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Donna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE EDUCATION
HB 1397

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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1397

House Education Committee

☐ Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
1		x	2114-3210
Committee Clerk Signature <i>Linda Feichter</i>			

Minutes: **Chairman Kelsch** opened HB 1397

Chairman Kelsch I introduced this bill for a constituent for Dixie and the Mandan Schools.

Dixie Schulz, Food Service Director of Mandan Schools

I would like to propose and amendment to this bill, **See Attached Testimony**. Eliminates some of the wording that was originally put in. As amended "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." The reason that we are proposing this is because this is a issue that is best left up to the school board. They represent the wishes of the community, they are composed of individuals, who because of their background and who they represent, bring a wealth of knowledge to the table. I'm adamantly opposed to any bill that takes that decision making out of the hands of the local school boards.

Chairman Kelsch What services are you providing now?

Schulz: We are just doing in-house things. Other than catering for a meeting in the district, athletic events, speech events, competition tournaments.

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Deanna Hall
Operator's Signature

10/3/03
Date

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House Education Committee
Bill/Resolution Number HB1397
Hearing Date February 4, 20 03

Chairman Kelsch The holiday basketball tournaments, do you handle that or the Mark Club.

Schulz: It is a combination of both, we only provide some of the foods

Chairman Kelsch How many athletic banquets do you?

Schulz: None, we have not catered those.

Chairman Kelsch The reason that I 'm asking these things is it goes to what we discussed earlier, about a huge competition, I know for a fact that they seek to go else where, because a lot of the time a fraternal organization is sponsoring it or donating an amount to it. Either donated of at a reduced amount and the parents paying a portion.

Schulz: We do no solicitation. Bismarck does not either. It is not our practice.

Rep. Herbel Does state law prohibit this now?

Schulz: NO. The way we need to provide those kinds of services, I'm especially dealing with head start. That needs to be a contract with us, and Department of Public Instruction and the agency that we are contracting with.

Rep. Herbel If state law provides it, why do we need this law.

Schulz: The way it is written it needs to be authorized by Department of Public Instruction for us to contract with the other agencies.

Chairman Kelsch we are just taking out one of the sections.

Rep. Jon Nelson Are you in favor of a State funded institution advertising?

Schultz: Personally, no.

Kathy Grafsgaard, Director of Child Nutrition and Food Distribution Programs,

Department of Public Instruction

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10/3/03
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House Education Committee

Bill/Resolution Number HB1397

Hearing Date February 4, 20 03

Support with amendments offered. To make sure local child care centers have access to adequate food service operations. In many of our rural area, adequate food service is not available, they have to go to the school. Out office oversees a competitive bidding process that is used. Not every rural community has food service available.

Rep. Herbel You said you oversee, Do you have the right to reject bids?

Grafsgaard: That process is actually done by the child care center, based on the criteria that is passed down by the federal government.

OPPOSITION none

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Dennis Hallworth
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1397
House Education Committee

☐ Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
1	x		2260-3460
Committee Clerk Signature <i>Linda Fiechter</i>			

Minutes: **Chairman Kelsch** opened HB 1397

Rep. Hawken: recapped the bill, reviewed the amendments proposed.

Rep. Hanson In the case of Wahpeton they can still have a wedding, they just can't advertise

Rep. Hawken: They can not advertise by putting any ads.

Rep. Hanson they can still compete? **Rep. Hawken** Not really, If they are part of the college, and that was not their concern, it was the advertisement.

Chairman Kelsch you sent this to Mr. Carlson, **Rep. Hawken:** yes I did, and he was very comfortable with that.

Rep. Hanson Wahpeton Science is delivering pizza around town. **Rep. Hawken** They are not doing that, it is just to the campus. The board of Higher Education is dealing with that.

Rep. Sitte MSU will still be able to host conventions, they just can't advertise. Do you think the Board of Higher Education will take care of that. **Rep. Hawken:** Yes

Chairman Kelsch Really what Miss Lewis was talking about was they were advertising these ballrooms for weddings, that is not appropriate.

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Operator's Signature

10/3/03
Date

Page 2

House Education Committee

Bill/Resolution Number HB1397

Hearing Date February 11, 2003

Rep. Mueller We are not demanding a policy, **Rep. Hawken**: No we are strongly suggesting a policy

Rep. Mueller My only point might be, is it possible to do that through the Higher Ed.

Chairman Kelsch we have to be careful of the Foundations within the University System.

Rep. Hawken: This is legally how it can be done, without getting into trouble then they are in.

Chairman Kelsch MSU is not very happy about this and I replied through email, that I thought they were actually biting off their own nose because of the businesses in their community that contribute to scholarships and to your Foundation and all kinds of things, I don't know why you would want to compete with them.

Rep Hawken motion to accept amendments, **Rep. Mueller** seconded

Rep. Herbel moved DO PASS as amended, **Rep. Solberg** seconded, Roll vote passed 12-0-2.

Rep. Haas carried the bill

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Donna Hall
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1397
House Education Committee

☐ Conference Committee

Hearing Date February 18, 2003

Tape Number	Side A	Side B	Meter #
1	x		600-1700
Committee Clerk Signature <i>Linda Ziechner</i>			

Minutes: **Chairman Kelsch** opened HB 1397

Rep. Meier moved to reconsider 1397, **Rep. Sitte** seconded the motion, voice vote passed.

Chairman Kelsch Yesterday I received a e-mail from Mr. Carlson, however I had a interesting session with him yesterday. The concern that he still has on the bill was the fact that on the 'board of a school district...may enter into a contract..meals' he wanted the language to say "before the school board of a district enters into a contract.." See LEGISLATIVE COUNCIL 30331-0201 amendment. reviewed the reading of the amendment into the Engrossed bill.

Chairman Kelsch I told her to leave in may not advertise.

Rep. Hawken: we don't want to take that out.

Chairman Kelsch Starting on line 14 it should read '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.

Chairman Kelsch we have just modified .0201 some

Rep. Haas moved to the new amendments, **Rep. Hanson** seconded. Voice vote, passed.

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10/3/03
Date

Page 2
House Education Committee
Bill/Resolution Number HB1397
Hearing Date February 18, 2003

Rep. Jon Nelson moved a DO PASS as amended, Rep. Mueller seconded the motion.

Roll vote, passed 14-0-0, Rep. Haas will carry the bill to the floor.

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Deanna Halliwell
Operator's Signature

10/3/03
Date

30331.0102
Title.0200

Prepared by the Legislative Council staff for
Representative Hawken
February 7, 2003

VR
2/11/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1397 HEDU 2-14-04

Page 1, line 2, remove "school district"

Page 1, line 6, after the boldfaced period insert:

"1."

Page 1, line 8, replace "provided the board first determines that there" with "but may not advertise to the general public its willingness to enter into such a contract."

2. The board of a school district may establish a policy regarding activities governed under subsection 1 and address issues related to competition with private sector entities.
3. An institution under the control of the state board of higher education may enter into a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the institution, but may not advertise to the general public its willingness to enter into such contract."

Page 1, remove line 9

Renumber accordingly

Page No. 1

30331.0102

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Danica Hall Smith
Operator's Signature

10/3/03
Date

Date: 2/11/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1397

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30331.0102

Action Taken _____

Motion Made By Hawken Seconded By Mueller (3148)

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch					
Rep. Johnson					
Rep. Nelson					
Rep. Haas					
Rep. Hawken					
Rep. Herbel					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Hanson					
Rep. Hunskor					
Rep. Mueller					
Rep. Solberg					
Rep. Williams					

Total (Yes) 31 No 48

Absent _____

Floor Assignment _____

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

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Deanna Hall
Operator's Signature

10/3/03
Date

Back to back 1241

Date: 2/11/03
Roll Call Vote #: A

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1397

House HOUSE EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30331.0102

Action Taken DP as amended

Motion Made By Herbel Seconded By Solberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	AB				
Rep. Nelson	AB				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Hanson	✓				
Rep. Hunsakor	✓				
Rep. Mueller	✓				
Rep. Solberg	✓				
Rep. Williams	✓				

Total (Yes) 12 No 0

Absent 2

Floor Assignment Haas

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

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Donna Hall Smith
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 8:18 a.m.

Module No: HR-27-2353
Carrier: Haas
Insert LC: 30331.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1397: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1397 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "school district"

Page 1, line 6, after the boldfaced period insert:

"1."

Page 1, line 8, replace "provided the board first determines that there" with "but may not advertise to the general public its willingness to enter into such a contract.

2. The board of a school district may establish a policy regarding activities governed under subsection 1 and address issues related to competition with private sector entities.
3. An institution under the control of the state board of higher education may enter into a contract to prepare and provide meals, snacks, or other food services for persons or programs not affiliated with the institution, but may not advertise to the general public its willingness to enter into such contract."

Page 1, remove line 9

Renumber accordingly

Date: 2/18/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HOUSE EDUCATION

1397 Enrolled

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Reconsider

Motion Made By

Meier

Seconded By

Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch					
Rep. Johnson					
Rep. Nelson					
Rep. Haas					
Rep. Hawken					
Rep. Herbel					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Hanson					
Rep. Hunskor					
Rep. Mueller					
Rep. Solberg					
Rep. Williams					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

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Dennis Hallmark
Operator's Signature

10/3/03
Date

30331.0201
Title.

Prepared by the Legislative Council staff for
Representative R. Kelsch
February 17, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1397

Page 1, line 11, replace "The" with "Before the" and replace "may" with "enters into a contract
as provided under subsection 1, the board shall"

Page 1, remove lines 14 through 17

Renumber accordingly

Page No. 1

30331.0201

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Deanna Hallworth
Operator's Signature

10/3/03
Date

30331.0202
Title.0300

Adopted by the House Education Committee
February 18, 2003

✓
2/18/03

HOUSE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1397 HEDU 2-18-03

Page 1, line 11, replace "The" with "Before the" and replace "may" with "enters a contract as provided under subsection 1, the board shall"

Page 1, line 14, replace "enter" with "not advertise to the general public its willingness to"

Page 1, line 15, remove "into a contract to prepare and"

Page 1, line 16, replace ", but may not advertise to the" with a period

Page 1, remove line 17

Renumber accordingly

Page No. 1

30331.0202

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Deanna Hallmark
Operator's Signature

10/3/03
Date

Date: 2/18/03
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HOUSE EDUCATION 1397 grossed Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken LC 30331.0201

Motion Made By Haas Seconded By Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch					
Rep. Johnson					
Rep. Nelson					
Rep. Haas					
Rep. Hawken					
Rep. Herbel					
Rep. Meier					
Rep. Norland					
Rep. Sitte					
Rep. Hanson					
Rep. Hunsakor					
Rep. Mueller					
Rep. Solberg					
Rep. Williams					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

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Dennis Hall 10/3/03
Operator's Signature Date

Date: 4/18/03
Roll Call Vote #: 13

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HOUSE EDUCATION

1397 Engrs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

LC 30331.0201

Action Taken

DO Pass as amended

Motion Made By

Nelson

Seconded By

Mueller

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	✓				
Rep. Johnson	✓				
Rep. Nelson	✓				
Rep. Haas	✓				
Rep. Hawken	✓				
Rep. Herbel	✓				
Rep. Meier	✓				
Rep. Norland	✓				
Rep. Sitte	✓				
Rep. Hanson	✓				
Rep. Hunsakor	✓				
Rep. Mueller	✓				
Rep. Solberg	✓				
Rep. Williams	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment

Haas

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

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Operator's Signature

Dennis Hall

Date

10/3/03

REPORT OF STANDING COMMITTEE (410)
February 18, 2003 1:49 p.m.

Module No: HR-31-3116
Carrier: Haas
Insert LC: 30331.0202 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1397, as engrossed: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1397 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "The" with "Before the" and replace "may" with "enters a contract as provided under subsection 1, the board shall"

Page 1, line 14, replace "enter" with "not advertise to the general public its willingness to"

Page 1, line 15, remove "into a contract to prepare and"

Page 1, line 16, replace ", but may not advertise to the" with a period

Page 1, remove line 17

Renumber accordingly

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1397

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Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1397

Senate Industry, Business, and Labor Committee

☐ Conference Committee

Hearing Date 03/10/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-4150
Committee Clerk Signature			

Minutes:

Senator Duane Mutch opens HB 1397. Senators Krebsbach and Every are absent.

Representative Raenn Kelsch, sponsor of bill, introduces bill. She starts off stating this is a simple bill and has turned into a mess. Another bill was introduced along this line and they combined all the bills pretty much into one. It turns out a way that is dissatisfying to Kelsch. Institutions should not compete with private sector businesses. But believes that private sector businesses are the ones that donate things to the school so she believes that the schools would not try to compete with those private businesses.

Senator Heltkamp: Give me a scenario where this would be a good thing.

Kelsch: The rural areas where there is no one else to provide these services

Senator Heltkamp: If a buffet in Mandaree would close down then the school could take over services?

Kelsch: Yes

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Duane Mutch
Operator's Signature

10/3/03
Date

Page 2
Senate Industry, Business, and Labor Committee
Bill/Resolution Number HB 1397
Hearing Date 03/10/03

Senator Klein: The section 1 #2, does that address the competition side where by we aren't having the lunch room compete with the caterer. That would be a decision the board would make.

Kelsch: We have been told that most school districts already have a non competing policy in place especially in the larger cities. If they were going to enter into a contract they would have to have a non competing policy in place.

Senator Heltkamp: Section 2 does not state it has to be a non compete policy does it? It just has to have a policy relating to competition.

Kelsch: I think the community would take care of anything that would not be kosher.

Senator Heltkamp: Wahpeton area, the fraternal organization felt they were competing against the State College of Science.

Kelsch: That is why subsection 3 was put in .

Barb Arnold- Tengesdal, Executive Director, Voices for North Dakota's Children,
(Testimony attached)

Dixie Schulz, Legislative Chair for ND School Foods Service Association and Food Service Director for Mandan Public Schools (Testimony attached)

Kathy Grafsgaard, Director of Child Nutrition and Food distribution Programs for DPI
(Testimony attached)

Senator Nething: What if school board does advertise, what would be the penalty?

Grafsgaard: We would take action that would suit the situation.

Representative Wes Belter, in opposition, has attached amendment for bill. He goes over amendment.

Page 3

Senate Industry, Business, and Labor Committee

Bill/Resolution Number HB 1397

Hearing Date 03/10/03

Representative Al Carlson, in opposition. The private sector does not want the school district in the business. We have met with the school board and asked for a non compete policy but the schools would not give it to us. We also said that fine bid unless someone of the private sector is bidding then the schools can't. they wouldn't do that either. In rural areas where they need the school to provide these services we agree that they should be able to do that as long as there is no one else that can.

E. John Carlson, Oven Door Catering Service, in opposition, (testimony attached)

Senator Klein: What you are saying without the bill you would still be fighting with them.

Carlson: Yes, that means there is no policy.

Patti Lewis, ND Hospitality Association, in opposition of bill, supports Representative Belter's amendment. Universities are a huge problem also.

Representative Dwight Wrangham, strongly oppose HB 1397. and hopefully the committee will accept Rep. Belter's amendment.

Closed HB 1397

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Deanna Halliwell
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10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1397

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-12-03

Tape Number	Side A	Side B	Meter #
3	xxx		560
Committee Clerk Signature <i>Lisa Van Berken</i>			

Minutes: Chairman Mutch opened committee discussion on HB 1397. All Senators were present.

HB 1397 relates to contracts for the preparation and provision of meals.

The committee looked at the amendments and studied them.

Senator Nething moved to adopt the amendments. Senator Klein seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Senator Heitkamp moved a DO PASS AS AMENDED. Senator Espegard seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Every

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Dorinda Hall Smith
Operator's Signature

10/3/03
Date

30331.0301
Title.0400

Prepared by the Legislative Council staff for
Representative Belter
March 3, 2003

[Handwritten signature]
3-13-03

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1397

Page 1, line 7, after "may" insert "not"

Page 1, line 9, replace "but" with "unless the board first determines that there are no other private entities able and willing to enter into such a contract. The board"

Page 1, remove lines 11 through 13

Page 1, line 14, replace "3." with "2."

Renumber accordingly

Page No. 1

30331.0301

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[Handwritten signature]
Operator's Signature

10/3/03
Date

Date: 3-12-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1397 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Move to Amend (Better)

Motion Made By

Nothing

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espgaard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

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

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Operator's Signature

Deanna Hall Smith

Date

10/3/03

Date: 3-12-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1397

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass As Amended

Motion Made By

Heitkamp

Seconded By

Espegard

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espegard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment

Every

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

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Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 13, 2003 11:15 a.m.

Module No: SR-45-4657
Carrier: Every
Insert LC: 30331.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1397, as reengrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1397 was placed on the Sixth order on the calendar.

Page 1, line 7, after "may" insert "not"

Page 1, line 9, replace "but" with "unless the board first determines that there are no other private entities able and willing to enter into such a contract. The board"

Page 1, remove lines 11 through 13

Page 1, line 14, replace "3." with "2."

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

SR-45-4657

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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE EDUCATION

CONFERENCE COMMITTEE

HB 1397

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Deanna Hall Smith
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1397
House Education Committee

☒ Conference Committee

Hearing Date April 7, 2003

Tape Number	Side A	Side B	Meter #
1	x		790-3200
Committee Clerk Signature <i>Linda Sechtner</i>			

Rep. Hawken called the conference committee to order, roll was taken, Rep. Norland absent.

Rep. Hawken: reviewed the information received.

Rep. Hawken: one of the concerns that was brought to my attention this morning is that a number of special needs preschool children are in day cares and a nutritionist, most likely from the school district, has to take care of the feeding because of swallowing or nutritional kinds of things. And that is a Federal mandate, the way the bill is printed now in some instances would be contrary to Federal law. So we probably need to make sure that we are not in conflict of that.

Sen. Krebsbach: reviewed changes and rationale made in Senate.

Rep Hawken: The house version was appropriate for all parties , but the Senate amendments we have some real concerns.

Sen. Krebsbach: There was concern from a business in Fargo that was concerned about the wording.

Rep. Hawken: reviewed the story of Al Carlson, of the Open Door Catering. He is the reason why we amended the bill the way it went to the Senate and then we hear he is testifying against the bill in the Senate. I'm not so sure we should be making law because of one person being

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Dennis Hall
Operator's Signature

10/3/03
Date

Page 2
House Education Committee
Bill/Resolution Number HB 1397
Hearing Date April 7, 2003

upset and we fixed that situation with the amendment. And we will be causing hardships for a number of school districts if we left the bill the way it is now. Meals on Wheels people and the elderly and special needs people will suffer.

Rep. Hawken: School districts have put into place a policy stating not to compete with private industry.

Rep. Williams Wahpeton State School and Science got caught up in a situation by doing a wedding and the Eagles got hot under the collar. That has since been rectified.

Sen. Krebsbach: Do we need this bill at all

Rep. Williams I think we do, simply make a statement of policy or legislative intent, that a local district or local entity, has to come up with a policy, they can't advertise, and they should not interfere with free enterprise, And I think we need the house version for that.

Sen. Mutch: You are interfering with the private sector by not allowing them to bid.

Sen. Krebsbach: a institution of the state. or on state property.

Rep. Hawken: We were trying to make sure that the public does not interfere with the private, but yet not make it so tight that for instances where the school is the only place, that they are not forbidden to do it, ie meals on wheels, day cares, etc.

Sen. Krebsbach: Public may not bid unless there is no one else who will. And they may not advertise. What I would like to visit with my public school and higher Ed boards to see if your version covers it.

We will have another meeting after reviewing this.

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. HB 1397
House Education Committee

☐ Conference Committee

Hearing Date April 9, 2003

Tape Number	Side A	Side B	Meter #
1	x		4565-end
1		x	00-142
Committee Clerk Signature <i>Linda Grechtner</i>			

tape did not record.

Rep. Hawken opened the conference committee and roll was taken.

Committee reviewed the amendments and rewrote page 1 line 9 so that the wording was clearer.

Krebsbach had some concerns about the advertising of both the school district and higher educational institutions so it is included in both sections.

Krebsbach suggested the word consideration which Mark Pupppe, legislative interim objected to saying that it indicated that a contract was implied.

Krebsbach moved that the Senate will recede from the Senate amendments and adopt the amendments, Sen. Every seconded the motion, Roll vote 6-0-0 passed.

Hawken directed Anita Thomas to write the amendments and to have clerk get each committee members signature before completing the conference committee report.

Closed committee work.

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Deanna Hall
Operator's Signature

10/3/03
Date

30331.0303
Title.

Prepared by the Legislative Council staff for
Representative Hawken
April 10, 2003

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1397

That the Senate recede from its amendments as printed on page 953 of the House Journal and page 755 of the Senate Journal and that Reengrossed House Bill No. 1397 be amended as follows:

Page 1, line 9, replace "but may not advertise to the general public its willingness" with "provided any person who wishes to enter a contract with the board under this section first demonstrates to the satisfaction of the board that there are no private entities able and willing"

Page 1, line 11, replace "Before the" with "The" and replace "enters a contract as provided under" with "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."

Page 1, remove lines 12 and 13

Renumber accordingly



=====

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

=====

07398

(Bill Number) HB 1397 (, as (re)engrossed):

4-7-03
4-9-03

Your Conference Committee

For the Senate:

Sen Mutch PP
Sen Krebsbach PP
Sen Every PP

For the House:

Rep Hawken PP
Rep Williams PP
Rep Norland

☐ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
the (Senate/House) amendments on (SJ/HJ) page(s) 953 -

☐ and place _____ on the Seventh order.
727

☒ , adopt (further) amendments as follows, and place
HB 1397 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/513

((Re)Engrossed) _____ was placed on the Seventh order of business on the
calendar.

=====

DATE: 4/9/03
CARRIER: Rep Hawken
LC NO. 3033 0303 of amendment
LC NO. _____ 0304 of engrossment
Emergency clause added or deleted _____
Statement of purpose of amendment _____

=====

(1) LC (2) LC (3) DESK (4) COMM.

Krebsbach moved
Every Second.

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Donna Hall
Operator's Signature

10/3/03
Date

REPORT OF CONFERENCE COMMITTEE (420)
April 11, 2003 3:28 p.m.

Module No: HR-66-7581

Insert LC: 30331.0304

REPORT OF CONFERENCE COMMITTEE

HB 1397, as reengrossed: Your conference committee (Sens. Mutch, Krebsbach, Every and Reps. Hawken, Williams, Norland) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 953, adopt amendments as follows, and place HB 1397 on the Seventh order:

That the Senate recede from its amendments as printed on page 953 of the House Journal and page 755 of the Senate Journal and that Reengrossed House Bill No. 1397 be amended as follows:

Page 1, line 9, replace "but may not advertise to the general public its willingness" with "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 private entities able and willing"

Page 1, line 11, replace "Before the" with "The" and replace "enters a contract as provided under" with "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."

Page 1, remove lines 12 and 13

Renumber accordingly

Reengrossed HB 1397 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

HB 1397

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Deanna Halliwell
Operator's Signature

10/3/03
Date

TESTIMONY

E. John Carlson
OVEN DOOR CATERING SERVICE

- **Chairman Mutch. Honorable Senators of the Senate Industry, Business, & Labor Committee. My name is E. John Carlson. My wife, Brenda and I co-own and operate the Oven Door Catering Service in Fargo. I am pleased to have the opportunity to testify today in OPPOSITION to HB 1397 passage IN IT'S PRESENT FORM.**
- **If you do not modify or kill this bill, you will absolutely send a message to the school districts that it is open season on small business to compete in food services.**
- **Let me tell you a short story: In July of 1999, our catering service was faced with the first of 3 attempts by the Fargo Public School District to take away the daycare children feeding business we had cultivated and built over the years. Along with the ND Department of Public Instruction (DPI), under the auspices of a federal "Child Nutrition Program", Fargo schools abruptly took away 60% of our CONTRACTED daycare feeding business within two months by undercutting our daycare meal prices. We sold a hot meal for \$1.75 per child per day, they sold it for \$1.25 per child per day. They "cream skimmed" and took only the largest, most profitable daycare's (25 kids and over). They created a government subsidized profit increase for private daycares, by lowering their meal costs. There was no savings to the government for this program.**

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Dennis M. Hallmark
Operator's Signature

10/3/03
Date

- How could they do this? Fargo School District pays no property taxes on their kitchen, and use federally subsidized commodity foods. How could we ever compete? They sold meals below our costs! Their price was so low, some of our daycare's broke meals contracts with us and paid a penalty to go to the school district's attractive pricing. If it had not been for attrition, we would have been forced to lay off 2 or more employees.
- We protested this unfair onslaught by Fargo Schools and an Attorney General's opinion was sought by Rep. Al Carlson. In the 2 month interim awaiting the AG opinion, Fargo Schools "parked" the daycare's at a local Fargo Hospital, who, coincidentally, fed the daycare's at the same \$1.25 per meal price as Fargo Schools.
- In Novmeber 1999, the ND Attorney General ruled ~~in~~ that Fargo Schools was not structured properly to legally feed private daycare's. But, the AG also ruled that if a formal agreement was adopted between the Fargo School Board and ND DPI to do meal services, they then ~~Fargo Schools~~ could do the service. For political reasons, apparently, an agreement with DPI did not get acted upon. The hospital kept on feeding the daycare's and then proceeded to take away much more of our daycare feeding business.
- After the hospital completed the decimation of our daycare business, they abruptly terminated daycare meal service, effective March 1, 2001, with 30 days notice to the daycare's. The financially distressed hospital then sold out to another Fargo hospital organization; leaving the daycare's high and dry.

- In 12 months, we lost nearly 40% of our **TOTAL** catering business. This kind of loss would have easily bankrupted a smaller, debt-carrying business.
- After the schools/hospital fiasco, a large non-profit Fargo daycare attempted to take advantage of the opportunity to become a daycare meals provider, but could not handle all of them. By April of 2002, the Oven Door, one-by-one, regained most of the daycare feeding business that had been lost.
- In this nearly 3 year elapsed time, we had come full circle and lost nearly \$600,000 in **TAXABLE** sales and \$80,000 in **TAXABLE** profits, triggered by Fargo Schools District's initial actions. We barely survived and had to change our business focus to stay solvent. How would any of you feel if this happened to your business?
- It was not over! To add insult, last year in April 2002, Fargo Schools publicly announced that they were looking for other revenue sources outside of property taxes and were going to become more "entrepreneurial". They publicly announced intentions to cater meals to daycare's, and would execute an agreement with ND DPI. We again protested and this time, had a demonstration at the Fargo School District offices on May 28th with 5 of our catering vans and 14 employees carrying picket signs in the rain prior to a school board meeting. It drew much media attention and the public favored our side. The school district's daycare meals activity subsided again.

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Dennis Hallmark
Operator's Signature

10/3/03
Date

- I hope this chronology of events demonstrates to the Senate IBL Committee members what school districts can and will do if not reigned in by limits of law. Their mission is to educate children and feed them while at school - pure and simple. The Century Code already outlines that charge in the "Powers of a School Board" section. But, there are those who find "work arounds" to frustrate the good intent of previous legislation.
- In the face of declining enrollments, Fargo Schools built a \$4.3 million central kitchen that enables meal capacities far beyond their needs. It appears to me that Fargo Schools teamed up with ND DPI to create an unneeded "Child Nutrition Program" to force daycare's with low-income "program children", and all other kids in daycare's, into a federal meals program, to generate more utilization of their large kitchen.
- A "Child Nutrition Program" infers that children are not getting adequate nutrition, which is a bad situation that needs to be corrected. Inadequate child nutrition at the daycare's was NEVER the case with the Oven Door food service. All of our daycare meals meet or exceed federal and state child nutrition standards with flying colors, and are in fact approved by ND DPI.
- The daycare providers have had enough of this run-around. They found the food quality wasn't as good, the customer service wasn't as good, and ultimately, the food service was not dependable. Small daycare's with less than 25 kids would have been left completely without food service!

- Child Nutrition was NOT the issue here: Creating MORE kitchen utilization, MORE Fargo School District revenues and MORE power was. Child nutrition was just the vehicle! I call this an abuse of power by education bureaucrats!
- Am I angry? You betcha! We spent hundreds of hours and thousands of dollars in attorney fees and lost profits to battle school district and state resources we helped create with our tax dollars.
This should never be!
- I see no problem with schools catering meals for "Official" school functions, but to allow them to compete with the livelihoods of those who support them with tax dollars is repugnant. They will not police themselves and will be belligerent and do whatever they think they can get away with.
- This unfair competition must be stopped and a message sent that schools must operate within the intent of their charter: "EDUCATE OUR CHILDREN". They must NOT compete with private, tax-paying small businesses that support them.
- We recognize the need for smaller communities to utilize their schools for meals for child and senior nutrition programs that are under the control of ND DPI, if there is no other commercial food alternative. Private daycares or food programs NOT eligible for DPI "nutrition programs" should NOT be able to use the school district, however, if the motivation is just a lower meal price. The school will always be the lowest price and that is not fair to the small town cafe, if they want the job. But, the cafe should not be given a license to steal either.

- We would ask you to amend HB 1397 to protect the private food businesses in the larger school districts by requiring school districts to establish a non-compete policy and to only be a default food provider of last resort to persons or programs not affiliated with the school district when there is no commercial food business willing or able to provide the food service.
- If you pass HB 1397 as it is today, you absolutely will be sending a message to all government agencies, school districts and higher education that it is OK to compete unfairly with the local community, job-building, tax-paying small business person. Can you live with that?
- I HOPE NOT! PLEASE AMEND OR KILL HB 1397!
- THANK YOU!!

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Deanna Halliwell
Operator's Signature

10/3/03
Date

30384.0200

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1241

Introduced by

Representatives Belter, Carlson, Eckre

Senator G. Lee

- 1 A BILL for an Act to create and enact a new section to chapter 15-10 and a new section to
2 chapter 15.1-35 of the North Dakota Century Code, relating to contracts for the preparation and
3 provision of meals.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 5 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is
6 created and enacted as follows:

- 7 **Meals - Snacks - Food services - Preparation - Provision.** An institution of higher
8 education under the control of the state board may not prepare or provide meals, snacks, or
9 other food services for persons or programs not affiliated with the institution.

- 10 **SECTION 2.** A new section to chapter 15.1-35 of the North Dakota Century Code is
11 created and enacted as follows:

- 12 **Meals - Snacks - Food services - Preparation - Provision.** The board of a school
13 district headquartered in a city having a population of five thousand or more may not prepare or
14 provide meals, snacks, or other food services for persons or programs not affiliated with the
15 school district.

30331.0100

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1397

Introduced by

Representative R. Kelsch

- 1 A BILL for an Act to create and enact a new section to chapter 15.1-35 of the North Dakota
2 Century Code, relating to school district contracts for the preparation and provision of meals.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 4 SECTION 1. A new section to chapter 15.1-35 of the North Dakota Century Code is
5 created and enacted as follows:

- 6 Contract - Preparation and provision of meals. The board of a school district may
7 enter into a contract to prepare and provide meals, snacks, or other food services for persons
8 or programs not affiliated with the school district, provided the board first determines that there
9 are no other for-profit entities capable of providing and willing to provide those services.

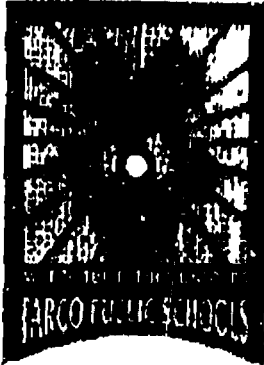
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Donna Hall
Operator's Signature

10/3/03
Date

District Administration

February 18, 2003



415 4th Street North
Fargo, ND 58102-4514
701.446.1000
Fax: 701.446.1200
www.fargo.k12.nd.us

Dr. David Mowars
Superintendent
701.446.1005

Mr. Dan Huffman
Assistant Superintendent,
Business Services
701.446.1027

Dr. Charles DeRamer
Assistant Superintendent,
Instruction
701.446.1010

Mrs. Nancy Jordheim
Assistant Superintendent,
Human Resources
701.446.1038

Mr. Lowell Wolff
Administrator,
Community Relations
and Planning
701.446.1043

Representative Rasmussen
Representative Kathy Hawken

Dear Representative Rasmussen and Hawken:

The Fargo Public School District #1 is not competing with private businesses at the present time for the provision of meals to other agencies. We have, in the past, been approached by several daycares in the community to provide meals, through the child nutrition program, to their clients.

This issue has been discussed by our Board on several occasions. While we have no formal policy, the discussion in this district has been that we want to be in a position to respond to the requests that may come from agencies that do not have their own food preparation, have not gotten a response to a request for service, or that have gotten a response that was not acceptable. There is no plan to compete with business for catering or any other meal service or to advertise that we provide that service.

Simply put;

We do not want children to go without service simply because there is no service available, when we would have the capacity to provide the service.

Sincerely,

Dan Huffman
Assistant Superintendent
Business Services

**TESTIMONY ON HOUSE BILL 1397
INDUSTRY, BUSINESS AND LABOR COMMITTEE**

March 10, 2003

**By Kathryn Grafsgaard 328-4565
Department of Public Instruction**

Mr. Chairman and members of the committee:

My name is Kathy Grafsgaard and I am the Director of Child Nutrition and Food Distribution Programs for the Department of Public Instruction. I am here to speak in favor of House Bill 1397, related to school district contracts for the preparation and provision of meals.

Currently, state law prohibits school districts from contracting for the provision of meals to entities outside the jurisdiction of the school district, unless there is a specific agreement and approval from the Department. We are supportive of language in the second engrossment of this bill that allows districts to enter into this type of contract, not advertise its willingness to enter such a contract, and to establish a policy regarding these activities.

Contracts are generally entered to provide meals to children in child care centers that participate in the Child and Adult Care Food Program. Very frequently, the child care center is not affiliated with the district. In at least one case, the school food service and senior meals program have been coordinated.

We have a genuine concern about the availability of a reliable food service source in North Dakota, particularly in the rural areas. The school food service is often the only viable option. These are high quality programs, and are managed and run by people who have had required training in food safety and sanitation practices. They do a wonderful job, and can provide meals that meet the USDA meal pattern, and are acceptable to children.

There are about 38 centers that participate in the USDA program and have contractual arrangements with schools, private catering, or local universities. It is very expensive to equip a kitchen that meets all requirements. Contracting for meals is often the only viable option to ensuring good nutrition for children.

Dan Hall
Operator's Signature

10/3/03
Date

The centers are required to use a competitive process when selecting vendors. Our office monitors this requirement, and provides broad oversight to the contractual arrangement.

To conclude, we believe the decisions about contracting for food service be left up to the local school board and community, agree fully that they should not advertise -- but provide a bid when requested, and develop policies that are reflective of community wishes in these matters.

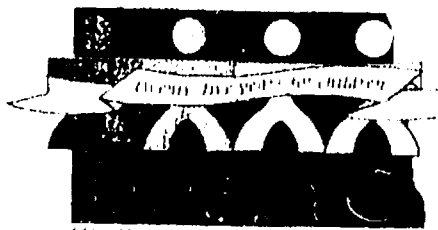
I would be happy to address any questions that you have.

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Deanna Halliwell
Operator's Signature

10/3/03
Date

VOICES FOR NORTH DAKOTA'S CHILDREN



CENTER FOR EARLY CHILDHOOD LEADERSHIP & ADVOCACY

To: Duane Mutch, Chairperson, Senate Industry, Business and Labor Committee
From: Barb Arnold-Tengesdal, Executive Director, Voices for North Dakota's Children
Date: March 10, 2003
Re: Testimony in support of **HB 1397**

Voices for North Dakota's Children is a collaborative advocacy effort of early childhood education professional organizations. It is made up of the North Dakota Head Start Association, North Dakota Association for the Education of Young Children, NDCCPI (North Dakota Child Care Providers Incorporated), Child Care Resource & Referral Network, Children's Caucus, North Dakota Professional Development leadership team, Children's Services Coordinating Committee's and tribal early childhood partners.

We urge your support of HB 1397.

There are several child care and Head start programs that contract food services with school districts throughout the state. It is important to meet strict nutritional guidelines and standards associated with the federal food program that affects the funding for many child care and Head Start lunch and breakfast programs. This bill is important in giving the directors of these programs options for finding the most economical and nutritious foods for the children they serve every day.

410 E. Thayer Avenue, Suite 2 ♦ Bismarck, ND 58501 ♦ Phone: 701-224-1445 ♦ Toll Free: 1-866-204-3322 ♦ Fax: 701-255-0848

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Deanna Hallmark
Operator's Signature

10/3/03
Date

Testimony on Second Engrossment of HB 1397

Mr. Chairman and members of the committee;

My name is Dixie Schulz, I am Legislative Chair for the North Dakota School Food Service Association and Food Service Director for Mandan Public Schools.

I am here to voice my support for the second engrossment of HB1397.

This bill would allow the continuation of contracts that now exist with Head Start, with pre- schools, with other school districts and with daycare facilities.

Mandan Public Schools contracted up until 2 years ago with St. Joseph school for meals that were provided to Mandan Public Students who attended Collins Elementary housed in St. Joseph school. At which time that school closed and students were absorbed into other schools in the Mandan district. This bill would allow such a contract to be authorized by the Mandan School Board, rather than having to go thru DPI authorization.

Our food service has also contracted to provide lunch to Mandan Head Start students. They have requested a bid from Mandan each year since then. This bill would allow such a contract, if approved by the Mandan School Board.

This bill would allow us to continue to provide lunch for visiting parents, grandparents, guests, or even students for other districts who often participate in music, drama, science or sport events at Mandan Schools.

School food service across the state is often requested to provide bids for childcare facilities and elderly feeding program contracts. When these centers participate in the USDA childcare and Adult Care Food Program they are governed by USDA regulations. School food service operates under the same governing agency, which makes serving one of these entities an easy transition.

School meal programs are managed by food service staff who are well trained and offer an education component in their foodservice. The lead worker in every school kitchen has training in safety and sanitation rules and requirements.

As legislative chair for NSDFSA my colleagues share my thoughts for the positive impact that this bill would have on their ability to provide food service in their schools and community. They currently have contracts with agencies and this bill would allow those contracts to continue, with school board policy and approval. They have expressed an overwhelming support for this bill and its positive outlook on their future food service operations. They also tell me that they would not find it difficult to comply with the language that states that they may not advertise their willingness to contract with other agencies.

I believe this is an issue that is best left up to the decision of the local school board as they represent the wishes of the community in which they live and serve. The school board is composed of individuals who because of their diverse background bring a wealth of knowledge to the table. I am opposed to any bill that takes the decision making process out of the local school boards hands.

Dixie Schulz
Operator's Signature

10/3/03
Date