

CONSENT CALENDAR

January 25, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
1561-FN,**

**AN ACT relative to school nutrition standards. Having
considered the same, report the same with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. Alicia Lekas

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1561-FN
Title:	relative to school nutrition standards.
Date:	January 25, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill establishes requirements and procedures for school nutrition and food service programs on fruits, vegetables, whole grains, sodium, and added sugars. The bill requires reports by school nutrition/food service directors and provides for rule making by the State Board of Education and the Department of Education on requirements and technical assistance. As reported in the bill's fiscal note, the Department of Education has indicated the bill would result in an estimated increase of \$440,000 in FY23 and under this proposed legislation, the department's Office of Nutrition Programs and Services would be required to now support up to 520 public schools to include charter public schools, as well as 137 non-public schools. The department also anticipates additional work would require the hiring of six additional program specialist positions; however, it should be noted that this bill does not establish any new positions nor provide appropriations therefor. As with other well-intentioned bills, the committee recommends Interim Study; it needs further work.

Vote 17-1.

Rep. Alicia Lekas
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Education

HB 1561-FN, relative to school nutrition standards. **INEXPEDIENT TO LEGISLATE.**

Rep. Alicia Lekas for Education. This bill establishes requirements and procedures for school nutrition and food service programs on fruits, vegetables, whole grains, sodium, and added sugars.

The bill requires reports by school nutrition/food service directors and provides for rule making by the State Board of Education and the Department of Education on requirements and technical assistance. As reported in the bill's fiscal note, the Department of Education has indicated the bill would result in an estimated increase of \$440,000 in FY23 and under this proposed legislation, the department's Office of Nutrition Programs and Services would be required to now support up to 520 public schools to include charter public schools, as well as 137 non-public schools. The department also anticipates additional work would require the hiring of six additional program specialist positions; however, it should be noted that this bill does not establish any new positions nor provide appropriations therefor. As with other well-intentioned bills, the committee recommends Interim Study; it needs further work. **Vote 17-1.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1561-FN

BILL TITLE: relative to school nutrition standards.

DATE: January 25, 2022

LOB ROOM: 207

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. A. Lekas

Seconded by Rep. Boehm

Vote: 17-1

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Melissa Litchfield, Clerk

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on Bill # 1561

BILL TITLE: relative to school nutritional standards

DATE: 1/25/22

LOB ROOM: 207

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. LeKas Seconded by Rep. Buehm Vote: 17-1

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

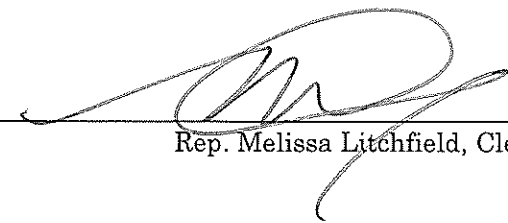
MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted:  _____
Rep. Melissa Litchfield, Clerk



2022 SESSION

Education

Bill #: 1561 Motion: ITL AM #: _____ Exec Session Date: 1/25/22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
<i>last</i> Ladd, Rick M. Chairman	17		
Cordelli, Glenn Vice Chairman <i>Greg Hill</i>	2		
Litchfield, Melissa A. Clerk	3		
<i>REP</i> Boehm, Ralph G. <i>1ST</i>	1		
Lekas, Alicia D.	4		
Moffett, Michael	5		
Hobson, Deborah L.	6		
Ford, Oliver J.	7		
Soti, Julius F.	8		
Nelson, Bill G.	9		
Myler, Mel-Walz, Mary Beth <i>and</i>		1	
Luneau, David J. <i>1ST</i>	10		
Cornell, Patricia	11		
Tanner, Linda L.	12		
Ellison, Arthur S. <i>Wallner, Mary Jane</i>	13		
Mullen, Sue M.	14		
Woodcock, Stephen L.			
Porter, Marjorie	15		
A. Hall, Muriel C.	16		
TOTAL VOTE:	17	1	

Kellie MacKenzie

- 60 day implementation not feasible. Currently standards do not apply to non-public schools.

Rep. Mullen

- Curious if non-public schools would find this bill concerning?

Rep. Ladd

- How long for DOE to develop a curriculum , if they have a task force, work with stakeholders, etc. would this all be ready within one year period of time

K. MacKenzie

- Currently State Board does not develop curriculum - that is local.

Rep. Boehm

- Participation

K. MacKenzie

- Response - those not in Federal program will still need to comply with the state program

Rep. Cordelli

- Rules - re: modeled physical activity
- And further questions regarding rule making?

Rep. Woodcock

- Does department know why some schools are not participating in Federal program?
- Decline in participation could be due to taste palettes.

Rep. Hobson

- Will save her question

Rep. Ladd

- Has DOE seen similar legislation in other states. Lessons learned etc.

K. MacKenzie

- DOE does not have this information.

1:41 pm Rep. Deshaies

- Questions from Rep. Hobson- Are carb nights, pizza parties etc. - still allowed?

Rep. Deshaies

- Is not sure to the answer.

Respectfully submitted,

Rep. Michelle Litchfield

House Remote Testify

Education Committee Testify List for Bill HB1561 on 2022-01-12

Support: 17 Oppose: 0 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Score</u>
Dodier, Tiffany	Somersworth, NH tiffanydodier@gmail.com	A Lobbyist	Myself	Support	No	No	1
Bracy, Sue	Dunbarton, NH marysuebracy@gmail.com	A Member of the Public	Myself	Support	No	No	1
Murray, Sarah	Goffstown, NH s.murray25@comcast.net	A Member of the Public	Myself	Support	No	No	1
Sandy, Leo	Chesterfield, NH lsandy@myfairpoint.net	A Member of the Public	Myself	Support	No	No	1
Roos-Unger, Ellen	Amherst, NH eroosunger@gmail.com	A Member of the Public	Myself	Support	No	No	1
Frye, Kim	Nashua, NH kimfrye@hotmail.com	A Member of the Public	Myself	Support	No	No	1
Champigny, Sarah	Brookline, NH sadiebb134@hotmail.com	A Member of the Public	Myself	Support	No	No	1
Champigny, Kevin	Brookline, NH kbchampigny@yahoo.com	A Member of the Public	Myself	Support	No	No	1
Ladd, Karen	Hopkinton, NH karen.e.ladd@gmail.com	A Member of the Public	Myself	Support	No	No	1
Vaughan, Nancy	Manchester, NH nancy.vaughan@heart.org	A Lobbyist	American Heart Association	Support	No	No	1
Istel, Claudia	Acworth, NH cistel79@gmail.com	A Member of the Public	Myself	Support	No	No	1
COFFIN, MEREDITH	CANDIA, NH meredithleavitt@gmail.com	A Member of the Public	Myself	Support	No	No	1
Boyle, Cynthia	Exeter, NH owlboyle@comcast.net	A Member of the Public	Myself	Support	No	No	1
Reardon, Donna	Concord, NH bugs42953@aol.com	A Member of the Public	Myself	Support	No	No	1
Howes, Deb	Bow, NH president@aft-nh.org	A Lobbyist	American Federation of Teachers - NH	Support	No	No	1
Hawkins, Brian	Concord, NH bhawkins@nhnea.org	A Lobbyist	NEA-NH	Support	No	No	1
Anderson, Violet	Manchester, NH vimanderson@yahoo.com	A Member of the Public	Myself	Support	No	No	1

Archived: Friday, January 21, 2022 10:03:17 AM
From: [Nancy Vaughan](#)
Sent: Thursday, January 13, 2022 6:37:05 PM
To: [~House Education Committee](#)
Cc: [Brodie Deshaies](#)
Subject: Follow up to HB 1561 School Nutrition
Importance: Normal

January 13, 2022
Chairman Ladd and Vice Chairman Cordelli
Members of the House Education Committee

Re: HB 1561 relative to school nutrition standards

Thank you for your consideration and questions during the hearing on January 12th for HB 1561 on School Nutrition Standards. There was discussion and questions at the hearing regarding language appearing in the bill. Specifically 3. III **(a)** on page 2, line 24-26, and 4. VI **(a)** on page 3, line 1-2, I wanted to clarify that these provisions are actually current law (RSA 189:11-a, III and VI) included in the drafting by Legislative Services. Within these sections, 3. III **(b)** and 4. VI **(b)** are new policy being proposed by the bill sponsor Representative Deshaies:

3 Nutrition; Technical Assistance; Department of Education. Amend RSA 189:11-a, III to read as follows:

III.(a) The state board shall prepare and distribute a curriculum for nutrition education and such curriculum shall be integrated into the regular courses of instruction for kindergarten and grades one through 12 during the school year.

(b) The department of education shall provide technical assistance and training to assist school nutrition/food service directors in meal planning that meets the evidence-based nutrition standards as provided in this section, as well as provide technical assistance, such as efforts to resolve supply chain hardships, to help schools meet the meal pattern under any approved meal pattern waivers. Technical assistance may be offered during trainings, onsite visits, online training modules, sessions at state conferences for food service professionals, and/or administrative reviews or other approaches as determined by the department.

4 Rulemaking; Food and Nutrition Programs. Amend RSA 189:11-a, VI to read as follows:

VI. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

(a) A model physical activity policy and distribute such policy to each public school in the state.

(b) Technical assistance by the department and compliance reporting requirements for school nutrition/food service directors.

Representative Deshaies and I agree, we both believed the new policy would apply only to NH public schools which are currently participating in the National School Lunch and School Breakfast Programs and would not apply to private schools. The representative will be submitting amendments to the legislation for your further consideration. Thank you for your time.

Sincerely,

Nancy Vaughan

Nancy Vaughan
Government Relations Director
American Heart Association

HB 1561-FN - AS INTRODUCED

2022 SESSION

22-2052

10/05

HOUSE BILL ***1561-FN***

AN ACT relative to school nutrition standards.

SPONSORS: Rep. Deshaies, Carr. 6; Rep. Suzanne Smith, Graf. 8; Rep. Ham, Graf. 5; Rep. Allard, Merr. 21; Rep. Simpson, Rock. 36

COMMITTEE: Education

ANALYSIS

This bill establishes requirements and procedures for school nutrition and food service programs on fruits, vegetables, whole grains, sodium, and added sugars. The bill requires reports by school nutrition/food service directors and provides for rulemaking by the state board of education and the department of education on requirements and technical assistance.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to school nutrition standards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; School Boards; Food and Nutrition Programs. Amend RSA 189:11-a by
2 inserting after paragraph I the following new paragraph:

3 I-a. School nutrition/food service programs shall meet, at a minimum, the nutrition
4 standards and meal patterns, including food components and quantities, established in the federal
5 Nutrition Standards in the National School Lunch and School Breakfast Programs, 7 C.F.R. Parts
6 210 and 220, with specific requirements as follows:

7 (a)(1) Sodium. School nutrition/food service programs shall meet sodium Target 2 levels
8 by school year 2023-2024, or when United States Department of Agriculture (USDA) enforces Target
9 2 levels, whichever is earlier, and sodium Target 3 levels by school year 2028-2029.

10 (2) The department shall develop and adopt by rule a sodium reduction “Target 4” in
11 alignment with the National Academies of Science Engineering, and Medicine’s Dietary Reference
12 Intakes for Sodium (March 5, 2019) and a compliance deadline by no later than school year 2032-
13 2033.

14 (b) Whole Grains. School nutrition/food service programs shall offer 100 percent whole
15 grains no later than school year 2023-2024, or when USDA enforces 100 percent whole grains,
16 whichever is earlier.

17 (c) Added Sugars. School nutrition/food service programs shall meet, on average over
18 the school week, the quantitative recommendations for limiting added sugars established in the
19 Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring
20 and Related Research Act of 1990, 7 U.S.C. section 5341, no later than school year 2026-2027.

21 (d) Nutrition Standards for All Foods Sold Outside of School Meals (Competitive Foods).

22 (1) Competitive Food Standards. School nutrition/food service programs shall meet
23 the 2016 competitive food standards under the National School Lunch Program and School
24 Breakfast Program and the nutrition standards for all foods sold in a school as required by the
25 Healthy, Hunger Free Kids Act of 2010.

26 (2) Added Sugars. School nutrition/food service directors shall meet, per item, the
27 quantitative recommendations for limiting added sugars established by the Dietary Guidelines for
28 Americans published under section 301 of the National Nutrition Monitoring and Related Research
29 Act of 1990, 7 U.S.C. section 5341, by no later than school year 2025-2026.

1 (3) Exemptions. Every ala carte item that is also an entrée or side dish offered as
2 part of the lunch or breakfast program shall meet the nutrition standards for competitive foods with
3 the exception of entrée items on the day they are served as part of the reimbursable meal.

4 (e) The requirements in this paragraph shall remain in effect unless stronger state or
5 federal requirements are established.

6 2 New Subparagraph; School Boards; Food and Nutrition Programs; Waivers. Amend RSA
7 189:11-a, II by inserting after subparagraph (f) the following new subparagraph:

8 (g)(1) Meal pattern waivers. No school shall be granted a waiver from the food
9 standards, for the school year, required under this section unless the New Hampshire department of
10 education determines such waiver is necessary to provide meals and there is a supply chain
11 disruption due to COVID-19. When reviewing requests from schools, the department of education
12 shall only consider waiver requests that are related to specific standards, demonstrate supply chain
13 hardship such as the loss of a prior vendor providing a food item that met the standards and the
14 school needs time to locate and contract with a new vendor, and provides plans to resolve issues by
15 the next school year.

16 (2) Reports. All submitted and approved waivers shall be posted on the department
17 of education's website and shall include the following:

18 (A) The specific standards waived;

19 (B) The supply chain hardship; and

20 (C) A description of how the school plans to resolve issues to meet the meal
21 pattern.

22 3 Nutrition; Technical Assistance; Department of Education. Amend RSA 189:11-a, III to read
23 as follows:

24 III.(a) The state board shall prepare and distribute a curriculum for nutrition education and
25 such curriculum shall be integrated into the regular courses of instruction for kindergarten and
26 grades one through 12 during the school year.

27 (b) *The department of education shall provide technical assistance and*
28 *training to assist school nutrition/food service directors in meal planning that meets the*
29 *evidence-based nutrition standards as provided in this section, as well as provide technical*
30 *assistance, such as efforts to resolve supply chain hardships, to help schools meet the meal*
31 *pattern under any approved meal pattern waivers. Technical assistance may be offered*
32 *during trainings, onsite visits, online training modules, sessions at state conferences for*
33 *food service professionals, and/or administrative reviews or other approaches as*
34 *determined by the department.*

35 4 Rulemaking; Food and Nutrition Programs. Amend RSA 189:11-a, VI to read as follows:

36 VI. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

1 **(a)** A model physical activity policy and distribute such policy to each public school in
2 the state.

3 **(b)** *Technical assistance by the department and compliance reporting*
4 *requirements for school nutrition/food service directors.*

5 5 New Paragraph; Compliance; Reports. Amend RSA 189:11-a by inserting after paragraph VIII
6 the following new paragraph:

7 IX.(a) Not later than one year after the effective date of this section, each school
8 nutrition/food service director shall submit a baseline report to the department of education on the
9 content of sodium, whole grains, and added sugars in school breakfast, lunch and competitive foods
10 offered.

11 (b) Not later than 2 years after the effective date of this section, and annually thereafter,
12 school nutrition/food service directors shall submit to the department of education, and make
13 publicly available, a report on compliance with the school meal and competitive food requirements
14 under this section, including fruits, vegetables, whole grains, sodium, and added sugars.

15 6 Effective Date. This act shall take effect 60 days after its passage.

**HB 1561-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to school nutrition standards.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$444,000	\$462,000	\$486,000
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The Department of Education states this bill requires all school nutrition and food service programs, regardless of participation in the National School Lunch and School Breakfast Programs, to do the following:

- Meet the nutrition standards and meal patterns, including food components and quantities, as established in the federal nutrition standards in the National School Lunch and School Breakfast Programs;
- Meet sodium “target 2” levels by school year 2023-2024 and “target 3” levels by school year 2028-2029, as defined by US Department of Agriculture (USDA) and also require the Department to develop an additional “target 4” level, which is not required by USDA;
- Meet a new 100 percent whole grain requirement no later than school year 2023-2024 or when USDA enforces such a requirement; and
- Meet a new added sugar restriction no later than school year 2025-2026.

These requirements are expected to have an indeterminable impact on local school district expenditures.

In addition to developing a sodium “target 4” level mentioned above, this bill would require the Department to evaluate, and if appropriate based upon supply chain disruptions, provide waivers to new state food standard requirements. The Department would also be required to post this information (i.e., the standard that was waived, the supply chain hardship, and the proposed resolution) on the Department’s website. Further, the Department would be required to provide technical assistance in this area as well as expand the current monitoring efforts to all school nutrition and food service programs, regardless of participation in the National School Lunch and School Breakfast Program.

Currently, there are no state statutory or regulatory requirements which pertain to school nutrition standards. The programs which are administered by the Department’s Office of Nutrition Programs and Services (ONPS) are federally funded and, as such, are governed by USDA’s regulatory school nutrition requirements. Presently ONPS supports 466 schools which participate in the National School Lunch and School Breakfast Programs. Under this proposed legislation, ONPS would be required to now support up to 520 public schools to include chartered public schools, as well as 137 non-public schools.

The Department states, under this bill, as it pertains to the proposed requirements for sodium, whole grains, and added sugars, ONPS would have to develop new training materials, which would require significant staff capacity. While ONPS currently provides waivers for federal requirements for the National School Lunch and School Breakfast Programs, the office would have to expand its work to evaluate compliance with new state requirements and grant corresponding waivers pursuant to this proposed legislation. The Department anticipates this additional work would require the hiring of six (6) additional program specialist II positions (labor grade 21). With an assumed start date of July 1, 2022, these six positions are estimated to cost \$444,000 in FY 2023, \$462,000 in FY 2024, and \$486,000 in FY 2025. It should be noted this bill does not establish any new positions nor provide an appropriation therefor.

AGENCIES CONTACTED:

Department of Education