

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)

## CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on February 13, 2007, in Room 123-S of the Capitol.

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

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:40 p.m. on February 13, 2007, in Room 123-S of the Capitol.

schools in small towns to raise money for activities and events. In the McClouth high school, the student 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.

**SENATE EDUCATION COMMITTEE  
GUEST LIST**

DATE: February 13, 2007

NAME	REPRESENTING
Katie Zulauf	Kearney & Associates
Tom Burgess	MAMA
BILL REARDON	USD 500
Scott Frank	LPA
Brenda Skidmore	KDHE
Kaye Kabus	Seaman USD # 345
Christy Campbell	Little Gov + Relations
Janelle Robinson	Sen. Steineger
Monica Crane	Steineger
Rita Hamman	Steineger
Christopher Cardinal	Steineger
Kevin Robertson	KS Dental Assn
Philip Hurley	FAT HURLEY & Co.
Suzanne Wikle	Kansas Action for Children
Jodi Mackey	KS State Dept of Education
Val DeFever	Schools for Quality Ed.
TERRY FOLSYTH	KNEA
Bill Brady	SFFF
BARBARA BUNTING	KASB

SENATE EDUCATION COMMITTEE  
GUEST LIST

DATE: February 13, 2007

NAME	REPRESENTING
Mark Tallman	KASB
Lindsey Douglas	Hein Law Firm
Ron Hein	Ks Beverage Association
Kelly Yangken	American Beverage Assn.

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## SB 170 Sale of Beverages in Schools

- SB 170 will encourage the sale of nutritious beverages in elementary and middle or junior high schools while restricting the sale of nutrient-poor beverages.
- With obesity and type 2 diabetes on the rise among children and young adults, providing healthier beverages to students will save future health care costs.
- *What America Drinks*, a new comprehensive analysis of U.S. beverage consumption, found that beverages supply nearly a quarter (22%) of calories to the diet, with nutrient-poor sweetened beverages as the largest contributor.
- Low fat and fat-free milk and 100 percent fruit and vegetable juices are nutrient-dense beverages that will contribute to healthy minds and bodies of Kansas children and young adults.

## SB 171 Establishing the Fresh Start Program

- SB 171 encourages schools to provide fresh fruits and vegetables to supplement other fruits and vegetables served in the Child Nutrition Programs.
- SB 171 promotes consumption of fresh fruits and vegetables by school-age children at breakfast and/or after school snack programs so Kansas students will have healthy minds and bodies. Most students fall short of eating the daily recommended amount of fruits and vegetables (3 ½ - 5 cups) and consume about 1 ¾ cups per day.
- Fruits and vegetables are a healthy and lower calorie alternative to high fat, sugar, and sodium foods and beverages which contribute to obesity, type 2 diabetes, and cardiovascular diseases. A preventative healthy initiative will save future health care costs.

Senate Education Committee  
 2-13-07  
 Attachment 1

Time of Day	Type of School	Beverages That Can Be Sold
	<b>Elementary</b>	
All day – Any time of day	“	Fruit-based drinks w/ 50% fruit juice & no sweetener
“	”	Veg-based drinks w/ 50% veg juice & no sweetener
“	”	Water w/ no sweetener
“	”	Low-fat milk(s)
	<b>Middle or Jr H.S.</b>	
From ½ hr before the school day starts to ½ hr after the end of the school day	“	Fruit-based drinks w/ 50% fruit juice & no sweetener
“	”	Veg-based drinks w/ 50% veg juice & no sweetener
“	”	Water w/ no sweetener
“	”	Low-fat milk(s)
“	”	Electrolyte replacement beverages
	<b>Middle or Jr H.S.</b>	
<b>Beverages that do not comply with above standards may be sold IF:</b>	At a school sponsored event at least ½ hr after the end of the school	
	In a vending machine, a pupil store, or cafeteria at least ½ hr after the end of the school day	

- Nutritious beverages can be sold in a vending machine any time of day.
- Implementation will be phased in.
  - ▶ July 1, 2008 – 50% of all beverages sold from ½ hr before start of school day to ½ hr after the end of the school day must be nutritious beverages
  - ▶ July 1, 2009 – all beverages sold from ½ hr before start of school day to ½ hr after the end of the school day must be nutritious beverages.

**Senate Education Committee  
Testimony for Senate Bill 170**

My name is Donna Keyser. I'm the Food Service Director of the Manhattan/Ogden Schools. I would like to thank the Education Committee for the opportunity to speak to Senate Bill 170.

A recent study (J. Am. Diet Assoc. 2003) found between 56-85% of school age children consume soda everyday. We know that soda consumption replaces more nutritious drinks, such as milk and fruit juice.

When Child Nutrition Programs were reauthorized in by Congress in 2004, school districts who receive federal reimbursement for meals, were required to adopt a Wellness Policy by the beginning of the 2006-07 school year. What we are finding is each district has created a different set of guidelines in our effort to create better food and beverage choices for our students. SB 170, in eliminating soda sales during the school day would encourage the consumption of milk, fruit juice and water. SB 170 would help to standardize beverage options in Kansas schools and would make Kansas schools models for nutritious beverage choices.

A good number of Kansas schools have existing pouring contracts with soft drink companies which will not expire for the next few years. Perhaps SB 170 could state: "in the case of an existing pouring contract, the bill would take effect at the end of the current contract".

*Senate Education Committee  
2-13-07  
Attachment 2*





**KANSAS DENTAL ASSOCIATION**

Date: February 13, 2007

To: Senate Committee on Education

From: Kevin J. Robertson, CAE  
Executive Director

**RE: Testimony in Support of SB 170.**

Chairperson Schodorf and members of the Committee I am Kevin Robertson, executive director of the Kansas Dental Association (KDA) representing 1,168, or some 80% of the state's licensed dentists.

The **KDA supports SB 170** as effective legislation to promote the oral and overall health of Kansas children. Sugar drinks and candy promote the formation of dental cavities because it feeds bacteria in the mouth that produces cavity causing acid. This bacteria is fed by the consumption of sugar in drinks and candy. In fact, the average 12 ounce serving of a regular soft drink contains between **9-11 teaspoons of sugar**.

In addition to the high sugar content, soft drinks (including diet soft drinks) are highly acidic with a **pH of 2.5 to 3.5**. Recalling your high school chemistry – a pH of 7.00 is neutral (water), while acids are pH 1.00-7.00 and alkaline are pH 7.00-14.00). The acidity of soft drinks can lead to the erosion of the tooth enamel (the hard outer coating) which can make the acid produced by the bacteria more dangerous to the teeth. New and developing permanent teeth in children have a softer enamel and can be more susceptible to this acid attack. Both regular and diet soft drinks using non-nutritive sweeteners are acidic, and studies have shown the repeated reduction in pH levels is significant in terms of enamel demineralization.

On the other hand, studies show that dairy products like cheese and milk strengthen the tooth enamel and protect against tooth decay. In addition, milk has a neutral pH and contains calcium as well as electrolytes that create equilibrium within the mouth.

The lack of good oral hygiene, brushing, fluoridated water, genetics and other factors all contribute to the formation of cavities in children. Parents may be allowing their children unaltered access to unhealthy soft drinks at home, however, there is no justification for schools to promote unhealthy and hazardous habits among our children when they are not under parental supervision.

**5200 SW Huntoon ♦ Topeka, KS 66604 ♦ 785.272.7360 ♦ FAX 785.272.2301 ♦ kevin@ksdental.org**

*Senate Education Committee  
2-13-07 Attachment 3*

SB 170 does not prohibit Kansas school districts from entering into exclusive and sometimes lucrative "pouring rights" contracts with soft drink companies and it does not prohibit vending machine sales in schools. Interestingly, both Pepsi-Cola and Coca-Cola have several brands under their banners that would be ideal nutritional options to be sold in school vending machines under SB 170, including but not limited to:

- Aquafina water
- Dole juices and juice drinks
- Quaker 2% Milk Chillers
- Gatorade
- FruitWorks juice drinks
- Propel Fitness Water
- Tropicana 100 juice
- Tropicana Pure Premium juices
- Tropicana Twister juice drinks
- Tropicana Smoothies

**Coca Cola Brands**

- Dasani water
- Dannon fluoridated water
- Powerade
- Hi-C
- Simply Orange
- Minute Maid Orange Juice
- Minute Maid Light Lemonade
- Mickey's Adventures Flavored Milk and Fruit Juices

The consumption of soft drinks (nationally) by both boys and girls has increased over the past 30 years while the consumption of milk has decreased. At the same time, soft drink purchases by schools have increased by 1,100% over the past 20 years while dairy purchases have decreased by 30%. The KDA asks the committee to take this step toward reversing this trend.

Thank you for your time today, I am happy to answer any questions you may have at this time. I urge you to **SUPPORT SB 170**.

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## **Senate Education Committee**

**Testimony Re: SB 170**

**Presented by Ronald R. Hein**

**on behalf of**

**Kansas Beverage Association**

**February 13, 2007**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Beverage Association (KBA) (formerly the Kansas Soft Drink Association), which is the state trade association for beverage bottling companies operating in Kansas. Products manufactured and distributed by members of the KBA include carbonated diet and regular soft drinks, bottled waters, isotonic drinks, juice, juice drinks, sports drinks, dairy-based beverages, teas, and other beverages.

The Kansas Beverage Association opposes SB 170 for a variety of reasons. The bill: takes away local control of the school districts; and places a decision with the state that should be a decision of the parents regards eating habits of their own children.

We understand and applaud the intent behind this legislation, but we believe that the actions which have been taken by our industry already meet and exceed the solutions the sponsor is seeking. ✓

To give the committee a brief history of the issue revolving around soft drinks in schools, several years ago concerns were raised in the media, in the public, and, to some extent through state legislation regarding vending of soft drinks in schools. In response to those concerns, the American Beverage Association came forward with a dramatic response, the establishment of guidelines voluntarily imposed on our member businesses which would insure that healthier beverage choices were made available to school children.

Subsequent to that action, the American Beverage Association, entered into an agreement with the William J. Clinton foundation and the American Heart Association, establishing the Alliance for a Healthier Generation (hereinafter "Alliance") which established an even more dramatic program to remove sugared carbonated soft drinks from school settings, and which fully met the concerns raised by parents and others to address the issues of soft drinks in schools.

At the state level, Rep. Jason Watkins had introduced legislation which was heard before

*Senate Education Committee  
2-13-07  
Attachment 4*

the House Health and Human Services Committee two years ago, which was designed to insure that 50% of the beverages in school vending machines constituted healthy choices. Our industry worked very actively with Rep. Watkins to insure that this was accomplished in a voluntary method, without the need for government intervention, or specifically, legislation. The original guidelines issued by the American Beverage Association went beyond what Rep. Jason Watkins had sought in his legislation, and the new standards established by the Alliance goes even further than those original guidelines.

During this entire process, the Kansas Beverage Association worked with, communicated with, and coordinated with other groups interested in this issue and concerned about healthy beverages in schools. Our association understood that we had met and exceeded the expectations of such groups.

During this entire process, the Kansas Beverage Association was also vitally aware and supportive of the concept that decisions regarding non-curricula actions of our school districts should be made at the most local level possible, which under our state's educational system, is the local school board, because the school boards are most logistically responsible to the concerns of the parents and patrons of the school district.

Therefore, the KBA has consistently advocated that state mandates for the local school districts is not the appropriate mechanism to deal with vending machine issues or other such non-curricula issues involving our local school districts. In addition, the KBA has strongly advocated that mandatory legislation or government intervention is not the most appropriate remedy when the industry is working in conjunction with the public and other interested groups to solve these problems in a voluntary, private sector driven manner.

Kelly Youngken, from the American Beverage Association (ABA), will elaborate on further details of the ABA guidelines and the subsequent ABA standards established in conjunction with the Alliance. She will be available for questions regarding the rationale for such guidelines, and the response from the public and specifically parents of school aged children regarding those guidelines and standards.

Therefore, the KBA is of the opinion that this issue has been fully settled by the dramatic move made by the Alliance, which clearly insures that the beverages available to all students in K-12, and specifically in elementary school and middle schools, whose students are the least capable of making decisions for themselves, will only have available healthy choices in the vending machines in the schools. In fact, the current ABA/Alliance guidelines go beyond what is prescribed in SB 170.

Again, we believe that the latest actions by the ABA, and all our member companies, has, indeed, been a revolutionary action which has met and exceeded the expectations of parents and healthcare groups which are interested in insuring that our children are

February 13, 2007

Page 3

exposed only to healthy food choices in beverage vending machines in schools.

I believe that, after you hear the ABA representative's testimony about what our industry has done, which I shared with all the members of the 2006 Legislature during the fall of 2006, you will agree that our industry has more than responded to any concerns that might have been warranted prior to our revolutionary guidelines and subsequent alliance standards.

We would ask that you not pass SB 170.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.



**Testimony of Kelly Youngken  
on behalf of the American Beverage Association  
Before the Senate Committee on Education**

**Senate Bill 170  
February 13, 2007**

Senator Jean Schodorf, Chairperson  
Senator Anthony Hensley, Vice Chairperson  
Members of the Senate Committee on Education

Good afternoon, members of the Senate Committee on Education. Thank you very much for the opportunity to appear before the committee to provide comments on S.B. 170.

I am Kelly Youngken, Director of State and Local Affairs at the American Beverage Association (ABA) in Washington, D.C. The American Beverage Association has been the trade association for America's non-alcoholic refreshment beverage industry for more than 85 years. Formerly the National Soft Drink Association, ABA today represents hundreds of beverage producers, distributors, franchise companies and support industries in Kansas and across the country.

For years, the American beverage industry has provided a responsible voice in the effort to strengthen the health and wellness of our nation's children. We have consistently advocated teaching our children the importance of consuming a balanced diet and being physically active. We believe the best way to keep our children healthy is to teach the importance of the concept of "calories in and calories out."

Last year, we were contacted by an organization that shares our desire to teach our children how to live healthier lives. The Alliance for a Healthier Generation is a joint initiative of the American Heart Association and the William J. Clinton Foundation. It features former Arkansas Governor Mike Huckabee and former President Bill Clinton as its co-chairmen.

The Alliance sought our participation in its comprehensive effort to develop model school wellness programs -- an approach that teaches healthier diets and more exercise. Funded with an initial \$8 million grant from the Robert Wood Johnson Foundation, the Alliance has identified a pilot group of almost 300 schools which will participate in a comprehensive fitness, health and nutrition program designed to teach children how to live a healthy lifestyle. It plans to be actively working with 3,000 schools by the end of the 2007-08 school year and 7,100 schools by the end of the 2009-10 school year.

The American Beverage Association's Board of Directors accepted the invitation to join with the Alliance for a Healthier Generation on a new groundbreaking nation-wide school beverage policy which is part of the Alliance's comprehensive school wellness initiative. This new

*Senate Education Committee  
2-13-07  
Attachment 5*

policy was announced by former President Clinton and former Governor Huckabee at a press conference on May 3, 2006

The new policy makes available bottled water, 100% juice with no added caloric sweeteners, and fat-free and low-fat milk in elementary and middle schools; in high schools, certain no- or low-calorie beverages such as diet drinks, bottled water, sports drinks, fitness waters and flavored waters will be allowed. Also available are certain juices, some juice drinks, and fat-free and low-fat milk. The policy would no longer allow full-calorie soft drinks, juice drinks or teas for sale in America's K-12 schools. In addition, the policy limits the calories and portion sizes of other beverages, including sports drinks and juices. These restrictions in fact go much further than those outlined in S.B. 170.

This new policy puts the focus on the school setting, not on the products. Limiting calories in schools is a sensible practice which acknowledges the American beverage industry's long-standing belief that solutions to obesity must focus on teaching kids to consume a balanced diet with more physical activity.

Our industry is proud of our products and proud of our participation in the Alliance for a Healthier Generation's Healthy Schools Program. With our bottlers, we are working hard to implement the beverage policy in schools in Kansas and across the country. The bill being considered today is unnecessary and redundant given our industry's voluntary leadership on this issue.

Thank you for the opportunity to comment today and I am happy to answer any questions that you may have.

*Enclosure*

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## Alliance for a Healthier Generation School Beverage Guidelines

### Background

The Alliance for a Healthier Generation, a joint initiative of the American Heart Association and the William J. Clinton Foundation, is committed to fighting childhood obesity by facilitating change in the environments that contribute to the quality of nutrition and access to physical activity for our nation's youth.

In conjunction with its Healthy Schools Program, the Alliance met with representatives from beverage companies PepsiCo, Coca-Cola, and Cadbury Schweppes as well as representatives from the American Beverage Association to develop a set of voluntary guidelines related to the sale of beverages in our nation's schools. The guidelines will also serve as the beverage standard for the Healthy Schools Program recognition criteria. The standards encourage the availability of nutritious and lower calorie beverages and will both reduce the calories and limit portion sizes for caloric drinks available to students in schools.

There is no one solution to solve the issue of childhood obesity, but the core of the problem lies with the fact that young people consume more calories than they burn. These guidelines are just one part of an overall strategy to decrease calories consumed while increasing calories burned. Along with the Alliance's other strategies – improving snack foods and meals available to students and increasing physical activity and physical education – these guidelines could make a significant contribution to reducing childhood obesity.

In addition, this agreement provides clear, science-based guidance to help participants in the Healthy Schools Program, and other schools across the country working to create a healthier environment, identify lower-calorie and nutritious beverage offerings for their students.

The Alliance launched its Healthy Schools Program in February of this year. The program takes a comprehensive approach by recognizing schools that improve nutrition in the foods and beverages sold in schools; that increase both physical education and physical activity before, during and after the school day; that provide nutrition education; and that establish staff wellness programs

### The Guidelines

#### **Elementary School**

- Bottled water
- Up to 8 ounce servings of milk and 100% juice
  - Low fat and non fat regular and flavored milk and nutritionally equivalent (per USDA) milk alternatives with up to 150 calories / 8 ounces
  - 100% juice with no added sweeteners, up to 120 calories / 8 ounces, and with at least 10% daily value of three or more vitamins and minerals



### **Middle School**

- Same as elementary school except juice and milk can be sold in 10 ounce servings
- As a practical matter, if middle school and high school students have shared access to areas on a common campus or in common buildings, then the school community has the option to adopt the high school standard

### **High School**

- Bottled water
- No or low calorie beverages with up to 10 calories / 8 ounces (e.g. diet sodas, diet and unsweetened teas, fitness waters, low calorie sports drinks, flavored waters, seltzers)
- Up to 12 ounce servings of milk, light juice, 100% juice and sports drinks
  - Low fat and non fat regular and flavored milk and nutritionally equivalent (per USDA) milk alternatives with up to 150 calories / 8 ounces
  - 100% juice with no added sweeteners, up to 120 calories / eight ounces, and at least 10% daily value of three or more vitamins and minerals
  - Light juices and sports drinks with no more than 66 calories / 8 ounces
- At least 50 percent of beverages must be water and no or low calorie options

These guidelines apply to beverages sold on school grounds during the regular and extended school day, including activities such as clubs, yearbook, band and choir practice, student government, drama, and childcare / latchkey programs. These guidelines do not apply to school-related events where parents and other adults are part of an audience or are selling beverages as boosters during intermissions, as well as immediately before or after an event. Examples of these events include school plays, and band concerts.

This is a ground breaking development for the health of our nation's students. The guidelines set a high standard for portion control, nutrition quality, and calorie limits in grades K-12. The Alliance commends the leadership of the beverage industry for working to address health and wellness issues in schools. The Alliance also commends the efforts of the advocates and leaders who have worked to improve the nutrition in their districts, states, and the nation as a whole. This agreement will not undo those efforts.

### **Implementation and Reporting**

It is the goal of the parties to achieve implementation of these standards in 75% of schools under contract prior to the beginning of the 2008-2009 school year. Parties will strive to achieve implementation for all schools prior to the beginning of the 2009-2010 school year, provided schools and school districts are willing to amend existing school contracts.

Beginning in 2007, the American Beverage Association along with Cadbury-Schweppes, Coca-Cola, and PepsiCo will support an annual analysis of the impact and status of these guidelines. This analysis will include beverage sales to students in all venues in schools, as well as contract compliance broken down by school level and by new vs. existing/amended contracts. Reports will further attempt to distinguish between beverages supplied directly to schools by bottlers and those supplied indirectly through other channels, such as food and beverage distributors and contract operators. The American Beverage Association will annually present this data on its website and/or a press release.

# NEW SCHOOL BEVERAGE GUIDELINES

(For more information, please visit [www.ameribev.org](http://www.ameribev.org))

## ELEMENTARY SCHOOLS

- Bottled water
- Up to 8 ounce servings of milk and 100% juice
  - Low fat and non fat regular and flavored milk and nutritionally equivalent (per USDA) milk alternatives with up to 150 calories / 8 ounces
  - 100% juice with no added sweeteners, up to 120 calories / 8 ounces, and with at least 10% daily value of three or more vitamins and minerals

## MIDDLE SCHOOLS

- Same as elementary school except juice and milk can be sold in 10 ounce servings
- As a practical matter, if middle school and high school students have shared access to areas on a common campus or in common buildings, then the school community has the option to adopt the high school standard

## HIGH SCHOOLS

- Bottled water
- No or low calorie beverages with up to 10 calories / 8 ounces (e.g. diet sodas, diet and unsweetened teas, fitness waters, low calorie sports drinks, flavored waters, seltzers)
- Up to 12 ounce servings of milk, light juice, 100% juice and sports drinks
  - Low fat and non fat regular and flavored milk and nutritionally equivalent (per USDA) milk alternatives with up to 150 calories / 8 ounces
  - 100% juice with no added sweeteners, up to 120 calories / eight ounces, and at least 10% daily value of three or more vitamins and minerals
  - Light juices and sports drinks with no more than 66 calories / 8 ounces
- At least 50 percent of beverages must be water and no or low calorie options

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
785-273-3600

Testimony on **SB 170 & 171**  
before the  
**Senate Committee on Education**

by

**Mark Tallman, Assistant Executive Director/Advocacy**  
Kansas Association of School Boards

**February 13, 2007**

Madam Chairman, Members of the Committee:

Thank you for the opportunity to comment on the two bills before the committee today. Because they are somewhat related, I have chosen to include our comments on each in a single statement. I want to stress that KASB members support the goal of increasing the health and well-being of Kansas students. Schools are already required, under the federal free meals act, to establish wellness councils to advise local school boards on appropriate policies for health and nutrition. We believe those decisions are best made at the local level, where board members, educators, parents and patrons can balance all the various concerns and interests and determine what works best in each community. We think this is preferable to "one size fits all" mandates from the state.

**SB 170 – Relating to the sale of beverages.**

This bill creates a very specific set of restrictions on the types of beverages that can be sold in schools, and when they can be sold. In recent years, in response to growing public awareness and concerns about childhood health, many school districts have already made changes in their policies regarding beverage sales and vending machines. However, our members want to continue to make their own choices about these issues. Some districts continue to allow beverage and other sales as source of revenue for local programs; in fact, they may support physical fitness activities and sports. We do not believe the Legislature should be in the business of regulating by the minute or the percentage the time and content of beverage sales. Quite frankly, that is why we elect local school boards, hire food service staff, and appoint site councils and wellness councils. Therefore, we oppose SB 170.

**SB 171 – Fresh Start Program.**

This bill requires non-deep fried fruits and vegetables be provided free to free and reduced lunch students and be provided during the school day (presumably to all students) outside of the lunch period. It states that reimbursement MAY be provided, subject to appropriations, to districts meeting certain criteria. KASB opposes this bill for the following reasons:

Senate Education Committee  
2-13-07  
Attachment 6

1. The bill creates a new mandate to provide food items to students with no guarantee of funding. Even if reimbursement were initially provided, that funding could be reduced or eliminated and the mandate would remain.
2. The cost of the bill will fall hardest on districts with high numbers of free/reduced lunch students, since it requires that food be provided free to those students.
3. The bill raises a number of administrative issues: how to provide free to free lunch kids and charge others without violating privacy; when, where and how to provide items NOT during lunch; what if non-free lunch students do not purchase enough food to be economically viable, etc.
4. The bill would increase school districts expenditures for food service, which is not an “instructional” cost, thereby making it more difficult to reach the “65 percent to the classroom” state policy goal. How should school districts determine which goal is most important?

If the Legislature supports this concept, we believe it should be through a grant program so that districts can respond to funding incentives which are actually provided, not a new mandate with only a possibility of funding.

Thank you for your consideration.

**Mark Tallman - vending machines**

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**From:** "Karen Bailey" <baileyk@mclouth.org>  
**To:** <legislative@kasb.org>  
**Date:** 2/9/2007 6:25 PM  
**Subject:** vending machines

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Something to consider:

It is difficult for rural schools to raise money for activities and events. In our school, Entrepreneurship class runs a vending business within the school. This is a learning experience for our students as they learn about starting and running a small business. They order, inventory, stock, and keep track of income and expenses. Money earned from the business is then used for a business trip for the class; a trip that is totally planned by students. The trip itself is an experience for most of our students. Each year the class must leave a balance of \$300 (the original amount of a loan to start the class) for the next class.

Our high school student council uses the money from their vending machines to host school dances, pay for Homecoming and King and Queen of Courts, and donations to our Safe Prom and After Graduation events.

Please think about rural schools in small towns before voting on this issue. Karen Bailey

*Senate Education Committee  
2-13-07  
Attachment 7*

**Senate Education Committee  
Testimony for Senate Bill 171**

My name is Donna Keyser. I am a dietitian and the Food Service Director in the Manhattan/Ogden Schools. I would like to thank the Education Committee for the opportunity to speak to Senate Bill 171.

Any effort to increase the amount of fruits and vegetables eaten by students in Kansas schools is to be applauded. A recent study (J. Am. Diet Assoc. 2003) found 51% of school-age children consume less than one serving of fruits and vegetables a day. Ten cents per breakfast served to add fruits and vegetables would certainly be welcomed by child nutrition directors across the state. However, the availability of fresh fruits and vegetables here in Kansas in the winter time can be severely challenged when nature creates havoc with weather in other parts of the country. This winter is a good example with the severe freezes in Florida and California. An average cost of a serving of fresh fruit or vegetable currently costs our district an average of 16-cents.

During the Summer and Fall, we have been able to utilize our local producers for the purchase of such items as watermelon, cantaloupe, tomatoes and cucumbers. This arrangement is also prone to local weather conditions. Perhaps the bill could be amended to "fund additional fruits and vegetables with an expectation to purchase fresh fruits and vegetables when prices permit. Frozen, dried or canned fruits and vegetables may be purchased when fresh is unavailable or price prohibitive".

Senate Education Committee  
2-13-07  
Attachment 8

**Heartland Affiliate**

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February 13, 2007

The Honorable Jean Schodorf, Chairperson  
Members of the Senate Committee on Education  
State Capitol Building  
Topeka, KS 66612

Dear Senator Schodorf and members of the committee:

I am writing on behalf of the American Heart Association on SB 171 (Fresh Start Program). The mission of the American Heart Association is to reduce disability and death from cardiovascular disease and stroke. That single purpose drive all that we do.

The American Heart Association and the Clinton Foundation share common priorities and interests in reaching children and other stakeholders with important messages on preventing childhood obesity. Both believe that by forming an alliance, more can be accomplished than could separately. Thus, the Alliance for a Healthier Generation was formed. I would like to share a couple of results of that alliance.

In 2006, Campbell Soup Company, Dannon, Kraft Foods, Mars, and PepsiCo have collaborated with the Alliance for a Healthier Generation and established nutrition guidelines that will lead to a healthier food choice for millions of children in schools across the nation. The new science-based and age appropriate guidelines were developed in conjunction with nutrition experts at the American Heart Association and promote nutrient-rich foods, fat-free and low-fat dairy products and place limits on calories, fat, saturated fat, trans fat, sugar and sodium.

The guidelines cover foods offered for sale outside of the reimbursable meal program such as products sold in school vending machines, a la cart lines, snack bars, fundraisers and school stores. While some states, municipalities and schools have adopted their own standards, this first-ever announcement brings together industry leaders and non-profits who together are demonstrating leadership in the fight against childhood obesity.

We believe this is a critical step that will change the food that children have access to at school. Companies will offer products that meet these new guidelines, all with the aim to curb increasing trends in childhood obesity.

More than 9.2 million children and adolescents (ages 6-19) are considered overweight or obese. Overweight adolescents have a 70% chance of being overweight adults. Factors that are linked to an increased risk of being overweight or obese include physical inactivity, poor nutrition and time spent watching television.

Senate Education Committee  
2-13-07 Attachment 9

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Kevin D. Harker  
Overland Park, Kansas

SB 171 is step toward promoting a healthier environment for children. It is important to create environments that support healthy eating in schools, communities and at home.

Thank you for considering this important topic and taking steps to help provide a healthier generation.

Sincerely,

A handwritten signature in cursive script that reads "Linda J. De Coursey".

Linda J. De Coursey  
Advocacy Director – Kansas