

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 1062  
Ways and Means

(Delegate Niemann, *et al.*)

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**Public Schools - Meal Menus - Nutrition Information**

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This bill requires each local school to list next to an item on its published menu the number of calories contained in the menu item, beginning in the 2011-2012 school year.

The bill takes effect July 1, 2011.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Local school systems can handle the bills requirements with existing resources. Revenues are not affected.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Local school systems are subject to federal law and regulations through participation in federal food and nutrition programs, including (among others) the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the programs for free and reduced price meals and free milk in schools. The Maryland State Department of Education (MSDE) monitors local school compliance with federal law regarding school food and nutrition programs. The Maryland Code of Regulations (COMAR 13A.06.01.02) indicates that local school systems are subject to administrative review by MSDE and/or the U.S. Department of Agriculture (USDA) for the purpose of evaluating the administration of a food and nutrition program.

The Federal School Lunch Program (7 CFR 210.10) requires schools to provide nutritious and well-balanced meals to all the children they serve. Children age two and older must be offered lunches that meet the following nutrition standards for their age/grade group: provision of one-third of the recommended dietary allowances for protein, calcium, iron, vitamin A and vitamin C; provision of required lunchtime energy allowances (calories); and the following applicable recommendations from the 1995 Dietary Guidelines for Americans:

- eat a variety of foods;
- limit total fat to 30% of total calories;
- limit saturated fat to less than 10% of total calories;
- choose a diet low in cholesterol;
- choose a diet with plenty of grain products, vegetables, and fruits; and
- choose a diet moderate in salt and sodium.

School food authorities have several ways to plan menus. The minimum levels of nutrients and calories that lunches must offer depend on the menu planning approach used and the ages/grades served.

Schools must keep production and menu records for the meals they produce. These records must show how the meals contribute to the required food components, food items, or menu items every day. In addition, for lunches, these records must show how the lunches contribute to the nutrition standards and the appropriate calorie and nutrient levels for the ages or grades of the children in the school over the school week. If applicable, schools or school food authorities must maintain nutritional analysis records to demonstrate that lunches meet, when averaged over each school week, (1) nutrition standards; and (2) the nutrient and calorie levels for children for each age or grade group served. Local schools are encouraged but not required to inform students, parents, and the public about efforts they are making to meet the nutrition standards for school lunches.

USDA prohibits schools from selling foods of minimal nutritional value (FMNV) during meal periods anywhere reimbursable meals are sold or eaten. Chapter 312 of 2005, the Student Health Promotion Act of 2005, requires public school vending machines that sell FMNV to have and use timing devices that automatically prohibit or allow access to vending machines in accordance with policies established by local boards of education. Also, one semester of health education is among the graduation requirements for Maryland students.

**Background:** According to the U.S. Centers for Disease Control and Prevention (CDC), childhood obesity has more than tripled in the past 30 years. CDC reports that childhood obesity has increased from 6.5% in 1980 to 19.6% in 2008 among children ages 6 to 11; and from 5.0% to 18.1% among children ages 12 to 19 for this time period. Obesity generally results from an imbalance between calories consumed and calories expended. Obese youth are more likely than others to be obese or overweight in adulthood, and obesity is linked to increased risk of future cardiovascular disease, diabetes, stroke, and other serious health conditions.

Federal regulations reflect the general consensus that information about calorie content is one of several factors to consider when attempting to make healthy food choices. Students of more advanced age may be better equipped to consider calorie information in its larger context. Also, posting calorie content information may lead some students to consume less than the optimal amount of food.

Section 4205 of the federal Patient Protection and Affordable Care Act will require, with exceptions, restaurants with more than 20 locations to list calorie content information on menus and menu boards. Other information, such as information on fat, sodium, cholesterol, carbohydrates, sugar, and proteins, will have to be made available in writing on request. Several jurisdictions across the country, including Montgomery County, Maryland, had passed similar laws prior to the federal Act. Some evidence suggests that chain restaurants have placed some healthier food options on their menus in anticipation of the effective date of the national law (which is yet to be determined in regulations currently under development).

Studies show conflicting results in whether or not menu labeling is successful in lowering caloric intake. A study by Stanford University's Graduate School of Business examined consumer behavior before and after calorie counts were posted on menu boards and determined that, when calories are posted, there is a 6% reduction in calories per transaction. In addition, the calorie reduction persisted for at least 10 months after calorie counts were posted on menu boards. In this study, calorie postings did not have an effect on store revenues. Although a 6% reduction is minimal, researchers hypothesize that long-term effects may be more dramatic if posting calories encourages restaurants to offer more low-calorie items.

In comparison, *The New York Times* reported on a 2009 study conducted by professors at New York University and Yale that tracked customers at four fast-food chains (McDonald's, Wendy's, Burger King, and Kentucky Fried Chicken) in poor neighborhoods of New York City where there were high obesity rates. While 28% of the individuals included in the study noted that calorie postings had influenced their ordering, when researchers checked receipts of participants, people had ordered slightly more

calories than the typical customer had ordered before menu labeling went into effect. The study focused on primarily low-income black and Hispanic fast-food customers.

USDA is currently considering a rule change to update regulations for NSLP and SBP to align them with the *Dietary Guidelines for Americans, 2005* and to make regulations consistent with a 2009 report from the Institute of Medicine (IOM). The proposed rule would require schools to offer more fruits, vegetables, and whole grains; offer only fat-free or low-fat fluid milk; substantially reduce the sodium content of school meals over time; control saturated fat and calorie levels; and minimize trans fat. IOM, mindful of the childhood obesity trend and based on evidence about children's intake during meals and snacks, recommends minimum and maximum calories to be required on average over the course of a week, for specific age groups. **Exhibit 1** shows proposed minimum and maximum calorie levels for NSLP and SBP.

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**Exhibit 1**  
**Proposed Minimum and Maximum Calorie Levels**  
**Kindergarten through Grade 12**

	<u>Grades K - 5</u>	<u>Grades 6 - 8</u>	<u>Grades 9 - 12</u>
National School Lunch Program	550 - 650	600 - 700	750 - 850
School Breakfast Program	350 - 500	400 - 550	450 - 600

Source: Federal Register, Vol. 76, No. 9

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The *Dietary Guidelines for Americans, 2010* was recently released by the USDA and the U.S. Department of Health and Human Services.

**Local Fiscal Effect:** Montgomery County Public Schools currently shows calorie count information on its school menus. Several counties post calorie and nutrient information on their websites. The bill will have minimal operational impact on schools that post calorie information. Those counties that do not post calorie information in any form may experience increased workloads to post and update calorie information on school menus, but it is assumed they can do so with existing resources.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Food and Drug Administration; U.S. Centers for Disease Control and Prevention; Baltimore, Carroll, Charles, Frederick, and Montgomery counties; Maryland State Department of Education; Maryland Association of Boards of Education; Center for Science in the Public Interest; Stanford Graduate School of Business; *The New York Times*; Department of Legislative Services

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