



NATIONAL CONFERENCE
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Promoting Healthy Communities and Preventing Childhood Obesity Trends in Recent Legislation



PROMOTING HEALTHY COMMUNITIES AND PREVENTING CHILDHOOD OBESITY

TRENDS IN RECENT LEGISLATION

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The National Conference of State Legislatures is the bipartisan organization that serves the legislators and staffs of the states, commonwealths and territories.

NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues and is an effective and respected advocate for the interests of the states in the American federal system. Its objectives are:

- To improve the quality and effectiveness of state legislatures.
- To promote policy innovation and communication among state legislatures.
- To ensure state legislatures a strong, cohesive voice in the federal system.

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INTRODUCTION

This report documents the increasing interest in adopting policies designed to promote healthy communities and prevent childhood obesity that the National Conference of State Legislatures (NCSL) has witnessed among state legislatures. It follows the trends that NCSL reported in its 2009 publication, *Promoting Healthy Communities and Reducing Childhood Obesity: Legislative Options*,¹ which summarized proposed and enacted state legislation in 17 topic areas during the 2007 and 2008 legislative sessions. This report focuses on enacted legislation only—the emphasis is on policy results—for just one year—2009.

The report summarizes state legislation enacted in two broad policy categories—healthy eating and physical activity, and healthy community design and access to healthy food—divided into 16 topic areas. The first category focuses on nutrition and physical activity/physical education issues, primarily in schools. It is divided into nine specific topics:

- School Nutrition
- Nutrition Education
- Body Mass Index Measurement for Students
- Diabetes Screening at School
- Insurance Coverage for Obesity Prevention
- School Wellness
- Physical Activity or Physical Education in School
- Taxes and Tax Credits
- Task Forces, Commissions, Studies and Other Special Programs

The second category—healthy community design and access to healthy food—deals with changes in the built environment—including land use, transportation and agricultural topics—that can create more walkable/bikeable communities and increase access to healthy food through changes in infrastructure and procurement policies. It is comprised of seven issue areas:

- Bicycling and Walking/Complete Streets
- Transit-Oriented Development
- Safe Routes to School/School Siting
- Farm-to-School
- Farmers' Markets
- Food Deserts/Access to Healthy Food
- Local Food/Direct Marketing

Although some bills may fall into more than one category—for example, school nutrition and nutrition education—the summary appears only once, in the category that contains the most relevant issues addressed by the legislation. Proposed and pending legislation that has not been

enacted often is referenced in the narrative description of each legislation category—although those bills are not summarized—to illustrate trends in legislation that may serve as precursors to eventual laws.

The report documents continuing interest in—and increasing action on—healthy eating and active living policies by state legislatures, with more legislation passed in some categories in 2009 than in any single year of the previous two-year period (and in some cases, more than in the two previous years combined). In the broad policy category of healthy eating and physical activity, for example, nine states enacted laws addressing school nutrition and nutrition education in 2009 alone, compared to 17 states during the two-year period 2007-2008. Four states passed body mass index bills in 2009, compared to six in the previous two years; three states adopted insurance coverage for obesity prevention, compared to zero in 2007-2008; and two states enacted tax or tax credit legislation last year, although none did so in the prior two sessions.

The trends are even more apparent in the broad policy category of healthy community design and access to healthy food. Transit-oriented development legislation was particularly noteworthy; 10 states passed bills last year compared to eight in 2007-2008. Local food/direct marketing laws saw the largest number of states take policy action; 11 states enacted laws in 2009, compared to 16 in the prior two sessions. (A complete listing of states that enacted legislation in each policy category during the 2007-2008 sessions can be found in NCSL's 2009 publication *Promoting Healthy Communities and Reducing Childhood Obesity: Legislative Options*, cited earlier in this report.) Although not every topic area experienced increased activity, the number of states moving forward suggests that legislatures have maintained or enhanced their awareness of the important role they can play in developing policies that promote healthy communities and prevent childhood obesity. The availability of federal funds in 2009 under the American Recovery and Reinvestment Act spurred additional action among state legislatures in adopting healthy eating and active living policies, primarily to support school nutrition and safe routes to school programs.

Figure 1 provides an overview of healthy eating and physical activity legislation enacted in 21 states. Table 1 portrays that information by topic for each state. Figure 2 captures healthy community design and access to healthy food laws in 30 states. Table 2 presents the same data by issue area.

State	School Nutrition	Nutrition Education	Body Mass Index	Diabetes Screening	Insurance Coverage	School Wellness	Physical Education, Physical Activity	Taxes/Tax Credits	Task Forces, Studies
Alabama		✓							
Alaska									
Arizona									
Arkansas	✓								
California	✓								
Colorado	✓								
Connecticut					✓				
Delaware									
Florida									
Georgia									
Hawaii									
Idaho									
Illinois									✓
Indiana									
Iowa									
Kansas									
Kentucky									
Louisiana	✓		✓				✓	✓	
Maine			✓				✓	✓	
Maryland						✓			
Massachusetts		✓							
Michigan									
Minnesota									
Mississippi									
Missouri									
Montana									
Nebraska									
Nevada				✓					
New Hampshire									
New Jersey									
New Mexico									
New York			✓						
North Carolina			✓						✓
North Dakota									✓
Ohio									
Oklahoma									
Oregon							✓		
Pennsylvania									
Rhode Island									
South Carolina									
South Dakota									
Tennessee									
Texas	✓						✓		✓
Utah					✓				✓
Vermont	✓								✓

Table 1. Healthy Eating and Physical Activity Legislation, 2009 (continued)

State	School Nutrition	Nutrition Education	Body Mass Index	Diabetes Screening	Insurance Coverage	School Wellness	Physical Education, Physical Activity	Taxes/Tax Credits	Task Forces, Studies
Virginia	✓				✓				
Washington							✓		
West Virginia									
Wisconsin								✓	
Wyoming									

Source: National Conference of State Legislatures, 2010.

Table 2. Healthy Community Design and Access to Healthy Food Legislation, 2009

State	Bicycling and Walking	Transit-Oriented Development	Safe Routes to School	Farm-to-School	Farmers' Markets	Food Deserts	Local Food/Direct Marketing
Alabama							
Alaska							
Arizona							
Arkansas					✓		
California		✓					
Colorado							
Connecticut	✓	✓					
Delaware							
Florida							
Georgia							
Hawaii	✓		✓				
Idaho							
Illinois		✓	✓	✓		✓	✓
Indiana		✓			✓		
Iowa							✓
Kansas							
Kentucky							✓
Louisiana	✓					✓	✓
Maine		✓		✓			
Maryland		✓					
Massachusetts	✓						
Michigan	✓						
Minnesota	✓		✓				✓
Mississippi							
Missouri							
Montana							✓
Nebraska				✓			
Nevada							
New Hampshire				✓			
New Jersey	✓						

Table 2. Healthy Community Design and Access to Healthy Food Legislation, 2009 (continued)

State	Bicycling and Walking	Transit-Oriented Development	Safe Routes to School	Farm-to-School	Farmers' Markets	Food Deserts	Local Food/Direct Marketing
New Mexico							
New York						✓	
North Carolina		✓					✓
North Dakota		✓					✓
Ohio							
Oklahoma			✓				
Oregon	✓						✓
Pennsylvania							
Rhode Island							
South Carolina							
South Dakota							
Tennessee		✓					
Texas			✓	✓		✓	
Utah		✓					
Vermont					✓		✓
Virginia							✓
Washington	✓		✓		✓		
West Virginia							
Wisconsin	✓						
Wyoming							

Source: National Conference of State Legislatures, 2010.

LEGISLATION SUMMARIES

This section summarizes a representative sample of enacted state legislation from the 2009 state legislative sessions. Not all legislation enacted in 2009 is included; the intent is to document trends in legislation by highlighting examples of bills that illustrate legislative activity in each category. Reference is made to certain proposed bills that saw considerable legislative activity in 2009—even though they did not pass—because they often serve as precursors to later enactments (many states allow carryover of bills from one session to the next). The summaries track activity in the two broad categories and 16 specific topics listed in the preceding section. A description and overview of legislative activity precedes the summaries in each issue area to place the bills in context.

HEALTHY EATING AND PHYSICAL ACTIVITY

SCHOOL NUTRITION

Most young people spend their formative years in our nation's 121,000 schools. With 55.8 million children in elementary and secondary schools in 2008,² schools remain a logical place for policy-makers to focus efforts to address childhood obesity. Lifetime habits begin in the school years, and healthy eating and active living can be part of what children learn—or don't learn—at school. When schools provide healthy food and beverage options, students consume nutritious foods and grow to enjoy them. Long-standing evidence documents the developmental and cognitive benefits of adequate nutrition, and many studies confirm that proper nutrition enhances academic achievement.³

To bolster healthy habits and school achievement, policy-makers are working to improve the nutritional quality of school foods by setting nutrition standards for all foods and beverages served or sold on school campuses; creating task forces to develop such standards with representation from parents, schools and the community; or delegating the task of setting nutrition standards to state executive agencies such as the department of agriculture or the department of education.

Some states also have focused on increasing participation rates in federal school meals programs to provide more nutritious foods to children and adolescents from lower-income families, who often eat both breakfast and lunch at school, and to bring federal meal reimbursement funds into the state. Legislators face a challenge in some schools that have come to rely on supplemental revenue from vending machine contracts. Studies generally indicate, however, that school food revenue remains steady or increases when schools offer healthy foods, and federal school meal reimbursements to states actually may increase. Reimbursement is provided

only for full school meals served and, as the quality of the meals increase, students may be more likely to purchase the full meal instead of a snack.⁴

In 2009, seven states enacted some type of school nutrition legislation. These laws establish new or additional policies designed to help ensure that students have access to healthier food and beverage options at school or encourage other community supports for child nutrition. This includes two states that adopted school nutrition resolutions calling for specific federal action or acknowledging community nutrition programs. Legislation for healthier school meals remains pending in at least eight states and may be considered in 2010—Massachusetts, Michigan, New York, North Carolina, Oklahoma, Pennsylvania, Tennessee and Wisconsin.

Arkansas

SB 374, SB 724

Appropriates \$1.5 million to the Department of Human Services, Division of Child Care and Early Childhood Education, for operating expenses for after-school and summer program grants for low-income and rural school districts. The bills include funding for nutrition and physical activity components.

California

AB 627 (Enacted but Vetoed)

Would have established a pilot program for licensed child care centers and child day care homes selected by the Department of Education that participate in the federal Child and Adult Care Food Program to implement nutrition and physical activity standards in exchange for a higher state meal reimbursement rate, contingent on the availability of non-general fund revenue.

SB 1c

As part of the state's budget bill for fiscal year 2010, appropriates \$1,017,000 for Child Nutrition School Breakfast and Summer Food Service Program grants.

Colorado

SB 33

Expands the list of students who qualify to receive a free lunch to include children enrolled in public school early childhood education programs who are eligible to receive a reduced-cost lunch under the federal National School Lunch Act. The bill eliminates the reduced price that these eligible students would otherwise pay for school lunches. It directs the General Assembly to annually appropriate not less than \$850,000 and not more than \$1.5 million to the Department of Education to provide lunches at no charge.

SB 259

As part of the state's budget bill for fiscal year 2010, appropriates \$850,000 for the Child Nutrition School Lunch Protection Program; \$2,472,644 for Colorado's state match for the National School Lunch Program; and \$500,000 for the School Breakfast Program.

SJM 2 (Subsequent Legislation Enacted by U.S. Congress)

Calls upon Congress to reauthorize the "Child Nutrition and WIC Reauthorization Act of 2004" in 2009 to prevent its expiration on Sept. 30, 2009.

Louisiana*HB 1*

Among other items, sets standards for nutritious meals. The bill sets performance indicators for the School Food and Nutrition Program and for child and adult care food and nutrition activities to ensure that nutritious meals are served to children.

HB 193

Authorizes the Board of Elementary and Secondary Education to promulgate rules and regulations to implement U.S. Department of Agriculture nutrition programs. The bill requires the Department of Education to implement the nutrition programs pursuant to such rules and regulations. It allows the department to conduct studies regarding methods of improving and expanding nutrition programs and promoting nutritional education in the schools, and also authorizes the department to conduct appraisals of the nutritive benefits of nutrition programs and report its findings and recommendations to the governor.

HB 767

Revises nutrition standards for beverages sold in public high schools. The bill states that beverages offered for sale to high school students will be comprised of bottled water; no-calorie or low-calorie beverages that contain up to 10 calories per eight ounces; up to 12-ounce servings of beverages that contain 100 percent fruit juice with no added sweeteners and up to 120 calories per eight ounces; up to 12 ounce servings of any other beverage that contains no more than 66 calories per eight ounces; or low-fat milk, skim milk and non-dairy milk. It requires that at least 50 percent of non-milk beverages be water and no-calorie or low-calorie options that contain up to 10 calories per eight ounces.

Texas*SB 395*

Creates the Early Childhood Health and Nutrition Interagency Council to assess the health of children, the significance of nutrition and physical activity in the development of children, and the existence of nutrition and physical activity requirements and practices in early childhood care settings. Council membership includes a representative from the Health and Human Services Commission; the Department of State Health Services; the Texas Workforce Commission; the Department of Agriculture; the Texas Education Agency; the Department of Family and Protective Services; and the Texas AgriLife Extension Service. The bills require the council to develop an early childhood nutrition and physical activity plan with a recommended timeline for implementation over a six-year period. The plan must include measures to increase fruit and vegetable consumption among children under age 6; increase daily physical activity in early childhood care settings; increase awareness among parents of the benefits of breastfeeding, healthy eating and physical activity in children under age 6; facilitate the consumption of breast milk in early childhood care settings; decrease malnutrition and undernourishment among children under age 6; and educate parents and caretakers about the need for proper nutrition.

Vermont*HB 192*

Uses a portion of American Recovery and Reinvestment Act funds to encourage the consumption of local Vermont foods by establishing a milk and meat pilot program that encourages purchasing local milk and meat for school meals. The bill also provides technical assistance to schools to help maximize the use of local fruits and vegetables.

Virginia*SJR 392*

Designates the week that begins on the first Sunday in March as National School Breakfast Week in Virginia, beginning in 2009.

NUTRITION EDUCATION

Many states have school health education requirements, but inclusion of nutrition education as a specific component of health education varies. To address this, legislators in some states have considered and enacted bills that specifically require nutrition education to be a component of the school health curriculum or that require school personnel to receive training about child nutrition. Hands-on nutrition education that involves growing, preparing or tasting healthy foods such as locally available fruits and vegetables has been the focus of some recent nutrition education legislation.

A U.S. Department of Agriculture-contracted review of 217 studies found that nutrition education is a significant factor in improving dietary practices when behavior change is the goal and educational strategies are designed with those goals as a purpose.⁵ Another study concluded that nutrition education programs of longer duration, with more contact hours and more components—such as parent involvement and changes in school meals—result in more positive outcomes.⁶

Existing laws in California, Colorado, Indiana, Louisiana, Maine, New Hampshire, Oklahoma, South Carolina, Texas, Vermont and West Virginia require some form of nutrition education in schools. New legislation related to nutrition education was enacted in 2009 in Alabama (a resolution commending a nutrition education program) and Massachusetts. Legislation encouraging expanded nutrition education remains pending in Massachusetts and New York and may be considered in 2010.

Alabama*HJR 238*

Commends the Junior League of Montgomery, Ala., for sponsoring the Kids in the Kitchen program, an initiative that is designed to empower youth to make healthy lifestyle choices by engaging them in preparation of healthy meals, nutrition education and demonstrations in partnership with local organizations, chefs and nutritionists. The initiative's overarching goal is to reverse the growth of childhood obesity and its associated health issues.

Massachusetts*HB 4149*

As part of a general appropriations bill for fiscal year 2010, incorporates into school curricula obesity prevention programs, including nutrition and wellness programs.

BODY MASS INDEX MEASUREMENT FOR STUDENTS

Body mass index (BMI) is a measure of whether a person's weight is healthy in proportion to height. For children, the calculations also take into consideration age and gender. Body mass index is widely accepted as a reliable indicator of body fat content and a screening tool for weight categories that can lead to health problems. The ease of measuring height and weight, without use of expensive equipment, makes BMI screening convenient and has led to policies in a number of states that require such screening at school where virtually all children can participate.

Legislation that requires individual student BMI measurement has been enacted in some states to help identify individual children with weight-related health risks, and aggregate BMI data reporting requirements are in place in other states to provide a picture of community health, monitor statewide obesity trends, or evaluate the results of programs intended to reduce or prevent obesity. Individual BMI results generally are sent to parents in a confidential letter with suggestions for making healthy changes, which can help motivate families to adopt healthier habits. When screenings identify obesity-related health risks, such as type 2 diabetes, it is important to provide parents with information about how to seek further evaluation and appropriate follow-up. A recent trend in state legislation is to include BMI measurement as an element of a broader student fitness assessment; both parents and legislators may be more receptive to multi-component fitness assessments.

In 2009, Louisiana, Maine, New York and North Carolina enacted legislation related to student BMI or fitness screening. Of these states, New York appropriated \$2 million for expenses related to reporting body mass index on school physical forms. North Carolina passed legislation to allocate public health discretionary funds based, in part, on the body mass index of public school students. Legislation for student BMI screening remains pending in Ohio and Oklahoma and may be considered in 2010. Mississippi considered but did not enact student body mass index reporting requirements in 2009.

Louisiana

SB 309

Provides for health-related fitness assessments to determine physical fitness levels of students in schools to reduce childhood obesity, including baseline measures of fitness and body mass index and measurement of the effectiveness of interventions. The bill expands a pilot program to provide statewide implementation focused on school systems with high poverty levels.

Maine

LD 319

Requires creation of a schedule and protocol for trained screeners and school nurses to collect body mass index (BMI) data from children and report it to the state's Department of Health and Human Services, Maine Center for Disease Control and Prevention, in an aggregate format only that does not identify individual students. The bill allows student exemptions if the parent or guardian objects on religious or philosophical grounds. It stipulates that BMI data is confidential and not subject to disclosure. Data collection and reporting is contingent upon availability of federal funds.

New York*AB 154*

Appropriates funds for the Department of Health and Mental Hygiene, including \$2 million for services and expenses, including grants, for reporting body mass index on school physical forms. The bill also allocates \$1 million from the American Recovery and Reinvestment Act of 2009 to support community coalitions for obesity prevention to plan and create environmental and policy changes that support access to sustainable, healthy and affordable food and safe environments for physical activity.

North Carolina*SB 202*

Appropriates funds for public health programs based on a formula that takes into consideration the body mass index of public school students, in addition to other factors such as population (including percentage of minorities), per capita income, rates of infant mortality, teenage pregnancy, tobacco use, cancer, heart disease, diabetes and stroke.

DIABETES SCREENING AT SCHOOL

As the number of obese and overweight children continues to rise, type 2 diabetes (formerly called adult-onset diabetes) is increasingly being diagnosed in children and adolescents. Screening for diabetes at school can help identify students at risk and, coupled with nutrition and physical activity policies, help prevent and reduce childhood obesity. Some states have passed legislation to require noninvasive diabetes risk screening at school.

In 2009, Nevada passed a resolution acknowledging the positive effects that certain resources can have on reducing the incidence of diabetes. In addition, at least six states—Connecticut, Florida, Illinois, Michigan, New York and Pennsylvania—considered legislation to require noninvasive screening, risk analysis or testing of school-aged children for diabetes; provide for student diabetes care or self-care at school; or permit medication administration by, or liability protections for, school personnel who provide care for diabetic students.

Nevada*SCR 20*

Acknowledges the positive effects that the *Nevada Diabetes Resource Directory* and the *Recommendations for Management of Children with Diabetes in School of the Nevada Diabetes Association for Children and Adults* will have in reducing the incidence of diabetes by promoting community awareness. In honor of these efforts, the resolution designated March 25, 2009, as Diabetes Awareness Day in Nevada.

INSURANCE COVERAGE FOR OBESITY PREVENTION

Providing insurance coverage for obesity prevention can encourage patients to seek nutrition and physical activity counseling from health care providers. Studies have shown that health care providers can play an important role in promoting weight loss among their overweight patients.⁷ Legislation in this category generally requires that private insurance carriers, public insurance programs such as Medicaid or SCHIP (State Children's Health Insurance Programs),

or state employee health insurance programs provide or strengthen obesity health insurance coverage. Some legislation specifically requires or encourages coverage for both obesity prevention and treatment. For the morbidly obese (those with a body mass index of 40 or higher) or those with other diagnosed obesity-related health problems and a body mass index of 35 or higher, some legislation requires coverage, or the option for coverage, of bariatric surgery as an obesity treatment option.

State legislation does not always specifically refer to childhood obesity. Private insurance coverage for families, however, generally includes children, and some states specifically address insurance coverage for childhood obesity. In July 2004, Medicare recognized obesity as a medical condition, opening the door for greater coverage for obesity treatments. Upon review, Medicare will now pay for anti-obesity interventions if scientific and medical evidence demonstrate their effectiveness. Medicaid and private insurers often follow Medicare coverage policy. Under Medicaid, states have flexibility to determine the scope of covered services within federal guidelines and can include obesity prevention and treatment as covered services.

Laws or resolutions requiring or encouraging insurance coverage for obesity prevention were enacted in 2009 in Connecticut, Utah and Virginia. Much of the new legislation strengthens coverage for obesity prevention and includes treatment provisions, especially for the morbidly obese, and extends coverage to adults and children.

Connecticut

HB 6600

Establishes the Sustinet Health Insurance Plan, a self-insured health care delivery plan subject to coverage mandates and use review of group health insurance. Among other services, the new plan provides for coverage of mental and behavioral health services—including for tobacco cessation, substance abuse treatment and to prevent and treat obesity—at parity with coverage for physical health services.

Utah

SCR 4

Designates Sept. 2009 as Obesity Awareness Month and Sept. 5, 2009, as “Walk from Obesity Day,” and requested health care providers to increase coverage of treatments for the overweight and the obese, including surgical procedures to prevent increased future health care costs to the state and to businesses.

Virginia

HB 2557, SB 1351

Establishes insurance coverage for diabetes prevention and obesity treatment as part of the state’s health insurance program for state employees. Such insurance must include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional. Diabetes outpatient self-management training and education must be provided by a certified, registered or licensed health care professional to qualify for coverage. The bills also require the state’s health insurance program for state employees to offer coverage for treatment of morbid obesity through gastric bypass surgery or other methods recognized by the National Institutes of Health as effective for long-term reversal of morbid obesity.

SCHOOL WELLNESS

The federal Child Nutrition and WIC Reauthorization Act of 2004 required each local school district participating in the National School Lunch Program and/or School Breakfast Program to establish a local wellness policy by the beginning of the 2006-2007 school year. School districts were required to involve a broad group of stakeholders in the development of their wellness policy and to set goals for nutrition education, physical activity, campus food provision and other school-based activities designed to promote student wellness.

Encouraged by federal efforts and an unenforced but potential penalty of withholding federal school lunch reimbursement funds, a number of states enacted legislation in prior sessions to support wellness policies or related school health efforts. State legislation has included efforts to support school and state wellness policies through approaches such as encouraging or requiring local school districts to adopt wellness policies; establishing state multidisciplinary wellness or school health advisory councils; establishing a state office or clearinghouse to coordinate wellness activities or to be a repository for collecting local wellness policies and information; directing local school districts to establish wellness councils with broad stakeholder participation; and establishing mechanisms for state oversight of wellness policy implementation. Legislators also have acted on individual policies that are part of school wellness goals, such as improving the nutritional quality of school foods, providing greater opportunities for physical activity, ensuring that adequate nutrition education is part of the school curriculum, and designing task force efforts by multiple stakeholders in the community to encourage school wellness efforts as discussed in other sections of this report.

In 2009, Maryland enacted legislation to support wellness policies or related school health efforts statewide.

Maryland

HB 1264, SB 879

Authorizes local school systems to develop and implement wellness policy implementation and monitoring plans. The plans must be used to establish baseline student data for health-related components of physical fitness to help students develop personal physical fitness plans and encourage appropriate intervention for students with unhealthy physical fitness levels. The plans also must identify effective practices to improve student health-related issues and encourage partnerships with health agencies to address student health-related issues. Each plan must include policy goals, activities, expected outcomes, and measurements for physical activity and physical education. The Department of Education must distribute effective wellness policy practices for physical activity and education to local school systems. The bills also establish a wellness advisory council.

PHYSICAL ACTIVITY OR PHYSICAL EDUCATION IN SCHOOL

The first set of *Physical Activity Guidelines for Americans*, issued by the U.S. Department of Health and Human Services in October 2008, recommends 60 minutes of daily, moderate-to-vigorous physical activity for children that is age-appropriate, enjoyable and varied.⁸ Developed by experts in exercise science and public health, the *Guidelines* are based on research findings about the benefits of physical activity and recommended activity levels.⁹ For children, physical

activity during the school day provides not only health benefits, such as strengthening of the heart, muscles and bones, but also increases academic achievement.¹⁰

Prior to issuance of the *Guidelines*, the National Association for Sport and Physical Education (NASPE) already had recommended that all children—from prekindergarten through grade 12—receive daily physical education taught by certified specialists, and that schools have appropriate class sizes, facilities and equipment. Specifically, NASPE recommends 150 minutes per week of physical education for elementary school students, and 225 minutes per week for middle and high school students, with qualified physical education teachers providing a developmentally appropriate program and a teacher/student ratio similar to other classroom settings.¹¹ The goal is to nurture an active lifestyle in all children, regardless of athletic ability.

Currently, almost 30 percent of children do not exercise even three days per week.¹² Both the cost of physical education programs and an emphasis on academics have sometimes been considered barriers to increasing physical education in schools, but recognition is growing that physical activity during the school day can increase student achievement. Legislators have considered and enacted laws to support physical education programs in schools to bridge this gap. Although 49 states—except Colorado—have some type of statewide standards for physical education, their scope varies greatly. Policy approaches to increasing physical activity at school include setting physical education time standards at all grade levels, providing for daily physical education, and preserving recess time for physical activity during the school day.

In 2009, Louisiana, Maine, Oregon and Texas enacted physical education or physical activity legislation or resolutions. In addition, Washington enacted a bill to preserve time for physical activity during the school day through recess. Physical education legislation remains pending in Ohio and may be considered in 2010.

Louisiana

HB 400

Requires public schools to provide at least 30 minutes of physical activity each school day for students in grades seven and eight. The bill also requires each city, parish and local school board to establish a local school health advisory council, the members of which shall be appointed by the school board.

Maine

LD 1407

Requires the commissioner of education to conduct an assessment of the physical education capacities of elementary schools and to report its findings to the Legislature's Joint Standing Committee on Education and Cultural Affairs. The bill also establishes the Obesity and Chronic Disease Fund in the Department of Education.

Oregon

HB 2544

Expands physical education and physical activity opportunities for students by creating an environmental literacy task force, and directs the task force to develop environmental education curricula and an environmental literacy plan. The bill is designed to contribute to students establishing a healthy lifestyle by making outdoor experiences part of the regular school

curriculum and creating programs that promote healthy lifestyles through outdoor recreation and sound nutrition.

Texas

SB1

Among other appropriations, provides grants for in-school physical education and fitness programs for students in grades six through eight. Eligibility criteria for receipt of grants include advancing the goal of reducing childhood obesity and type 2 diabetes in school districts that have disproportionately high numbers of economically disadvantaged students.

Washington

SB 5551

Requires the Office of the Superintendent of Public Instruction to collaborate with the statewide parent-teacher organization to conduct a survey of elementary schools to determine the current availability of recess for students and perceptions of the importance of recess in schools. The rationale for the survey is a legislative finding that insufficient physical activity and excessive calories consumed are critical factors in the increase in overweight and obese children. The office must report its findings to the Legislature.

TAXES AND TAX CREDITS

States continue to consider fiscal options to encourage healthy lifestyles. Examples include 1) tax credits for fitness or wellness choices; 2) tax credits or other fiscal encouragements for grocery store development or improvements that allow grocery retailers to offer fresh fruit and vegetables; 3) enacting or increasing taxes on foods and beverages that have minimal nutritional value to discourage their consumption and raise revenue; and 4) directing tax revenues raised to fund obesity or health-related services or programs. Taxes on soft drinks at the retail level or excise taxes on soft drink ingredients such as soft drink syrup, powders or other base products used to produce liquid soft drinks were proposed, but not enacted, in 12 states—Arizona, Hawaii, Illinois, Maine, Massachusetts, Maryland, Michigan, New Mexico, New York, Rhode Island, South Dakota and Washington.

Enacted legislation in 2009 includes a sales tax on candy in Maine, and allowing exposition districts—local special purpose districts that promote educational, cultural and commercial activities—to tax candy, prepared foods and soft drinks in Wisconsin.

Maine

LD 1495

Among other tax reform items, raises the retail sales tax on all prepared foods sold in the state from 7 percent to 8.5 percent. The bill also adds candy to the definition of prepared foods.

Wisconsin

SB 62

Among other state government financing revisions related to creating business enterprise and jobs, authorizes a local exposition district—a local special purpose district that promotes educational, cultural and commercial activities—to impose a retail sales tax on the sale of candy, prepared foods or soft drinks.

TASK FORCES, COMMISSIONS, STUDIES AND OTHER SPECIAL PROGRAMS

Legislation or resolutions have created obesity-related task forces, commissions, studies and other special programs in several states, both as an initial approach to state action and as a way to provide accountability through task force or commission reports to the legislature. Task forces are sometimes charged with initiating specific programs to prevent obesity and chronic disease. Although the purpose and activities of task forces are not uniform, states often require representation on the task force of many sectors and stakeholders. In addition, much recent legislation for task forces, commissions, studies and other special programs to address obesity requires them to achieve specific goals or take specific actions in addition to studying the problem. Task force or commission efforts required by state legislation also may include reporting on a state's initial benchmark status on obesity prevention and wellness.

Legislation or resolutions in this topic area were enacted in 2009 in Illinois, North Carolina, North Dakota, Texas and Utah. Creation of a childhood obesity task force remains pending in Massachusetts and may be considered in 2010.

Illinois

HB 3767

The Obesity Prevention Initiative Act requires the Department of Public Health to organize public hearings on the health effects and costs of obesity and the need to address the obesity epidemic. The bill authorizes the department to award grants to nonprofit organizations or local public health departments as part of a statewide education campaign.

North Carolina

HB 945

Among other measures, creates a Legislative Task Force on Childhood Obesity composed of six members of the House of Representatives and six members of the Senate. The bill requires the task force to study issues relating to childhood obesity and to consider and recommend to the General Assembly strategies to address the problem of childhood obesity and to encourage healthy eating and increased physical activity among children, including interventions in early childhood and through child care facilities.

North Dakota

SB 2333

Creates regional public health networks and a Regional Public Health Network Task Force. The bill requires the regional public health networks to prepare an annual plan to provide public health services and submit the plan to the state health officer for approval. Public health services are defined to include school health and nutrition along with physical activity, diabetes, cardiovascular health and chronic disease. The task force must submit the results of any studies it conducts to the Legislative Council.

Texas

SB 870

Creates an obesity prevention pilot program designed to decrease the rate of obesity, improve nutritional choices, and increase physical activity levels of child health plan program enrollees and Medicaid recipients. The bill directs the Department of State Health Services to implement the pilot program for a period of at least 24 months in one or more health care service regions in the state. In selecting regions, the department must consider the degree to which eligible

child health plan enrollees and Medicaid recipients in a region are at higher than average risk of obesity. The department must identify measurable goals and specific strategies for achieving those goals in developing the program.

Utah

HB 188

Requires multiple actions to achieve health system reform, including development of strategies to promote health and wellness and highlight the health risks associated with obesity and sedentary lifestyles.

HEALTHY COMMUNITY DESIGN AND ACCESS TO HEALTHY FOOD

BICYCLING AND WALKING/COMPLETE STREETS

Policymakers often recognize that increasing bicycling and walking opportunities is the most obvious way to provide easily accessible physical activity to the general population. Besides the recreational benefits, being able to bike and walk for commuting, running errands and other purposes has made these activities increasingly popular and a good alternative transportation option. The multitude of new public transit systems throughout the nation and the increase in ridership on existing systems also has led to a focus on ensuring that people are able to walk and bike to transit stops, thus reducing the carbon footprint and the need for parking. Complete streets policies seek to ensure that all users of a transportation system—including bicyclists, pedestrians, transit users and senior citizens—are included in planning and building transportation projects.

Legislative strategies to encourage bicycling and walking were prevalent in statehouses in 2009; 10 states enacted legislation. Complete streets policies were especially popular; seven states passed measures to study, develop or implement them. More than 20 states now have some form of complete streets policy. Wisconsin became one of the few states to establish a dedicated state funding source for bicycling and pedestrian infrastructure by creating a grant program and providing \$5 million in state funds for the next two years to enhance existing federal and local revenue streams for these purposes. Washington appropriated a significant amount of federal economic stimulus money to two existing bicycle and pedestrian programs.

Connecticut

SB 735

States that “accommodations for all users shall be a routine part of the planning, design, construction and operating activities of all highways, roads and streets in this state.” The bill requires that a minimum of 1 percent of funding be expended to provide facilities for all users. This includes construction of bikeways and sidewalks with appropriate curb cuts and ramps. It also establishes a Connecticut Bicycle and Pedestrian Advisory Board to promote programs and facilities for bicycles and pedestrians and to advise state agencies on policies, programs and facilities for bicycles and pedestrians. The board must submit an annual report on 1) the progress made by state agencies in improving the environment for bicycling and walking; 2) recommendations for improvements to state policies and procedures related to bicycling and walking; and 3) specific actions taken by the Department of Transportation in the preceding year that affect the bicycle and pedestrian environment.

Hawaii*SB 718*

Directs the state's Department of Transportation and county transportation departments to adopt a complete streets policy for future transportation projects. The policy seeks to reasonably accommodate convenient access and mobility for all users of public roads, including pedestrians, bicyclists, transit users, motorists and people of all ages and abilities. The policy applies to new construction, reconstruction and maintenance of highways, roads, streets, ways and lanes located within urban, suburban and rural areas, with exceptions for excessive cost, lack of need or safety risks. The bill establishes a temporary task force composed of the AARP of Hawaii, the Hawaii Bicycling League and other groups to determine standards and guidelines that will apply statewide and within each county. The department must submit a report to the governor and the legislature containing its findings and recommendations, proposed rules and proposed legislation, if appropriate, no later than 20 days prior to the convening of the 2011 legislative session.

Louisiana*SCR 110*

Requests formation of a complete streets work group in the Department of Transportation and Development that will develop complete streets guidelines that will apply any time state or federal funds are used to build a roadway or bridge.

Massachusetts*SB 2087*

Establishes a healthy transportation compact within the Executive Office of Transportation. The secretary of transportation and the secretary of health and human services must work cooperatively to adopt best practices that will increase efficiency and achieve positive health results through coordination of land use, transportation and public health policy. The compact will accomplish this objective by developing methods to increase bicycle and pedestrian travel; encouraging construction of complete streets; establishing methods to implement the use of health impact assessments to determine the effect of transit projects on public health; and expanding service offerings for the safe routes to schools program.

Michigan*SB 254*

Institutes a complete streets policy and requires that, in the planning, design, construction, maintenance and operation of streets and highways, the Department of Transportation and local road agencies must work to develop and adopt complete streets policies. Complete streets include "a roadway that accommodates all travelers, particularly public transit users, bicyclists, pedestrians, including individuals of all ages and individuals with mobility, sensory, neurological, or hidden disabilities, and motorists, to enable all travelers to use the roadway safely and efficiently." The department must provide assistance to and coordinate with local road agencies and metropolitan planning organizations in developing complete streets policies.

Minnesota*HF 3800*

Directs the commissioner of transportation to study the benefits, feasibility and cost of adopting a complete streets policy applicable to plans to construct, reconstruct and relocate streets and roads. Such a policy would include the following elements: 1) safe access for all users, including pedestrians, bicyclists, motorists and transit riders; 2) bicycle and pedestrian ways

in urbanized areas, except where bicyclists and pedestrians are prohibited by law, where costs would be excessively disproportionate, and where there is no need for bicycle and pedestrian ways; 3) paved shoulders on rural roads; 4) safe pedestrian travel, including for people with disabilities, on sidewalks and street crossings; 5) use of the latest and best design standards; and 6) consistency of the complete streets plan with the community context. The commissioner must report findings, conclusions and recommendations to the Legislature by Dec. 5, 2009.

New Jersey

SB 1122

Authorizes construction of curb extensions for pedestrian safety on local roadways without requiring the commissioner of transportation's approval.

Oregon

HB 2001

Creates an Urban Trail Fund to help develop and maintain multiuse trails for nonmotorized vehicles and pedestrians that link roads, highways, footpaths, bicycle trails and public transit. The Legislature also appropriated \$1 million for the fund.

Washington

HB 1978

Appropriates \$7,465,805 from the American Recovery and Reinvestment Act that is allocated to the state to the pedestrian and bicycle safety program and safe routes to schools program.

Wisconsin

AB 75

Includes in the 2010 state budget complete streets language and funding for bicycle and pedestrian facilities. The complete streets provision states that the Department of Transportation "shall ensure that bikeways and pedestrian ways are established in all new highway construction and reconstruction projects." Exceptions are provided for disproportionate cost, absence of need and other circumstances spelled out in the legislation. The bill also appropriates \$5 million for the 2009-11 biennium for bicycle and pedestrian facilities. The department must administer a bicycle and pedestrian facilities program and award grants to political subdivisions for planning, development or construction of bicycle and pedestrian facilities. A political subdivision must contribute matching funds equal to at least 20 percent of the grant.

TRANSIT-ORIENTED DEVELOPMENT

Policy-makers at all levels of government are paying increased attention to efforts that link public transit services with housing, shopping and other opportunities that are within a short distance of transit stops. Increasing transit use often depends upon making buses and light rail more convenient for community residents to access, and this has led to interest in creating transit-oriented developments. Numerous studies have found that housing located close to a fixed-rail transit stop, for example, increases property values as people seek easier commuting options.¹³ States have taken various approaches to determine how best to plan for and provide incentives to encourage more compact development around transit stations with a range of housing options and services.

Interest from states in transit-oriented development significantly increased in 2009 as a number of states looked at defining such developments and creating incentives to foster their growth.

Consideration is usually given to defining what constitutes a transit-oriented development, including the types of transit options necessary, and delineating a maximum distance from a transit stop to determine how to best target incentives and encourage transit use. These bills often request that the state department of transportation and transit agencies consider how to build transit facilities and work with municipalities and private developers to ensure that a range of services and housing options are within steps of a transit stop. Ten states created various mechanisms to help plan, build and finance transit-oriented developments in 2009.

California

AB 1164

Provides \$22.5 million for the Safe Routes to Transit Program to plan and build bicycle and pedestrian access improvements in close proximity to transit facilities. Priority must be given to projects that best provide access to regional transit services.

SB 391

Requires the Department of Transportation to update the California Transportation Plan by Dec. 31, 2015, and every five years thereafter, by addressing how the state will meet greenhouse gas emission reduction goals through expansion of public transit, commuter rail, intercity rail, bicycling and walking options.

Connecticut

HB 6585

Allows two or more municipalities that are members of the same federal economic development district to enter into an agreement to promote regional economic development and share 50 percent of the real and personal property tax revenue from new economic development. The agreement must identify areas for new economic development, open space and natural resource preservation and transit-oriented development in a conservation and development plan.

Illinois

HB 1013

Stipulates that all new state-funded building construction and major renovations of existing state-owned facilities are required to seek LEED, Green Globes or other equivalent green-building certification. In addition, the capital development board must ensure that all projects implement at least one LEED alternative transportation criterion for public transportation or bicycle access.

Indiana

HB 1001a

Requires the Northern Indiana Regional Transportation District, as part of its comprehensive transportation plan, to consider the design and location of station or transit improvements intended to promote transfers, increase ridership and support transit-oriented land development. The district also can identify changes in operating practices or capital investment that increase ridership, reduce costs, improve coordination or enhance transit-oriented development.

Maine

LD 913

Refers bond measures to both the Nov. 2009 and June 2010 ballots for voter approval. The 2009 bond measure—Question 6, which was approved—included a program to provide communities with funding to revitalize and promote community development, including

projects to encourage sustainable, mixed-use, pedestrian-oriented or transit-oriented development.

LD 1392

Authorizes creation of transit-oriented development districts under the tax increment financing laws. The bill defines transit-oriented development as a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors in an area that is no more than one-quarter mile from an existing or planned transit facility. Eligible capital costs include transit vehicles such as buses, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; and pedestrian improvements such as crosswalks, crosswalk signals, warning systems and crosswalk curb treatments.

Maryland

HB 294

Revises the state economic growth, resource protection and planning policy to encourage compact, mixed-use, walkable design near available or planned transit options; concentrated growth; and a well-maintained, multimodal transportation system.

HB 300

Authorizes the state to finance public infrastructure improvements located in a transit-oriented development. Tax increment financing and other methods can be used to improve and maintain such transit-oriented developments.

North Carolina

HB 148

Establishes a Congestion Relief and Intermodal Transportation 21st Century Fund. The fund provides grants to local governments for public transportation purposes, including promotion of a pedestrian and bike-friendly environment around and connected to transit stations. Local governments must plan to increase affordable housing to at least 30 percent within a one-half mile radius of a transit station or bus hub to qualify for grants. Grants can be used to expand intercity passenger rail service and other rail service.

North Dakota

HB 1340

Requires metropolitan planning organizations to develop transportation plans and programs for metropolitan areas in cooperation with the state and public transit operators. These plans must include development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area. A metropolitan planning organization must be designated for each urbanized area of the state.

Tennessee

SB 1471

Requires regional transportation authorities to develop a plan for operation and expansion of mass transit services in the authority's region, including transit-oriented development. The bill allows an authority to purchase or acquire real property by eminent domain to achieve its

transit-oriented development objectives. It also spells out the methods by which an authority can raise revenue for construction and operation of a transit system.

Utah

HB 179

Authorizes the state to donate or transfer title to land to facilitate the development of commuter rail transit stations and associated transit-oriented development.

SAFE ROUTES TO SCHOOL/SCHOOL SITING

The continued rise of childhood obesity rates has placed renewed focus on strategies to promote more physical activity for kids. Ensuring students have safe and feasible options to bicycle and walk to school is becoming more popular, in large part due to the federal Safe Routes to School Program. Although the federal program provides much-needed funding and attention to spotlight the decline in kids walking and bicycling to school, states administer the program and have recently been stepping up their own efforts. Some of this activity is the result of rising bus transportation costs, one of the few expenses that can be cut without affecting in-school activities. School districts throughout the country have cut bus services and expanded the distances students must walk. These efforts are not likely to engender support from schools, parents and students to walk and bike, however, unless attention is given to creating safe environments for children to do so.

Policy-makers increasingly are willing to address the land-use issues that shape student transportation patterns. A survey of 12 studies from the United States and other countries confirms that distance between home and school is the strongest determinant of whether a student will walk or bike to school;¹⁴ as travel distances increase, the number of children walking or biking decreases. State and local policy-makers are giving more consideration to site location factors, such as choosing neighborhood school settings that are within more realistic walking distances.

In 2009, Hawaii, Minnesota and Washington enacted laws that require schools to evaluate conditions affecting the safety and likelihood of walking or bicycling to school. Hawaii will conduct a systematic study of student's travel patterns and analyze why parents do not let their children walk or bike to school. Minnesota removed some barriers to creating walkable school settings by mandating a description of walk and bike routes in new school construction proposals. The legislation also gives the commissioner of education flexibility to approve a smaller school site. In the past, cumbersome minimum acreage requirements for schools have been a significant barrier to creating neighborhood schools that encourage active transportation.

Hawaii

HB 983

Requires the director of transportation to conduct a statewide pupil travel evaluation to study how students get to school and to use that information to award federal grants for school-based workshops and community planning that will reduce traffic congestion, encourage walking and bicycling, and increase health and safety. The evaluation will assess the number of students using each transportation mode; survey parents to gather information about the factors involved in students' choice of transportation, where the student travels by automobile or bus, what change would be necessary for the parent to permit the student to walk or ride a

bicycle to school; and identify transportation infrastructure in the immediate vicinity of each school.

Illinois*SB 75*

Where a traffic fine greater than \$150 for speeding in a special school speed zone occurs, requires an additional \$50 be paid to the school district for school safety purposes, which purposes include the state safe routes to school program.

Minnesota*HF 2*

Requires a school board proposing to build an educational facility to submit a proposal that includes a description of the pedestrian, bicycle and transit connections between the school and nearby residential areas that make it easier for children, teachers and parents to walk, bike or take public transit. Where the proposal is for a new school, the local school board retains authority to determine the minimum acreage needed to accommodate the school and related facilities. The commissioner of education may evaluate the proposals but cannot issue a negative review for a school based solely on too little acreage for the proposed school site.

Oklahoma*SB 399*

Directs the Department of Transportation to establish and implement the Safe Routes to Schools Program, including appointment of a Safe Routes to Schools Advisory Committee and establishment of a Safe Routes to Schools Revolving Fund.

Texas*SB 161*

Authorizes use of revenue from the God Bless Texas and God Bless America license plates to be used to promote the Safe Routes to School Program. Proceeds will be allocated to a statewide nonprofit organization that has as its primary purpose promoting bicyclist safety.

Washington*HB 1793*

Establishes a Safe Routes to School Program in the Department of Transportation to make bicycling and walking to school a safer and more appealing transportation alternative. The program also will facilitate planning, development and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption and air pollution in the vicinity of schools.

HB 2261

Defines “transportation services” to include coordination of walk-to-school programs and requires each elementary school to identify walk routes within the walk area.

FARM-TO-SCHOOL

Farm-to-school programs bring locally grown food and agricultural knowledge into cafeterias and classrooms. The programs attempt to more effectively link farmers and school food service staff; ensure that school kitchens can process fresh food; and remove obstacles to purchasing locally grown food through changes in procurement regulations. Almost half of the states

have some type of statewide farm-to-school program, and numerous local programs exist. This familiarity has often helped create broad, strong coalitions that support farm-to-school programs. School advocates, farmers, health professionals and environmental groups have generally supported farm-to-school legislation. Legislative efforts continue to focus on building the relationships, communication and infrastructure necessary to make healthy local food a viable and price-competitive option in schools.

Perhaps due to the large number of states that introduced and passed farm-to-school measures in 2007-2008, less activity occurred in 2009 to establish these popular programs. Twenty-three states introduced bills—and five passed legislation—that in some way dealt with increasing students' access to and awareness of locally grown foods and agricultural practices. As is often typical with such legislation, the enacted laws focused on cooperation among state agencies, increasing communication between school districts and local farmers, developing appropriate curricula, and reducing barriers to purchasing locally grown food.

Illinois

HB 78

Creates the Farm Fresh Schools Program in the Department of Agriculture, in cooperation with the State Board of Education and the Department of Public Health. The program is intended to reduce obesity; improve nutrition and public health; and strengthen local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools. The Department of Agriculture and the State Board of Education will award competitive grants to three urban and three rural counties.

Maine

LD 1140

Directs the Department of Education and the Department of Agriculture, Food and Rural Resources to convene a work group to study farm-to-school programs in the state and develop recommendations for strengthening them. The work group is charged with assessing the status of regional and statewide farm-to-school efforts, including policies, practices and curricula; reviewing the existing capacities of and barriers to facilitating purchase and use of local products; reviewing the status of networking channels that connect farm-to-school efforts throughout the state; reviewing best practices and evaluating methods from other farm-to-school programs outside the state; and preparing recommendations for strengthening farm-to-school programs.

Nebraska

LR 42

Creates a study to identify methods and systems to help assist farms provide schools with fresh, minimally processed locally grown farm commodities for school meals and snacks.

New Hampshire

HB 48

Establishes a committee on agriculture in the classroom to develop program objectives and curricula.

Texas*SB 1027*

Creates an interagency farm-to-school coordination task force to design nutrition and food education resources to be used by schools and school districts; develop a database of available locally grown food products for use by school food service agencies that includes contact and purchasing information for the products; design and implement training programs to enable local farmers and ranchers to market their products to schools; and offer advanced skills development training to school food service employees regarding the proper methods of handling, preparing and serving locally grown foods. The legislation also offers to help schools and school districts identify funding sources to help them recover the costs associated with purchasing locally grown food products.

FARMERS' MARKETS

Farmers' markets are becoming common nationwide and are a realistic source of fresh local food for many communities. Many municipalities have or are investigating expanding such markets to provide food year-round. From 1994 to 2008, the number of farmers' markets nationwide increased from 1,755 to almost 5,300. This growth is a testament to the popularity of such markets, not only as a source of food, but also as social and educational events. Because of the customers they attract, markets also have helped bolster sales at nearby stores. Legislators now are examining how to increase the number of markets in low-income and isolated areas that have less access to healthy food choices, especially for residents who receive public food assistance.

Ten states introduced bills in 2009—four of which passed—to increase access to farmers' markets for citizens who receive public assistance, usually through the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps. SNAP users now use an electronic benefits transfer (EBT) card, similar to a credit card; however, many farmers' markets cannot process such transactions (EBT processing terminals typically cost about \$1,000). Most of the bills direct the states' departments of agriculture and human services to work on adopting the technology necessary to accommodate SNAP users and to publicize the fact that they can shop at farmers' markets.

Arkansas*SB 271*

Appropriates \$355,429 to the Arkansas Agriculture Department for construction and associated expenses of farmers' markets.

Indiana*HB 1535*

Requires the state to implement a program that provides farmers' market retailers with a wireless point of sale terminal connected to the EBT system no later than Jan. 1, 2010.

Vermont*HB 192*

Appropriates \$35,000 to the secretary of agriculture, food and markets to help finance the costs of electronic benefit machines and related expenses at farmers' markets. It also directs the Department of Education to work with school districts and supervisory unions to identify

federal stimulus funds that may be available to provide assistance to schools that purchase locally grown fruits and vegetables under the fresh fruit and vegetable grant program.

Washington

HB 1244

Appropriates \$600,000 for each of fiscal years 2010 and 2011 to fund the Local Farms and Healthy Kids grant program that, among other local food initiatives, will help create a Washington farmers' market technology improvement pilot program. The program will lend technological hardware to farmers' markets to help them develop the capability to accept electronic payment cards, including electronic benefits transfers.

FOOD DESERTS/ACCESS TO HEALTHY FOOD

The term "food deserts" seems to have firmly entered the public consciousness within the past year. Numerous media outlets focused on this dynamic, where people do not have easy, affordable access to healthy food options in their community. This condition is surprisingly prevalent throughout the country, especially in struggling urban communities and isolated rural settings. Food deserts lead to higher rates of dietary-related diseases, demonstrating that the environment, not only personal choice, also contributes to obesity. The factors contributing to a food desert, often varied and intertwined, can include a lack of transportation options to get to stores; an excess of unhealthy goods in existing stores; perceptions that these settings lack the buying power to support a grocery outlet; and safety and workforce training concerns.

Pennsylvania's award-winning Fresh Food Financing Initiative, however, has served as a model for bringing grocery retail to a variety of settings throughout the state by leveraging state funds to attract private capital for grants and loans to markets that provide healthy food. This success has caught the attention of other states that recognize the opportunity for economic development and public health benefits of investing in grocery stores in underserved areas.

Four states enacted legislation in 2009 based on Pennsylvania's program. Pennsylvania's success in bringing new grocery stores to urban and rural settings has encouraged and informed other state efforts to combine healthy food access with economic development. Illinois, Louisiana and New York established financing mechanisms to leverage public and private investments to provide loans and grants to grocery operators willing to open outlets to sell healthy food in food deserts. Illinois and New York each have appropriated \$10 million for their programs. The Louisiana and New York laws contain provisions that support stocking and marketing of local foods in grocery stores that apply for financial assistance. Texas established an advisory committee to develop recommendations for a statewide fresh food financing program.

Illinois

SB 1221

Appropriates \$10 million from the Build Illinois Bond Fund to the Department of Commerce and Economic Opportunity to provide loans and grants for capital-related projects to grocery stores located in underserved communities.

Louisiana

SB 299

The Healthy Food Retail Act requires the Department of Agriculture and Forestry to establish a program that provides grants and loans to healthy food retailers that increase access to fresh

fruits and vegetables and other affordable healthy foods in underserved communities. The program can finance new grocery store construction and renovations, farmers' markets and public markets; and food cooperatives, mobile markets and healthy food delivery projects. Applicants must demonstrate that they will sell fresh fruits and vegetables in underserved communities, especially to SNAP and Special Supplemental Nutrition Program for Women, Infants and Children (WIC) participants.

New York

AB 159

Creates a healthy food and healthy communities initiative to increase the number of food markets providing affordable, nutritious foods in underserved areas. The bill authorizes community development financial institutions to make loans and grants for food markets. Eligible food markets must demonstrate that their proposed project will benefit an underserved area, an area of below-average supermarket density, or an area with a supermarket customer base where more than 50 percent live in a low-income census tract. Funds can be used to cover predevelopment costs, land assembly, site development, infrastructure improvements and equipment purchases. Applicants must demonstrate that the proposed project is financially viable and has a positive effect on the local economy; increases revenue for the state and local governments; adheres to sound land use principles; promotes community development; incorporates energy efficiency and green building principles; and provides healthy, nutritious food grown under sustainable agricultural practices. Applicants also must identify at least one food access, health or community development organization that will work with them to analyze market opportunities in underserved areas; recruit food market operators and developers; prequalify food market applications on nonfinancial criteria; and provide technical assistance for operating grocery stores in low-income communities.

Texas

SB 343

Establishes an advisory committee to investigate the retail availability of fresh fruits and vegetables and other healthy foods in the state and to recommend options for creating and implementing a statewide financing program to bring fresh food retailers into underserved areas.

LOCAL FOOD/DIRECT MARKETING

Renewed emphasis is being placed on rebuilding all aspects of a local food system so producers have the necessary infrastructure to grow, harvest, process, package and deliver fresh, healthy food to the public. These efforts have been assisted by an increase in consumer demand for locally grown products as part of sustainable agriculture programs, demonstrating for producers that a market exists for their goods. Policy-makers have used many strategies to assist with local food production and consumption, from helping finance infrastructure development to creating statewide local product marketing logos and campaigns.

State legislation designed to strengthen local food systems and production and consumption of locally grown foods represented the largest and broadest category of bills enacted in 2009, with 11 states passing laws or appropriating funds. Of particular note is an Illinois law that aims to have 20 percent of state-purchased food from in-state sources, the first such goal of its kind in the nation. The law also seeks to create a strong local food system by strengthening all aspects from production to marketing. North Carolina passed a law that examines ways to

increase local food production and consumption. Other states—including Iowa, Louisiana, Minnesota, Montana and Virginia—increased funding to develop facilities to package and process food products.

Illinois

HB 852

Creates the 21st Century Workforce Development Fund to be used in part to support local food systems and production.

HB 3990

The Local Food, Farms and Jobs Act sets a goal that 20 percent of all food products purchased by state agencies and state-owned facilities be local farm or food products by 2020. It also removes a barrier to purchasing locally grown food by allowing state agencies to give preference to a provider of locally grown food when the cost of such food is not more than 10 percent higher than the lowest bid for a procurement contract. State agencies and state-owned facilities that purchase food products must develop a system to identify the percentage of local farm or food products purchased for fiscal year 2011 as the baseline against which the 20 percent goal will be measured, and to annually track and report local farm or food product purchases. The bill also creates the Local Food, Farms and Jobs Council to help state agencies and state-owned facilities purchase and track local farm or food products. The council also will help local farm and food entrepreneurs identify and secure resources and equipment to expand projects for development of local farm or food products; facilitate building infrastructure and use of public lands for growing local food products; set annual goals for purchases of local food products by Illinois residents; and monitor development and expansion of a local farm and food economy through data collection. The council also will develop a label and certification program to identify and encourage consumption of local farm and food products.

Iowa

SF 344

Establishes a Grow Iowa Values Financial Assistance Program to provide financial assistance to a production facility that increases the marketability and sale value of locally grown agricultural products.

Kentucky

HB 344

Establishes a program in the Department of Agriculture to award grants to nonprofit organizations to collect and distribute Kentucky grown and raised surplus agricultural commodities to food banks and other charitable organizations that serve needy or lower-income people. The bill also creates the Surplus Agricultural Commodities Advisory Committee to advise the department in implementing the program.

Louisiana

HB 538

Creates the Agricultural Products Processing Development Fund to support development and enhancement of processing raw agricultural products by providing loans to eligible facilities through the Louisiana Agricultural Finance Authority.

Minnesota*HF 1122*

Requires the commissioner of agriculture to work cooperatively with local governments to strengthen the connection between farmers who practice sustainable farming methods and urban, rural and suburban consumers by promoting local farmers' markets and community-supported agriculture. The bill also appropriates \$100,000 to identify and promote Minnesota-grown products in retail food establishments and \$100,000 for grants to farmers for demonstration projects involving sustainable agriculture.

Montana*HB 583*

Creates a Montana food and agricultural development program to fund food and agricultural development centers. The centers must develop Montana's capacity to produce food and value-added agricultural products, including farm-derived renewable energy, and provide technical assistance to community-based food, agriculture and farm-derived renewable energy entrepreneurs. The bill also appropriates \$500,000 for this purpose.

North Carolina*SB 1067*

Creates a Sustainable Local Food Advisory Council to help build a local food economy. The council can assess foods that are currently served in schools, including the possibility of increasing the amount of sustainable local food used in school food programs; make sustainable local food available under public assistance programs, including using food stamps at farmers' markets; consider the possibility of promoting urban gardens and backyard gardens; and analyze the potential effects of production of sustainable local food on economic development in the state, barriers to a sustainable local food economy and issues regarding strengthening local infrastructure and entrepreneurial efforts related to a sustainable local food economy. The council must report its findings and recommendations annually to the state legislature.

North Dakota*SB 2438*

Directs the agriculture commissioner to implement a sustainable agriculture program and promote agricultural commodities produced through that program. Sustainable agriculture products that are eligible for special marketing under the program include those that are grown in a way that increases efficiencies in soil and nutrient preservation, decreases reliance on soil tillage and other soil-depleting practices, increases water use efficiency, and creates greater economic benefit to producers. The bill also creates an advisory committee on sustainable agriculture to work with the commissioner in developing a sustainable products certification program.

Oregon*HB 2763*

Allows a state agency to give preference to food products produced and transported entirely within the state if the cost of the product is not more than 10 percent higher than a product that is not produced and transported within the state.

Vermont*HB 313*

Creates a farm-to-plate investment program to create jobs in the food and farm economy, improve access to healthy, locally grown foods and increase economic development in Vermont's food and farm sector. The program will create a strategic plan for agricultural economic development that will include inventorying Vermont's food system infrastructure; collecting information about the types of food produced and food processors; identifying markets for locally grown foods; and identifying barriers to expanding a local food economy. The program will seek grant funding to support farm-to-table direct marketing comprised of farmers' markets, community-supported agriculture operations and regional community food hubs. The bill appropriates \$100,000 from federal economic stimulus funds for these purposes.

Virginia*HB 1600*

Allocates \$194,095 for each of the next two fiscal years to facilitate development and marketing of high-value specialty agricultural crops. The program includes low-interest loans to farmers or cooperatives for pilot projects of new specialty crops.

CONCLUSION

State legislatures in 2009 continued the trends exhibited during the 2007-2008 sessions by enacting laws to promote healthy communities and prevent childhood obesity. The diverse set of topics addressed through legislation suggests several opportunities for participation by policy-makers who may have felt that options were limited to members of health committees. Legislators understand the relationship of land use to transportation in developing walkable communities; of agriculture to education in fostering direct marketing of locally grown, healthy foods and the importance of schools as perhaps the single best place to teach children about nutrition and physical education. The 2010 sessions can be expected to offer state legislatures additional opportunities to take policy action as bills carry over from the previous year and task forces and interim studies report their findings and recommendations.

NOTES

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Promoting Healthy Communities and Preventing Childhood Obesity

Trends in Recent Legislation

State legislatures continue to take an active role in developing policies to promote healthier communities and prevent childhood obesity. This interest has grown in recent years as research indicates positive links between healthy eating and active living on the one hand, and public health benefits, lower health costs and academic achievement on the other.

Legislation enacted in 2009 covers a broad range of issues, from nutrition standards and physical education in schools, to changes in the built environment that encourage more walking and bicycling, transit-oriented development and locally grown food. This report documents legislative actions on these and other related policy options and builds on the volume of legislation proposed and enacted in prior sessions.



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