



Health Policy Tracking Service A Thomson West Business Oct. 3, 2005

State Actions to Promote Nutrition, Increase Physical Activity and Prevent Obesity: A Legislative Overview

***PLEASE NOTE:** This edition of **State Actions to Promote Nutrition, Increase Physical Activity and Prevent Obesity** serves to update you on the legislative actions that occurred since the report was last published in July. The end of year report, scheduled to be released on December 23, will provide a complete overview of this year's state actions.*

Since the July 2005 report was published seven states have gone out of session, including **California, New York, North Carolina, Oregon** and **Rhode Island** where a number of bills were introduced to promote healthy lifestyles. In the six states—**Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania** and **Wisconsin**—that are still in regular session, several bills remain on legislative dockets as highlighted throughout this report.

State legislators and policymakers continue to focus their attention on initiatives that seek to curb rising obesity rates in children. Most of the enacted measures and other state actions specifically target the well being of children in school settings. School related bills focus on setting nutritional standards for food and beverage items made available to children, restricting access to unhealthy products and increasing the amount of physical education and physical activity offered during the school day. As of Sept. 30, 2005:

- 42 states introduced approximately 200 bills that provide some level of nutritional guidance for schools
- 44 states introduced legislation that would implement or enhance physical education or activity standards for school children guidelines for physical education classes
- 24 states introduced legislation calling for schools to educate children about nutrition or the benefits of physical activity as part of the health education curriculum

Offering industry support in effort to curb the rising prevalence of overweight and obese children in the country, the American Beverage Association announced a new voluntary school vending policy aimed at providing healthier beverages in schools. The policy asks the beverage industry and school districts to implement the following guidelines:

- In elementary schools, to provide only water and 100 percent juice
- In middle schools, to provide only nutritious and/or lower calorie beverages, such as water, 100 percent juice, sports drinks, no-calorie soft drinks and low-calorie juice drinks. Full-calorie soft drinks and juice drinks with 5 percent or less juice may be provided after school.
- In high schools, to provide a variety of beverage choices. However, no more than 50 percent of the vending selections may comprise soft drinks.

While the policy relies on voluntary implementation by individual companies and school districts, the ABA's Board of Directors represents 20 beverage companies and 85 percent of school vending beverage sales by bottlers.

Since July, school nutrition measures were enacted in **California, Illinois** and **North Carolina**. Rules and recommendations were issued in **Alabama, Arkansas** and **Kentucky**. State efforts to increase physical activity were signed into law in **Delaware** and **Illinois**. Physical education recommendations were issued in **North Carolina**, as well as, **Arkansas**.

Although there was plenty of legislative activity surrounding school-related issues, the other policy initiatives covered in the July report didn't receive as much action. A summary of this information is provided below.

Access to Safe Crosswalks and Bike Paths

Of the seven states that have gone out of session, bills in **California, New York** and **Rhode Island** died with the adjournment of the legislative sessions. Since the publication of the last report, California S.B. 523 was sent to Gov. Schwarzenegger (R) for his decision. The measure maintains the transfer of \$600,000 to the Bicycle Transportation Account from gasoline tax revenues, totaling approximately \$187 million. Of the \$.18 collected from the use of gasoline, \$.0104 goes to the Highway Users Tax to be distributed to cities and counties for transportation purposes, as well as, bicycle programs. With this revenue, cities and counties are able to fund new bikeways, create more bike storage facilities and maintain existing bike lanes. The amount was scheduled to be reduced to \$416,667 on July 1, 2007. In addition the governor received a resolution, H.C.R. 71 commending the important contribution of local recreation and park agencies in creating a healthier state.

Louisiana H.B. 2, the capital outlay budget, was adopted and included funding for various local walk and bike paths.

Safe crosswalk and bike path bills are still pending in **Massachusetts, Michigan** and **New Jersey**.

BMI Reporting

Of the seven states that have gone out of session **New York, North Carolina** and **Oregon** lawmakers introduced BMI-related bills that died upon the adjournment of these legislative bodies.

During a special session of the **Texas** Legislature in July, state lawmakers considered a comprehensive school funding bill that would have established a Type 2 diabetes education and risk assessment program in public schools. As part of the program, H.B. 2 would have required schools to report to the Department of Health Services on students' BMIs that fell outside the normal range. If warranted, parents would have received a report indicating that their child was at risk for developing Type 2 diabetes. The measure was not signed into law. Earlier this year, H.B. 984 was signed into law requiring schools to develop individualized health plans for students with Type 2 diabetes. Priority given to these two bills by the state legislatures attests to the concern legislators have on the increasing prevalence of Type 2 diabetes among children.

BMI-related measures are still pending in **Massachusetts, New Jersey** and **Pennsylvania**. These bills have seen no legislative activity since July.

Councils, Task Forces and Commissions

Before recommending or implementing any new policy, some lawmakers call for a comprehensive study to be conducted for a particular issue in order to better understand it. Legislators in **Alabama** adopted another task force bill. House Joint Resolution 40 established the 27-member Legislative Task Force on Obesity to study the various treatment and intervention approaches for reducing obesity, including community-based environmental strategies, education and awareness campaigns and medical or pharmacological interventions.

Earlier in the year, the House adopted a resolution urging the State Board of Education to conduct a comprehensive study of the nutritional quality of food served in public elementary and secondary schools. House Resolution 818 urged the Board to take the necessary steps to ensure that the food served meets or exceeds the federal dietary guidelines.

Industry Liability Lawsuits

Since the last report, published on July 11, **Oregon** H.B. 2591 was signed into law. The measure prohibits individuals from filing a claim against food-related businesses for damages resulting from weight gain, obesity or obesity-related conditions. The chart below highlights those measures that are pending before the state legislators as of Sept. 30, 2005.

Industry Liability Lawsuit Legislation Pending Legislation		
State	Bill Number	Status
NJ	H.B. 3514	11/22/04 – In Assembly, Judiciary Committee
	S.B. 1462	11/22/04 – In Senate, Judiciary Committee
PA	H.B. 670	6/21 – Passed House, sent to Senate
	H.B. 1772	6/21 - In House, State Government Committee
	S.B. 375	3/10 – In Senate, Judiciary Committee
WI	H.B. 338	4/15 – In House, Judiciary Committee
	S.B. 161	4/7 – In Senate, Committee on Judiciary, Corrections and Privacy

Bills that failed to gain further action during the legislative process include those in **Alabama, Arkansas, California, Connecticut, Iowa, Maryland, Mississippi, Minnesota, Montana, Nebraska, New Hampshire, Nevada, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Carolina** and **Virginia**. These measures failed due to time constraints on committee legislative calendars or because of the push by opponents that the passage of such bills is unnecessary since courts reject lawsuits that appear to be "frivolous."

Nutritional Reporting Requirements by Restaurants

The chart on the following page highlights menu-labeling bills that are still pending.

2005 Legislative Activity: Menu Labeling Legislation		
State	Bill Number	Status
MA	H.B. 3814	Pending, Joint Committee on Public Health
	S.B. 160	Pending, Joint Committee on Community Development and Small Business
NJ	H.B. 3064	Pending, will be revisited after the November state elections
PA	H.B. 375	Pending, Committee on Agriculture and Rural Affairs

Snack and Soda Taxes

The **Michigan** bills (H.B. 4912, H.B. 4913, S.B.587 and S.B. 588) are currently the only snack and soda tax bills that are pending before a legislative body.

CREATING HEALTHY, ACTIVE COMMUNITIES

In the past three months, states have launched state-wide campaigns that serve to motivate residents to live healthier lives by promoting good nutrition and physical activity. On a national scale, Gov. Mike Huckabee (R) of Arkansas, who now serves as the chairman of the National Governor's Association, plans to mirror the *Healthy America* campaign on his statewide *Healthy Arkansas* initiative. Highlights of individual statewide efforts are provided below.

Indiana

"InShape Indiana" is a two-part fitness initiative that aims to connect state residents to the various services and events offered throughout Indiana. The Web site offers a wealth of information, as well as an on-line tool to help an individual monitor their levels of physical activity and fruit and vegetable consumption. An email is sent to participants every two weeks to remind them to log in their information. Participants are also able to log in as part of a larger group. Gov. Mitch Daniels (R) hopes to be able to identify and recognize the state's fittest organizations.

California

Gov. Arnold Schwarzenegger (R) convened the first Governor's Summit on Health, Nutrition and Obesity in the state. The Summit brought together leaders and experts from business, transportation, education and health fields to develop solutions to improve the health of Californians. Along with the signing of legislation covered later on in this report, several other initiatives were announced including the following:

- Kaiser Permanente committed \$18.5 million to promote nutrition and physical activity programs
- Kraft announced a \$2 million pledge and several products and policies to support healthy lifestyles
- Safeway will implement nutritional icons on its branded products, expand its "Eating Right" product line and test healthy options at check-out stands
- The Dole Food Company will launch the "School Salad Days" pilot program by donating 50 portable salad bars to California schools in 2006 and helping schools plant school fruit and vegetable gardens
- Blue Cross of California announced its plan to commit \$9 million over three years to fund obesity-prevention programs
- The HealthCorps Volunteer Program in California will be initiated to recruit and train volunteers to educate children on health and wellness

- El Pollo Loco Inc., a food industry company, announced its plan to serve trans fat-free tortillas and create other healthful food items

Missouri

In August, Gov. Matt Blunt (R) launched the “Healthy Missourians” initiative. In his press release, the governor noted that in the past five years, the prevalence of obese middle school students increased by 75 percent in the state and the prevalence of obese high school students increased by 64 percent. The objective of the initiative is to provide residents with “...strategies for preventing obesity and programs to increase physical activity and healthy eating.” The initiative consists of four main goals:

- Increasing opportunities to adopt physical activity and nutritional habits that promote good health
- Increasing the effectiveness of messages that result in the public improving nutritional habits and increasing physical activity
- Increasing support for health care systems to promote physical activity and nutritional habits that prevent and control obesity and chronic disease
- Increasing state-level public policies that promote physical activity and nutritional habits to prevent obesity and chronic disease

Strategies to achieve these goals can be found in the report that outlines the objectives of the initiative. This report can be found on Missouri’s [Health and Senior Services Department Web site](#).

In September “Shape Up Missouri”, a governor’s Council on Physical Fitness and Health program, was launched across the state. The three week program offers some healthy competition between schools, businesses and communities across the state and offers three different challenge levels to motivate citizens to exercise more frequently.

The remainder of this report will serve to update you on the various state actions taken on school-related policy initiatives.

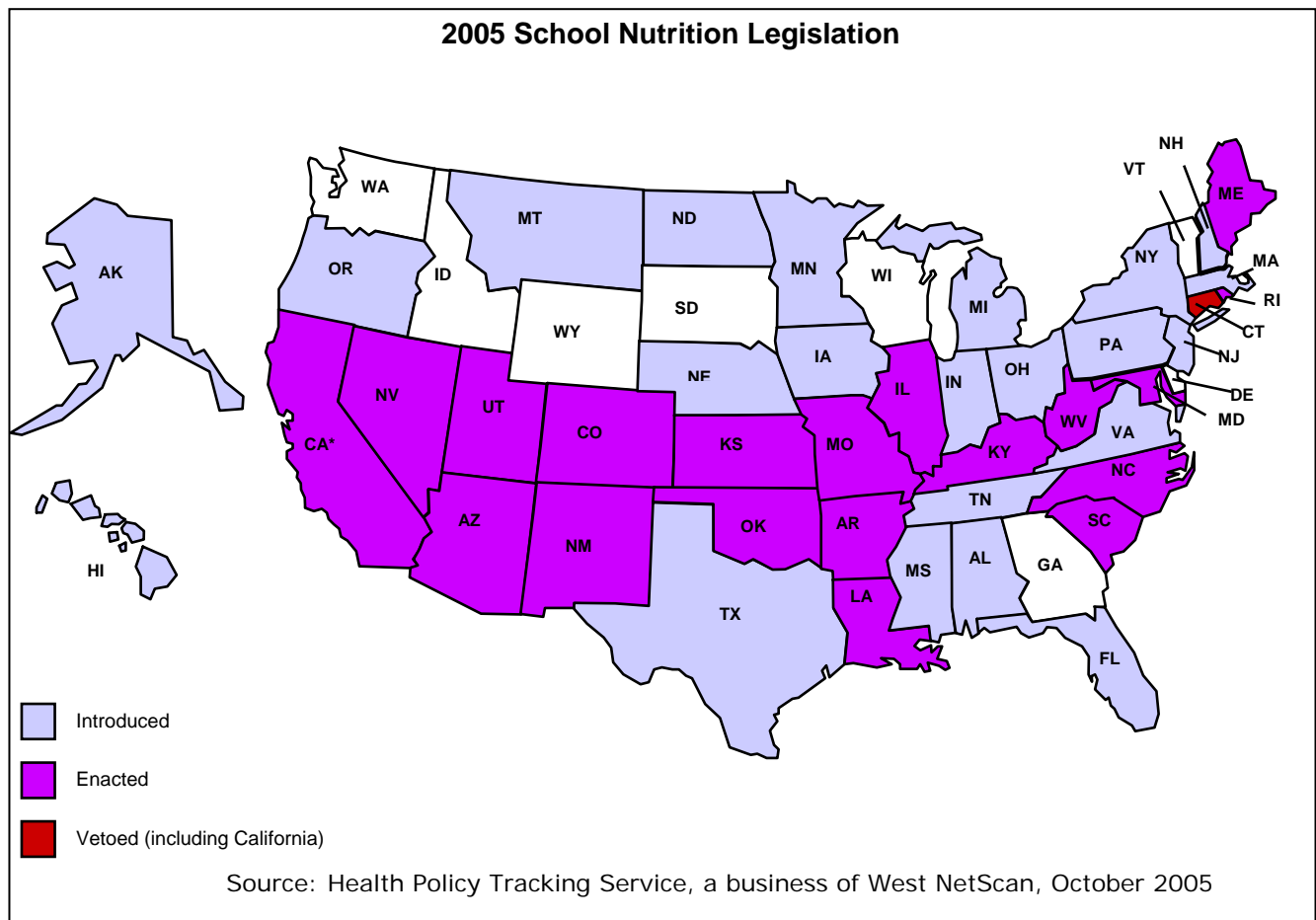
ACKNOWLEDGMENTS

This report was prepared by Carla I. Plaza, with the assistance of Catherine Henze. Ms. Plaza is the Manager of Policy Research for the Health Policy Tracking Service and Ms. Henze is the research analyst responsible for tracking and monitoring obesity-related legislative activity.

HPTS would like to thank The Robert Wood Johnson Foundation for its continued commitment in producing reports that will serve to inform state legislators, policymakers and public health advocates on the comprehensive action states are taking to address this growing public health concern.

School Nutrition: A Focus on Nutritional Standards and Access

In 2005, 42 states introduced approximately 200 bills that provide some level of nutritional guidance for schools. Establishing school nutritional standards, restricting school sales of competitive foods and beverages, and banning or limiting the sale of items in vending machines continue to be among the leading policy initiatives. The map below highlights the 2005 school nutrition legislative activity. Please note that California's Gov. Arnold Schwarzenegger (R) signed and vetoed bills relating to school-nutrition legislation.



Since the July 2005 report, seven states have gone out of session, including California, New York, North Carolina, Oregon and Rhode Island where school nutrition related measures were introduced. Measures were enacted in **California, Illinois** and **North Carolina** and rules/recommendations were issued in **Alabama, Arkansas** and **Kentucky**.

School nutrition measures are still pending in **Massachusetts, Michigan, New Jersey, Ohio** and **Pennsylvania**. Measures in **California** and **North Carolina** are awaiting signature by the governors. The information provided below highlights legislative activity and other school nutrition state actions that occurred since July 11, 2005.

ALABAMA

On July 12, the state Board of Education adopted exercise and nutrition recommendations and implementation guidelines proposed by the Statewide Committee to Review the State of Health of America's Youth with Particular Emphasis on Alabama's Youth. The adopted recommendations include the following:

- Each school must develop and begin to implement a strategic plan for improving school nutrition environment, including a plan for phasing out low-nutritive foods and phasing in high-nutritive foods, by the 2006-2007 school year.
- As of July 1, 2006, schools may not use state's Child Nutrition Program funds to buy new fryers for the school breakfast and lunch programs.
- Schools should move away from self-service cafeteria lines in order to control portion sizes.
- Schools must encourage programs promoting the consumption of fresh fruits and vegetables in schools such as school gardens or farm-to-school programs.
- School food service workers must meet specified training and education requirements.
- A plan to request state budget funds to hire an additional 289 physical education teachers in FY 2007 and another 289 in FY 2008

The new vending machine requirements are as follows:

- No carbonated beverages in elementary schools
- At least 70 percent of middle school vending machine beverage items must be non-carbonated water, fruit juices, milk products, teas and sports drinks. Up to 30 percent may be carbonated soft drinks, but at least half of all soft drinks offered must be no- or low-calorie.
- High schools may offer the same beverage items as middle schools, but with a healthy beverages to soft drinks ratio of 50/50. At least half of all soft drinks must be no- or low-calorie, as well.
- A gradual phasing in of healthier vending machine food items according to the Improving the School Nutrition Environment plan

ARKANSAS

In 2003, Arkansas lawmakers established a Child Health Advisory Committee to develop nutrition and physical activity standards and policy recommendations. The measure required the state board of education to develop rules and regulations to implement the standards. In June, the committee released its recommendations to the state Board of Education. Initially, Gov. Mike Huckabee (D) took the position that local school districts should have the authority to decide whether or not to implement the committee's recommendations. However, during a news conference in late July, Huckabee reversed that position saying the state Board of Education should mandate tougher policies regarding vending machine access and content. He attributed the change of heart to discussions with Joe Thompson, M.D., new chief health officer and former director of the Arkansas Center for Health Improvement, and his desire to take an aggressive stand to combat childhood obesity.

In August, the Arkansas' Board of Education unanimously approved rules governing schools' nutrition and physical education policies. The nutrition standards governs à

la carte and competitive foods, including those made available through vending machines and foods of minimal nutritional value (FMNVs), as defined by the USDA. The new state requirements are as follows.

For elementary schools:

- Students will continue to not have access to vending machines during the school day
- Students will not be served, have access to or be awarded with competitive foods or FMNVs
- Only food items that are part of the school's meal will be sold in the cafeteria.
- School food service departments may not sell or give extra servings of desserts, french fries or ice cream

Middle, junior high and high schools may not serve, provide access to or award students with competitive foods or FMNVs until 30 minutes after the last lunch period has ended. In addition, these schools may only sell food items that are either part of a school meal program or meet the portion size restrictions and nutrition standards set by the state, which will be released at a later date. The board does require that:

- All FMNV and competitive food beverages, including sodas, are restricted to no more than 12 ounces. The only exception to this rule is unsweetened, unflavored water.
- A choice of two fruits and/or 100 percent fruit juices must be offered for sale at the same time and place whenever competitive foods are sold.

The standards require that at least 50 percent of the beverages made available for sale in vending machines and school stores be 100 percent fruit juice, low-fat or fat-free milk and unflavored, unsweetened water.

The new rules also require the Department of Education to promote nutrition education as part of an integrated health education curriculum.

Finally, the rules encourage local school nutrition and physical activity advisory committees to develop policies that will assist with the implementation of the standards. The committees also will be responsible for assessing school campuses based on the School Health Index created by the Centers for Disease Control and reporting the results to school principals.

In addition, in Gov. Huckabee's recently assumed position of chairman for the National Governor's Association (NGA), he unveiled a Healthy America program modeled after his Healthy Arkansas program. At a recent meeting of the NGA he explained to the governors that the initiative will focus on changing the country's focus to one of disease prevention rather than treatment. According to the *Arkansas News Bureau*, Huckabee said, "We must change this dangerous trend, otherwise our unhealthy lifestyle will doom an entire generation of young people."

CALIFORNIA

In 2001, lawmakers adopted the "Pupil Nutrition, Health and Achievement Act" (S.B.19), which set nutritional standards for food and beverage items sold to students, particularly in elementary schools. This year, Gov. Arnold Schwarzenegger (R) signed two school nutrition bills at the Governor's Summit on Health, Nutrition and Obesity that amended provisions of the 2001 Act. Senate Bill 965 and S.B. 12

comprise the “Healthy Schools Now Act” and establish unprecedented uniform school nutrition guidelines for all grades—kindergarten through grade 12.

Because state funding was not appropriated to meet the requirements set forth by the “Pupil Nutrition, Health and Achievement Act” in 2001, elementary schools were not required to implement the nutritional standards. The law restricted the sale of individual food items made available in elementary schools that did not meet the 35/10/35 nutritional standards. These restrictions meant that individual foods sold to students during morning or afternoon breaks could not contain more than 35 percent of total calories from fat, 10 percent of total calories from saturated fat and 35 percent of total weight from sugar (natural and added sugars). Senate Bill 12 now removes the statutory language that linked the implementation of the nutrition standards to state funding and now mandates elementary schools to meet the nutritional requirements by July 1, 2007.

S.B. 12 also made the following changes to the nutritional requirements for items sold to elementary school children:

- Allows for the sale of food items sold outside the meal program to individual portions of nuts, seeds, eggs, cheese, legumes, fruits and vegetables that have not been deep fried
- Allows for the sale of individually sold dairy or whole grain food items if these items meet the 35/10/35 restrictions and do not exceed 175 calories per item

Furthermore, the measure expands nutrition standards to middle, junior high and high schools beginning July 1, 2007, in the following ways:

- Requires all snacks sold outside of a USDA meal program to meet the 35/10/35 restrictions and to not exceed 250 calories per individual food item with exemptions for nuts, seeds, eggs, cheese, fruits, vegetables that have not been deep fried and legumes
- Prohibits entrée items sold outside of the USDA meal program from exceeding 400 calories and containing more than 4 grams of fat per 100 calories per item
- Permits the sale of school fundraiser items in middle, junior and high schools that do not comply with the nutritional requirements as long as the sale takes place off of school grounds or at least 30 minutes after the end of the school day

The 2001 Act also placed restrictions on the type of beverages sold to students in elementary, middle schools and those in junior high. Senate Bill 965, the second measure in the “Healthy Schools Now” legislative package, phases-in the state’s middle and junior high school beverage restrictions at the high school level. By July 1, 2007, at least 50 percent of all beverages sold from 30 minutes before until 30 minutes after the school day must be:

- 1) Low- or non-fat milk or non-dairy milk
- 2) Fruit and vegetable juices with at least 50 percent fruit or vegetable juice
- 3) Water
- 4) Electrolyte drinks with no more than 42 grams of added sweetener per 20-ounce serving

By July 1, 2009, all beverages sold to high school students must meet the above requirements. The bill allows for the sale of restricted beverages during school-sponsored activities that take place at least 30 minutes after the end of the school day.

The governor also signed S.B. 281, establishing the California Fresh Start (CFS) Pilot Program intended to encourage public schools to provide more fresh fruits and vegetables to students free of charge. Under the program, fruits and vegetables will be provided during the school day outside of lunch periods. Schools are eligible to apply for funding and would be reimbursed 10 cents per meal to provide additional support for their school breakfast program if all the following criteria are met:

- Provides one to two servings of fresh fruits and/or vegetables at breakfast
- Spends at least 90 percent of the funding for the direct purchase of fruits and vegetables
- Does not spend any of the funding for the purchase of juice
- Provides data required for an evaluation of the program

As a condition of receiving these funds, schools participating in the pilot program must offer a tasting and sampling of fruits and vegetables on school grounds, which can include:

- An offering of fruits and vegetables reinforced with nutrition and agricultural bulletins
- Educational sampling and tasting supported with nutrition education
- A monthly school farmer's market

In conjunction with this bill, the 2005-2006 Budget Act allocates \$18.2 million to the California Department of Education to increase fruits and vegetables in school meal programs.

Overall, the bills received strong support. However, the California Chamber of Commerce, the California-Nevada Soft Drink Association, Grocery Manufacturers of America, the National Confectioners Association, the Center for Individual Freedom and the American Beverage Association voiced opposition to the Healthy Schools Act Now measures.

In September, Gov. Schwarzenegger vetoed a school nutrition bill. California H.B. 443 would have required the state board of education to review the regulations and compliance regarding pupil and adult organization food sales and to review competitive food sales. Schwarzenegger, who has voiced strong support for and enacted several childhood obesity measures, said in his veto message, "While I applaud the author's interest in student nutrition issues, this bill would have little direct impact on the nutritional value of foods made available to students, by merely codifying in state law activities that the State Board of Education already has the authority to do."

ILLINOIS

Gov. Rod R. Blagojevich (D) signed into law several measures to reduce the prevalence of overweight and obese children in the state. However, while one of the measures, H.B. 612, originally established a Childhood Health Promotion Program to target childhood obesity, the enacted version was completely stripped of those

provisions and became the Illinois Family Case Management Act. The bill did not include any provisions related to obesity, nutrition or physical activity.

Of the measures that the governor did sign, Senate Bill 162 requires that all school districts have a local wellness policy. The measure establishes a 19-member School Wellness Policy Task Force that will be responsible for developing model wellness policies and recommendations for all school districts based on the CDC recommendations, including goals for nutrition education, physical activity and nutrition guidelines for foods sold on school grounds. The Board of Education is responsible for distributing the model wellness policies before June 1, 2006.

The governor also signed several physical education and physical activity bills that are highlighted in the next section of this report.

KENTUCKY

In accordance with the provisions of S.B. 172, enacted earlier this year, in August the Kentucky Board of Education gave final approval to a new school nutrition policy called "Minimum Nutrition Standards for Foods and Beverages Available on Public School Campuses during the School Day." Before taking effect, the board's regulations must undergo a public hearing and legislative review. The public hearing is scheduled for September 23. The following standards were set for beverage and food items sold to students.

From 30 minutes after the last lunch period until the end of the school day, only the following beverages may be available for sale and, except for water, may not exceed 17 ounces:

- Unflavored or flavored milk that contains no more than one percent milk fat
- Plain or unflavored, non-caloric, non-carbonated water
- 100% fruit or vegetable juice
- Any other beverage that contains no more than 10 grams of sugar per serving (this does not apply to 100% fruit or vegetable juice)

From 30 minutes after the last lunch period until the end of the school day, only food items meeting the following standards may be sold:

- Food items may not contain more than 30 percent of calories from total fat, excluding nuts and seeds, 10 percent of calories from saturated fat and 32 percent sugar by weight (includes natural and added sugars)
- Chips, cereals, crackers, baked goods and other snack items may not contain more than 300 milligrams of sodium per serving.
- Pastas, meats and soups may not contain more than 450 milligrams of sodium per serving.
- Pizza, sandwiches and main dishes may not contain more than 600 milligrams of sodium per serving.
- Portion sizes for chips, crackers, popcorn, cereal, trail mix, nuts, seeds, jerky, cereal bars, granola bars, pastries, muffins, doughnuts, bagels and other bakery-type items may not exceed two ounces.
- Portion sizes for cookies shall not exceed one ounce.
- Portion sizes for non-frozen yogurt may not exceed eight ounces.
- Portion sizes for frozen dessert items, including low-fat or fat-free ice cream, frozen fruit juice bars and frozen real fruit items may not exceed four ounces.

The food and beverage standards apply to a la carte items as well. However, schools may offer additional items if they are deemed creditable under the National School Breakfast and School Lunch Program meal patterns.

The provisions of the bill assessed the following penalties for schools that violated the above requirements:

- For the first violation, a fine of no less than one week's revenue from the sale of competitive food
- For subsequent violations, a fine of at least one month's revenue from the sale of competitive food
- For "habitual violations," defined as more than 5 violations within a six month period, a six-month ban on competitive food sales

Money collected from these fines will be transferred to the local school district's food service fund.

NORTH CAROLINA

Following legislative recommendations set forth by the North Carolina Health and Wellness Trust Fund's (HWTF) Study Committee on Childhood Obesity, state lawmakers enacted S.B. 961. The bill sets the following vending machine standards:

- Prohibits the sale of soft drinks in elementary schools
- Prohibits the sale of soft drinks during breakfast and lunch periods in middle and high schools
- Prohibits the sale of sugared carbonated soft drinks in middle school vending machines
- Restricts the offerings of sugared carbonated soft drinks in high school vending machines to not more than 50 percent of the total items for sale
- Provides that diet carbonated soft drinks are not considered sugared carbonated soft drinks
- Requires bottled water products to be available in every school with beverage vending
- Prohibits snack vending to elementary school students
- Requires 75 percent of snack vending products offered in middle and high schools to not exceed 200 calories per portion or package.

The measure does not prohibit schools from setting stricter vending policies. In an Office of the Governor press release, Gov. Mike Easley (D) said, "Children and adolescents spend much of their time in school, so it is vital that we provide them with an environment that is conducive to healthy living. This is one way that we can help prevent childhood obesity levels by providing wholesome food choices at all North Carolina's public schools."

The Legislature also passed H.B. 855, establishing nutrition standards for school meals, a la carte items and the after-school snack program. House Bill 855 is currently awaiting the governor's signature. According to an HPTS contact, the governor plans to sign the bill but has been focused on other priorities, including assisting victims of Hurricane Ophelia.

Five states – Massachusetts, Michigan, New Jersey, Ohio and Pennsylvania – are still in regular session and many school nutrition measures are pending in these states, as highlighted in the chart on the following page.



2005 Legislative Activity: Pending School Nutrition Legislation
Health Policy Tracking Service, a Thomson West Business, Oct. 3 2005

STATE	BILL TYPE	BILL NUMBER	SUMMARY	STATUS
CA	HB	444	"An act to amend Section 49531.1 of the Education Code relating to pupils. - School food: nutrition guidelines."	09/08/2005--(H) ENROLLED AND TO THE GOVERNOR AT 3:30 P.M.
CA	HB	826	"An act to add Article 3 (commencing with Section 9100) to Chapter 10 of Part 6 of the Education Code and to add Chapter 5 (commencing with Section 43600) to Division 17 of the Food and Agricultural Code relating to child nutrition. - California Farm to School Child Nutrition Improvement Program."	09/12/2005--(H) ENROLLED AND TO THE GOVERNOR AT 1:30 P.M.
CA	SB	567	"An act to add Section 49535 to the Education Code relating to pupil wellness. - Pupil nutrition: school wellness policy."	09/14/2005--(S) ENROLLED. TO GOVERNOR AT 1 P.M.
MA	HB	1214	"An Act ESTABLISHING LOCAL SCHOOL HEALTH ADVISORY COUNCILS."	03/14/2005--(H) REFERRED TO JOINT COMMITTEE ON EDUCATION
MA	HB	1449	"AN ACT RELATIVE TO SCHOOL FOOD PROGRAMS."	03/18/2005--(H) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	HB	1457	"AN ACT TO PROMOTE PROPER SCHOOL NUTRITION."	08/25/2005--(S) SENATE CONCURRED IN COMMITTEE REFERRAL
MA	HB	1459	"AN ACT RELATIVE TO NUTRITION AWARENESS IN SCHOOLS."	03/18/2005--(H) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	HB	1460	"Resolved that Massachusetts public schools should implement a more rigorous initiative for educating middle school age children about the benefits of good nutrition and physical exercise; and be it further"	03/18/2005--(H) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	HB	1464	"Resolved"	03/18/2005--(H) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	HB	3657	"An Act RELATIVE TO VENDING MACHINES IN SCHOOLS"	05/10/2005--(H) REFERRED TO JOINT COMMITTEE ON PUBLIC HEALTH
MA	HB	3658	"An Act RELATIVE TO VENDING MACHINES IN PUBLIC SCHOOLS."	05/10/2005--(H) REFERRED TO JOINT COMMITTEE ON PUBLIC HEALTH
MA	SB	107	"AN ACT PROMOTING HEALTHY ALTERNATIVES IN PUBLIC SCHOOL FOOD PROGRAMS"	03/16/2005--(S) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MI	HB	4097	"A bill to amend 1976 PA 451 entitled 'The revised school code' (MCL 380.1 to 380.1852) by adding section 1271."	02/01/2005--(H) REFERRED TO COMMITTEE ON EDUCATION
MI	SB	91	"A bill to amend 1976 PA 451 entitled 'The revised school code' (MCL 380.1 to 380.1852) by adding section 1271."	01/27/2005--(S) REASSIGNED TO COMMITTEE ON HEALTH POLICY
NJ	HB	2339	"An Act concerning pupil health and supplementing chapter 33 of Title 18A of the New Jersey Statutes."	09/13/2004--COMBINED WITH A3196/2356/2905 (ACS)
NJ	HB	2905	"An Act concerning pupil health and supplementing chapter 33 of Title 18A of the New Jersey Statutes."	09/13/2004--COMBINED WITH A3196/2339/2356 (ACS)
NJ	HB	3196	"An Act establishing certain restrictions concerning foods and beverages sold or given away to pupils at public [elementary and middle] and certain nonpublic schools and supplementing chapter 33 of Title 18A of the New Jersey Statutes."	06/30/2005--SENATE AMENDMENT (35-0) (VITALE)
NJ	SB	1627	"An Act concerning pupil health and supplementing chapter 33 of Title 18A of the New Jersey Statutes."	05/23/2005--COMBINED WITH S1913/1916 (SCS)
NJ	SB	1913	"An Act establishing certain restrictions concerning foods and beverages sold or given away to pupils at public [elementary and middle] and certain nonpublic schools and supplementing chapter 33 of Title 18A of the New Jersey Statutes."	06/30/2005--SENATE AMENDMENT (35-0) (VITALE)
NJ	SB	1916	"An Act concerning pupil health and supplementing chapter 33 of Title 18A of the New Jersey Statutes."	05/23/2005--COMBINED WITH S1913/1627 (SCS)
NC	HB	855	"AN ACT directing the state board of education to establish statewide nutrition standards for school meals and the after school snack program administered by the department of Public instruction and child nutrition programs of local school administrative units AS RECOMMENDED BY THE STUDY COMMITTEE FOR CHILDHOOD OVERWEIGHT/OBESITY OF THE HEALTH AND WELLNESS TRUST FUND."	08/24/2005--(H) PRESENTED TO GOVERNOR
NC	SB	269	"AN ACT directing the state board of education to establish statewide nutrition standards for school meals and the after school snack program administered by the department of Public instruction and child nutrition programs of local school administrative units AS RECOMMENDED BY THE STUDY COMMITTEE FOR CHILDHOOD OVERWEIGHT/OBESITY OF THE HEALTH AND WELLNESS TRUST FUND."	06/02/2005--(H) REFERRED TO COMMITTEE ON EDUCATION
NC	SB	961	"AN ACT TO ESTABLISH A STATEWIDE STANDARD FOR VENDING PRODUCTS SOLD DURING THE SCHOOL DAY as recommended by the study committee for childhood overweight/obesity of the health and wellness trust fund."	08/08/2005--(R) CHAPTERED SESSION LAW 2005-253
OH	SB	95	"To amend sections 3302.07 3313.814 and 3314.03 and to enact sections 3313.816 and 3313.817 of the Revised Code to establish nutritional standards for food sold to students in public elementary schools and to prohibit the sale of certain beverages to students in all public schools except under specified conditions."	03/09/2005--(S) REFERRED TO SENATE EDUCATION

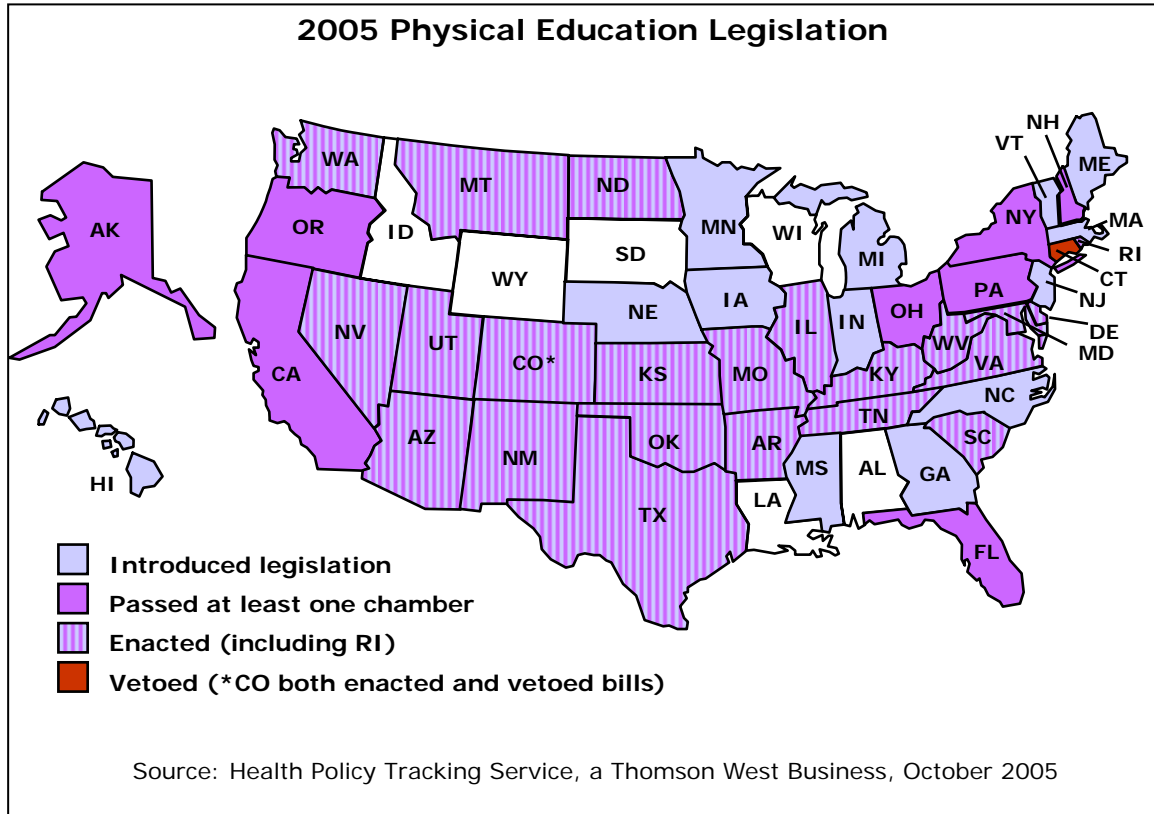


**2005 Legislative Activity: Pending School Nutrition Legislation
Health Policy Tracking Service, a Thomson West Business, Oct. 3 2005**

STATE	BILL TYPE	BILL NUMBER	SUMMARY	STATUS
PA	HB	189	"Amending the act of March 10 1949 (P.L.30 No.14) entitled An act relating to the public school system including certain provisions applicable as well to private and parochial schools; amending revising consolidating and changing the laws relating thereto providing for nutritional standards for competitive food sales; further providing for health services; providing for physical education and recess; and further providing for physiology and hygiene instruction in public schools and educational institutions receiving State appropriations.	06/22/2005--(S) REFERRED TO EDUCATION
PA	HB	191	"Amending the act of March 10 1949 (P.L.30 No.14) entitled An act relating to the public school system including certain provisions applicable as well to private and parochial schools; amending revising consolidating and changing the laws relating thereto further providing for advisory health councils; ESTABLISHING LOCAL WELLNESS POLICIES; and providing for the establishment of a child health and nutrition advisory committee."	06/22/2005--(S) REFERRED TO EDUCATION

PHYSICAL EDUCATION

In 2005, 44 states have introduced measures that would implement or enhance physical education or activity standards for school children. Of those, 21 states have adopted legislation and two governors vetoed physical education measures. The map below highlights the 2005 legislative activity on this issue.



Since publishing the July 2005 report, two states have adopted physical education-related laws and two others have issued rules/recommendations. The information provided below highlights legislative activity and other state actions that occurred since July 11, 2005, relating to physical education.

ARKANSAS

In accordance with legislation enacted in 2003, the Arkansas' Child Health Advisory Committee issued its school nutrition and physical activity standards and policy recommendations. The state Board of Education developed and unanimously approved rules to implement the standards on August 8, 2005. The new standards for physical education include the following:

- Set a specific student-adult ratio for grades K-6 (30:1) beginning during the 2006-2007 academic year and require a certified or qualified physical education teacher to instruct the students. Beginning with the 2008-2009 academic year, elementary schools must employ at least one certified and/or qualified physical education teacher for every 500 students.
- Require the Department of Education to develop instructional time requirements to ensure that elementary students receive a minimum of 120 minutes per week

of physical education and/or activity; that students in grades 7 and 8 receive at least 60 minutes of weekly physical activity; and that high school students take one semester of physical education by the 2007-2008 academic year.

- By the 2012 academic year, all physical education teachers must be certified.

The rules encourage local school nutrition and physical activity advisory committees to develop policies that will assist with the implementation of the standards. The committees also will be responsible for assessing school campuses based on the School Health Index created by the Centers for Disease Control and reporting the results to school principals.

Earlier in 2005, Gov. Mike Huckabee (R) signed S.B. 2 that allows students in grades 9 through 12 who participate in an organized school sport to be eligible to receive physical education credit.

DELAWARE

A 17-member Physical Activity and Education Task Force was created through H.C.R 37. The task force is responsible for:

- Examining the state's physical activity and physical education policies and programs
- Evaluating how other states are implementing and funding their physical education and physical activity programs
- Developing recommendations for an integrated approach to improve or create high quality physical education in the state
- Developing recommendations of strong public-private partnerships
- Identifying revenue sources to fund physical activity and physical education

The final recommendations must be submitted to the governor and General Assembly by March 1, 2006.

ILLINOIS

Gov. Rod R. Blagojevich (D) signed several measures into law that promote physical education and activity in schools. House Bill 1540 and S.B. 211 amend curriculum standards to clarify that physical education must be part of a school's regular curriculum and that students should be provided an opportunity for daily physical activity.

Senate Bill 162 sets the goal that all school districts have a local wellness policy. The measure establishes a 19-member School Wellness Policy Task Force that will be responsible for developing model wellness policies and recommendations for all school districts based on the CDC recommendations, including goals for physical activity. The Board of Education is responsible for distributing the model wellness policies before June 1, 2006.

Through the enactment of H.B. 1541, the State Board of Education must establish a school health recognition program that:

- Publicly identifies schools that have implemented programs to increase the level of physical activity of their students
- Publicly identifies schools that have adopted policies or implemented programs promoting healthy nutritional choices for their students

- Allows recognized schools to share best practices and model services with other state schools

NORTH CAROLINA

An interagency, collaborative effort between the Division of Public Health and Department of Public Instruction led to the release of the “Move More: North Carolina’s Recommended Standards for Physical Activity in School” in hopes of curtailing the state’s rising obesity rates among children. The standards, released at the end of August, provide recommendations that support and encourage physical activity and physical education. Three levels of achievement—“needs improvement,” “minimum standards”, and “superior standards”—are used to designate the quality of a school’s physical education and physical activity programs. Officials hope that local education agencies will use the recommended standards and quality tools to assess their current programs and work towards improving the health of North Carolina’s children. Members of the interagency team believe that financial incentives tied to the levels of performance of the “Move More School Standards” will greatly increase the implementation of these standards throughout the state. The voluntary standards are a companion piece to the “Eat Smart School Standards” that were released in 2004.

Earlier in the year, the State Board of Education voted unanimously to approve a 30-minute daily physical activity requirement for all students in kindergarten through grade 8 beginning the 2006-2007 school year. Lt. Gov. Beverly Purdue, who chairs Health and Wellness Trust Fund (HWTF) and is a member of the board, was the driving force behind the board adopting the new policy.

Oregon

Although lawmakers did not enact S.B. 228, it should be noted that it would have required students in grades K through 8 to participate in physical education for the entire academic year. The bill also would have required students in grades K through 5 to take at least 150 minutes of physical education per week, and for students in grades 6 through 8, 225 minutes of physical education per week. In addition, the measure directed the Department of Education to make available to the public the number of minutes spent by each public elementary and middle school on physical education. Senate Bill 228 authorized funding for schools to comply with the requirements of this bill. The measure passed the Senate on July 10, but never made it out of the House Budget Committee before the legislative body adjourned for the year.

Six states—**Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania** and **Wisconsin**—are still in regular session and many physical education measures are pending in five of these states, as highlighted in the chart on the following page.

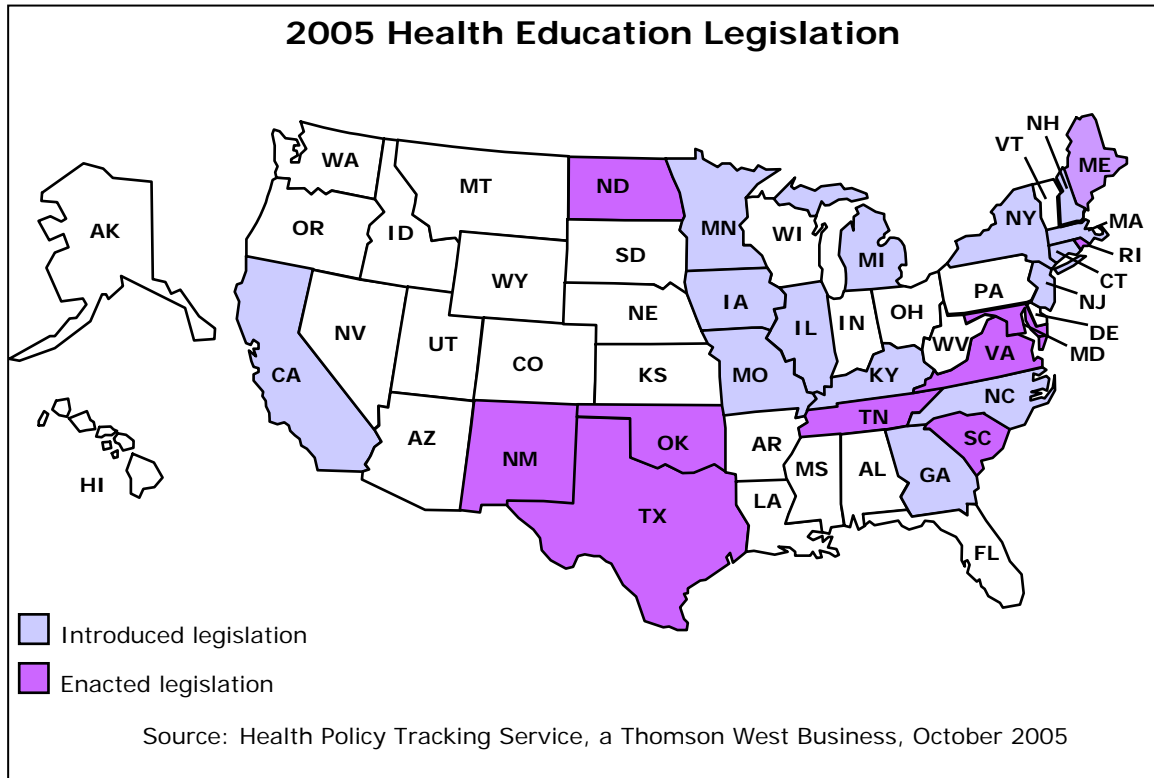


2005 Legislative Activity: Pending Physical Education Legislation
Health Policy Tracking Service, a Thomson West Business, Oct. 3 2005

STATE	BILL TYPE	BILL NUMBER	SUMMARY	HISTORY
MA	HB	1090	"An Act PROMOTING FITNESS AMONG SCHOOLCHILDREN IN THE COMMONWEALTH."	03/14/2005--(H) REFERRED TO JOINT COMMITTEE ON EDUCATION
MA	HB	1102	"An Act relative to requiring schools districts to convene Child Nutrition and Physical Activity Advisory Committees."	03/21/2005--(H) DISCHARGED AND REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	HB	1127	"An Act TO PROMOTE PHYSICAL ACTIVITY IN PUBLIC SCHOOLS."	03/14/2005--(H) REFERRED TO JOINT COMMITTEE ON EDUCATION
MA	HB	1145	"An Act ESTABLISHING A PHYSICAL EDUCATION REQUIREMENT IN THE PUBLIC SCHOOLS."	03/14/2005--(H) REFERRED TO JOINT COMMITTEE ON EDUCATION
MA	HB	1199	"An Act to Improve Quality Physical Education"	03/14/2005--(H) REFERRED TO JOINT COMMITTEE ON EDUCATION
MA	HB	1460	"Resolved that Massachusetts public schools should implement a more rigorous initiative for educating middle school age children about the benefits of good nutrition and physical exercise; and be it further"	03/18/2005--(H) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	SB	85	"By Brian A. Joyce. Requires all public school students in grades 1 through 9 to attend a weekly class on nutrition education and physical fitness for not less than 45 minutes per week."	03/16/2005--(S) REFERRED TO JOINT COMMITTEE ON CHILDREN AND FAMILIES
MA	SB	326	"AN ACT WAIVING THE PHYSICAL EDUCATION REQUIREMENT IN THE COMMONWEALTH"	03/16/2005--(S) REFERRED TO JOINT COMMITTEE ON EDUCATION
MA	SB	2051	"By the Joint Committee on Education. Directs said committee to make an investigation and study of the articulated bill relative to physical education requirements in public schools."	05/16/2005--(S) DISCHARGED AND REFERRED TO SENATE COMMITTEE ON ETHICS AND RULES
MI	SB	57	"A bill to amend 1976 PA 451 entitled "The revised school code "; (MCL 380.1 to 380.1852) by adding section 1505."	01/25/2005--(S) REFERRED TO COMMITTEE ON EDUCATION
NJ	HB	664	"An Act concerning obesity education in public school districts and supplementing chapter 35 of Title 18A of the New Jersey Statutes."	01/13/2004--INTRODUCED REFERRED TO ASSEMBLY EDUCATION COMMITTEE
OH	HB	105	"To amend section 3313.60 and to enact section 3301.078 of the Revised Code to require each school district to provide instruction in physical education in each of grades kindergarten through eight and to require the Department of Education to provide each school district with access to research to facilitate the use of locally developed instructional objectives and to encourage students' regular participation in physical activity."	06/21/2005--(S) REFERRED TO SENATE EDUCATION
OH	SB	44	"To amend section 3301.0718 of the Revised Code to require the State Board of Education to adopt the National Association for Sport and Physical Education standards for physical education in grades kindergarten through twelve and to remove the requirement that standards and model curricula for physical education are subject to approval by concurrent resolution of the General Assembly."	02/08/2005--(S) REFERRED TO SENATE EDUCATION
PA	HB	189	"Amending the act of March 10 1949 (P.L.30 No.14) entitled An act relating to the public school system including certain provisions applicable as well to private and parochial schools; amending revising consolidating and changing the laws relating thereto providing for nutritional standards for competitive food sales; further providing for health services; providing for physical education and recess; and further providing for physiology and hygiene instruction in public schools and educational institutions receiving State appropriations."	06/22/2005--(S) REFERRED TO EDUCATION
PA	HB	191	"Amending the act of March 10 1949 (P.L.30 No.14) entitled An act relating to the public school system including certain provisions applicable as well to private and parochial schools; amending revising consolidating and changing the laws relating thereto further providing for advisory health councils; ESTABLISHING LOCAL WELLNESS POLICIES; and providing for the establishment of a child health and nutrition advisory committee."	06/22/2005--(S) REFERRED TO EDUCATION

Health Education

Proper nutrition is just one of the various topics taught to children and adolescents in health education classes made available through the states' public school systems. State legislators are looking to ensure that children and adolescents get the proper nutrition education by mandating state departments of health or local school boards to include nutrition or physical activity instruction in their health education curriculum. Forty-eight bills in 24 states (including New Jersey which carried over legislation from last year), as highlighted below, have been introduced addressing this issue.



Since the last report, published on July 11, seven states have gone out of session including **New York** and **North Carolina** where health education measures were introduced. Only one bill, California A.B. 689, moved since July. The bill requires the Department of Education to adopt content standards for health education by March 1, 2008. According to the Health Framework for California Public Schools, the nine major content areas of health education are:

- | | |
|---|---|
| <ul style="list-style-type: none"> – Personal growth – Consumer and community health – Injury prevention and safety – Alcohol, tobacco, and other drugs | <ul style="list-style-type: none"> – Nutrition – Environmental health – Family living – Individual growth and development – Communicable and chronic disease |
|---|---|

The recommended standards will serve as a framework that schools may adopt. The state estimates that the cost for developing these recommendations will be \$200,000. The measure was sent to Gov. Schwarzenegger (R) on Sept. 8 for his decision. Standards for physical education were adopted earlier this year, in January.

In Illinois, Senate Bill 162 sets a goal that all school districts have a local wellness policy. The measure establishes a 19-member School Wellness Policy Task Force that will be responsible for developing model wellness policies and recommendations for all school districts based on the CDC recommendations, including goals for nutrition education. The Board of Education is responsible for distributing the model wellness policies before June 1, 2006.

Bills are still pending in **Massachusetts, Michigan** and **New Jersey**.