. Hein to another question that although water would seem to be a less expensive commodity for vending machines, the process of purifying, marketing and distribution add cost to it. To another question, Mr. Hein said that the trend toward eliminating individual freedoms was becoming more onerous, and that lawmakers should avoid addressing complex problems with simplistic solutions.

Ms. Whiteman said there are only a few elementary schools in Kansas that have vending machines. She

CONTINUATION SHEET

MINUTES OF THE House Health and Human Services Committee at 1:23 P.M. on February 2, 2005 in Room 526-S of the Capitol.

stated that the new federal policies will eventually impact contracts between school districts and vending companies but districts are reluctant to give up the contracts because they pay for underfunded programs. She noted that the bill, if enacted, will be difficult to administer because of the 50% rule; the effect of the federal guidelines is presently not clear, since federal law approaches wellness, not nutrition alone.

One member, acknowledging the value of income generation, nevertheless expressed regret that the prevalence of nutritionally questionable drinks and foods will develop habits in students that will eventually have a negative effect on their health and therefore their productivity as employees.

The Chair announced that the final two conferees would be heard the following day.

Staff provided a briefing on [HB 2077](#), which seeks to establish a cancer drug repository through the State Board of Pharmacy. She said the Board is directed to accept and dispense prescription-only cancer drugs donated by individuals, manufacturers, or health-care facilities for the purpose of treating Kansas residents who meet certain qualifications that will be established by rules and regulations. She noted that pharmacists and drug manufacturers who dispense such donated drugs are protected from criminal liability. A copy of the Nebraska statute and regulations (enacted in 2003) were being made available on the committee website.

The meeting was adjourned at 3:07 p.m. The next meeting is scheduled for Thursday, February 3, 2005.