

## **Body Mass Index Legislation**

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Prepared for the Children, Families, Health, and Human Services Interim Committee

June 2010

### ***Background***

At the April 2010 CFHHS meeting, the committee heard a panel discussion from three childhood health promotion speakers, Ellen Leahy from the Missoula County Public Health Department, Katie Bark from Montana Action for Healthy Kids, and Steve York from the Office of Public Instruction, regarding possible options for addressing the prevalence of childhood obesity in Montana. The committee expressed interest in learning more about body mass index (BMI) testing and monitoring as one means of dealing with this issue. As you will recall, body mass index testing is an assessment method for determining a healthy weight range based on a child's height, age, and gender. As the panelists mentioned, there are a number of states that have legislation relating to BMI testing. A sampling of what other states are doing in this arena is below.

### ***Body Mass Index-Related Legislation from Other States***

The following states currently have some type of student BMI reporting or fitness screening in effect:

#### **Arkansas**

AR HB 1173 (2007, enacted) - Changes student BMI screenings to every other year, beginning in kindergarten and then in even numbered grades. Permits any parent to refuse to have their child's BMI percentile for age assessed and reported, by providing a written refusal to the school. Exempts students in grades 11 and 12 from BMI requirements. (Arkansas Act 1220 of 2003 required annual BMI screenings for all public school students, with the results reported to parents confidentially by letter via U.S. mail, as part of a more comprehensive approach that halted the increase of childhood obesity in the state.) Assigns all community health nurses under its supervision to work with schools to assure that BMI for age assessment protocols are followed by school employees or their designees who conduct BMI screenings.

#### **California**

Commencing July 1, 2010, statewide distribution of diabetes risk information to school children (California Education Code § 49452.7) will replace individual student BMI reports to parents via confidential letter as part of a non-invasive diabetes screening pilot program for 7th and 8th graders (California Education Code § 49452.6).

#### **Delaware**

DE HB 372 (2006, enacted, Volume Chapter 75:409) - The state is piloting a new law that requires physical fitness testing for students and includes measuring BMI as part of the testing in some local school districts. The law requires the Department of Education to develop a regulation requiring each local school district and charter school to assess the physical fitness of each student at least once at the elementary, middle and high school level and outlining the grades at which the assessment will be given. The assessment results are to be provided to the parent, guardian or relative caregiver. The intent is to provide baseline and periodic updates for

each student and his or her parent, guardian or relative caregiver sharing in the knowledge of obesity and other chronic illnesses.

### **Florida**

Florida Statute § 381.0056(5) requires school health services programs administered jointly by the Department of Health and the Department of Education to administer growth and development screening for students. BMI is encouraged as part of these screenings for all students in 1st, 3rd, 6th and, optionally, 9th grades.

### **Illinois**

Illinois Administrative Code, Title 77, Subchapter i, Part 665, §665.710 and §665.720 requires that the results of a diabetes screening, including BMI as one indicator of whether a child is overweight, be documented on the certificate of child health examination form for the required school health examination.

### **Iowa**

IA SB 2124 (2006, enacted, Chapter 135, §135.27) - Establishes a nutrition and physical activity community obesity prevention grant program, contingent upon the receipt of public health funding. Funding has been allocated as of July 2006. Pilot program activities in six locations selected to receive grants must include measurement, reporting, and tracking of the height and weight of students in elementary schools.

### **Missouri**

MO HB 568T (enacted 2005) - The state's legislatively established Model School Wellness Program, funded by Child Nutrition and WIC Reauthorization federal grant money, created pilot programs in school districts encouraging students to avoid tobacco use, balance their diets, get regular exercise, and become familiar with chronic conditions resulting from being overweight. A required evaluation after the 2005-2006 school year was to include aggregate data on changes in BMI and measurement of changing behaviors related to nutrition, physical activity and tobacco use.05.

### **New York**

NY AB 4308 (2007, enacted, same as SB 2108 C) - Among other provisions in this budget bill, requires school entry health certificates to include the student's body mass index (weight in kilograms divided by the square of height in meters or weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703) and weight status category as defined by the commissioner of health.

NY SB 6804 (2008, enacted, Chapter 54) - Among other provisions, makes an appropriation of \$1,980,000 to pay for expenses related to reporting BMI on school entry physical forms.

### **Oklahoma**

OK SB 519 (2008, enacted, Chapter 342) - Directs the state's departments of education and health to facilitate development of a physical fitness assessment software program customized for public schools with the capability to track the five components of student health-related

physical fitness, including: 1. aerobic capacity; 2. muscular strength; 3. muscular endurance; 4. flexibility; and 5. a weight status assessment that includes measurement of height and weight, calculation of BMI for age, and plotting of these measures on standard growth charts. Requires the software program to have the capability of creating a confidential individual student report for parents that includes an explanation of the data. In addition, requires the software program to be developed and made accessible to school districts at no cost.

### **Pennsylvania**

The state's health department requires school nurses to compute BMI - height-to-weight ratio - for students in grades one through eight during annual growth screenings. BMI measurement will be required for students in all grades the 2007-2008 school year. Parents receive letters about the BMI results that encourage them to share the information with their family physician.

### **South Carolina**

SC HB 3499 (2005, enacted) - South Carolina's legislature passed the Student Health and Fitness Act in the spring of 2005. Among other provisions related to student health, nutrition, physical education and fitness, the law requires all K-12 schools in the state to participate in the South Carolina Physical Education Assessment and requires that fitness reports be sent home to parents in the 5th and 8th grades and high school. Body mass index screening is not specifically mentioned in the legislation.

### **Tennessee**

TN HB 445, enacted 2005, now Public Chapter 194 - The state requires reporting student BMI to parents as part of a confidential health report card and providing parents with basic information about what BMI means and what they can do with this information..

### **Texas**

SB 415 (2007, enacted, Chapter 95, HB1363-identical companion bill) - Establishes a student risk assessment program for type 2 diabetes in certain regions of the state that includes screening of BMI for students identified by a noninvasive screening as at risk for type 2 diabetes.

### **Vermont**

VT HB 887 (2008, enacted, Act 203) - Requires the commissioner of health, among other items, to develop a plan for promoting measurement and tracking of BMI percentile for children and adolescents, such as through the collection of data relating to BMI, lack of physical exercise, and inappropriate diet and eating habits.

### **West Virginia**

WV SB 785 (2006, enacted, Chapter 73) - Changes the state's current BMI measurement policy by requiring that only a scientifically valid sample of students be assessed. Student confidentiality is protected and all BMI data is reported in aggregate to the governor, the State Board of Education, the Healthy Lifestyles Coalition and the Legislative Oversight Commission on Health and Human Resource Accountability.

### **Body Mass Index Monitoring Bill Draft**

Ellen, Katie, and Steve also worked to put together a draft BMI bill for committee consideration

as one way to begin to address the issue of childhood obesity in Montana. The overall purpose of the draft is to demonstrate measurement, collection, and use of BMI data among Montana elementary school-aged children.

The key principles of the attached legislation include:

- The project will attempt to collect aggregate results of BMI testing for at least 60% of children expected to be in the third grade in the state in 2011-2012.
- The department will award grants to local or tribal public health agencies for participating in the pilot project and provide equipment and training;
- The pilot project will be under the authority of the Department of Public Health and Human Services, in coordination with the Office of Public Instruction.
- The BMI measuring is for aggregate result purposes only; not for individual student screening; parent opt-out provisions are included.
- The department will tabulate the aggregate data and provide a report to local and tribal jurisdictions and the office of public instruction as a starting point in understanding and addressing childhood obesity in Montana.
- Participating entities may opt to continue to receive and report aggregate results after the pilot project is completed
- This is a pilot or demo project; it is not a mandate to either local schools or local or tribal public health jurisdictions.

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