

## **BILL ANALYSIS**

Senate Research Center

S.B. 42  
By: Nelson  
Health and Human Services  
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Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The incidence of childhood obesity is increasing in Texas. More than one-third of Texas school-aged children are overweight or obese. As a result, many children will be at risk of developing heart disease, stroke, high blood pressure, Type II diabetes, and certain cancers. In an effort to improve the health of elementary school students, daily physical activity was required for elementary school students as a result of S.B. 19, 77th Legislature, Regular Session, and Title 19 of the Texas Administrative Code, Rule 74.32.

S.B. 42 allows for the expansion of physical activity requirements to middle and junior high schools, up to the eighth grade; encourages the use of nationally recognized health and physical education guidelines; directs the reporting of information on physical activity, School Health Advisory Councils, and compliance with guidelines on vending machines, food service, and tobacco products; directs coordinated health programs approved by the Texas Education Agency to comply with the Department of Agriculture guidelines on foods of minimal nutritional value; and reinstates the School Health Advisory Committee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of education in SECTION 4 (Section 38.013, Education Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 4 (Section 38.013, Education Code) of this bill.

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 9 (Section 1001.0711, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the State Board of Education is modified in SECTION 1 (Section 28.002, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 28.002(a), (k), and (l), and adds Subsections (l-1), (l-2), and (l-3), Education Code, as follows:

(a) Requires each school district that offers kindergarten through grade 12 to offer, as a required curriculum, an enrichment curriculum that includes health, with emphasis on the importance of proper nutrition and exercise.

(k) Requires the State Board of Education (SBOE), in consultation with the Department of State Health Services (DSHS), rather than the Texas Department of Health, and the Texas Diabetes Council, to develop a diabetes education program that a school district may use in the health curriculum under Subsection (a)(2)(B).

(l) Authorizes SBOE, after consulting with educators, parents, and medical professionals, by rule, to require a student enrolled in kindergarten or a grade level below grade nine, rather than grade seven in an elementary school setting, to participate in daily physical activity. Requires SBOE, if it adopts rules under this subsection, to ensure by rule that students enrolled in middle and junior high school settings are allowed to meet the physical activity requirement by participating in physical activity twice each week

throughout the school year or the option to schedule at least two semesters overall. Requires SBOE, if SBOE adopts rules under this subsection, to provide for an exemption for certain students.

(1-1) Authorizes SBOE, in adopting rules relating to an activity described by Subsection (1)(2), to permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club only if the student provides proof of participation in the activity.

(1-2) Requires the Texas Education Agency (TEA), in consultation with DSHS, to encourage school districts to promote physical activity for children through classroom curricula for health and physical education, to designate nationally recognized health and physical education program guidelines that a school district may use in the health curriculum under Subsection (a)(2)(B) or the physical education curriculum under Subsection (a)(2)(C).

(1-3) Authorizes this subsection to be cited as "Lauren's Law." Prohibits SBOE, DSHS, or a school district from adopting any rule, policy, or program under Subsections (a), (k), (l), (1-1), or (1-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to certain children.

SECTION 2. Amends Section 28.004(k), Education Code, to require a school district to publish in the student handbook and post on the district's Internet website, if the district has an Internet website, rather than make available for reasonable public inspection, a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students, rather than students in elementary grades, engage in a specified amount per school week of physical activity and a statement of the number of times during the preceding year the district's school health advisory council has met.

SECTION 3. Amends the heading to Section 38.013, Education Code, to read as follows:

Sec. 38.013. COORDINATED HEALTH PROGRAM FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

SECTION 4. Amends Section 38.013, Education Code, by amending Subsections (a) and (a-1) and adding Subsection (c), as follows:

(a) Makes conforming changes.

(a-1) Makes conforming changes.

(c) Requires the commissioner of education (commissioner), by rule, to adopt criteria for evaluating the nutritional services component of a program under this section that includes an evaluation of program compliance with the Department of Agriculture guidelines relating to foods of minimal nutritional value.

SECTION 5. Amends the heading to Section 38.014, Education Code, to make conforming changes.

SECTION 6. Amends Section 38.014(a), Education Code, to make conforming changes.

SECTION 7. Amends Subchapter A, Chapter 38, Education Code, by adding Section 38.0141, as follows:

Sec. 38.0141. REPORTING OF CERTAIN HEALTH AND SAFETY INFORMATION REQUIRED. Requires each school district to provide to TEA information as required by the commissioner, including statistics and data, relating to student health and physical activity and information described by Section 28.004(k), presented in a form determined by the commissioner. Requires the district to provide the information required by this section for the district and for each campus in the district.

SECTION 8. Amends Section 39.182(a), Education Code, to require TEA, not later than December 1 of each year, to prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a report covering the preceding school year and containing a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 and a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district. Makes conforming changes.

SECTION 9. Amends Subchapter D, Chapter 1001, Health and Safety Code, by adding Section 1001.0711, as follows:

Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. Requires the Health and Human Services Commission (HHSC), by rule, to establish a School Health Advisory Committee at DSHS to provide assistance to the State Health Services Council (council) in establishing a leadership role for DSHS in support for and delivery of coordinated school health programs and school health services. Sets forth eligibility requirements for certain members of the committee. Provides that Section 2110.008 (Duration of Advisory Committees), Government Code, does not apply to a committee created under this section.

SECTION 10. Makes application of Section 38.013, Education Code, as amended by this Act, prospective.

SECTION 11. Makes application of this Act, except as provided by Section 10 of this Act, prospective to the 2006-2007 school year.

SECTION 12. Requires HHSC to adopt rules to establish the School Health Advisory Committee as provided by Section 1001.0711, Health and Safety Code, as added by this Act, not later than January 1, 2006.

SECTION 13. Effective date: upon passage or September 1, 2005.