

1-1 By: Nelson, Lucio, Deuell S.B. No. 42
1-2 (In the Senate - Filed November 8, 2004; January 31, 2005,
1-3 read first time and referred to Committee on Education;
1-4 March 31, 2005, rereferred to Committee on Health and Human
1-5 Services; April 14, 2005, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-7 April 14, 2005, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 42 By: Nelson

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to health education and physical activity in public
1-12 primary and secondary schools.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (a), (k), and (l), Section 28.002,
1-15 Education Code, are amended to read as follows:

1-16 (a) Each school district that offers kindergarten through
1-17 grade 12 shall offer, as a required curriculum:

1-18 (1) a foundation curriculum that includes:

1-19 (A) English language arts;

1-20 (B) mathematics;

1-21 (C) science; ~~and~~

1-22 (D) social studies, consisting of Texas, United
1-23 States, and world history, government, and geography; and

1-24 (E) health, with emphasis on the importance of
1-25 proper nutrition and exercise; and

1-26 (2) an enrichment curriculum that includes:

1-27 (A) to the extent possible, languages other than
1-28 English;

1-29 (B) ~~health,~~

1-30 ~~[(C)]~~ physical education;

1-31 (C) ~~[(D)]~~ fine arts;

1-32 (D) ~~[(E)]~~ economics, with emphasis on the free
1-33 enterprise system and its benefits;

1-34 (E) ~~[(F)]~~ career and technology education; and

1-35 (F) ~~[(G)]~~ technology applications.

1-36 (k) The State Board of Education, in consultation with the
1-37 ~~[Texas]~~ Department of State Health Services and the Texas Diabetes
1-38 Council, shall develop a diabetes education program that a school
1-39 district may use in the health curriculum under Subsection
1-40 (a)(1)(E) ~~[(a)(2)(B)]~~.

1-41 (l) The State Board of Education, after consulting with
1-42 educators, parents, and medical professionals, by rule may require
1-43 a student enrolled in kindergarten or a grade level below grade nine
1-44 ~~[seven in an elementary school setting]~~ to participate in daily
1-45 physical activity as part of a school district's physical education
1-46 curriculum or through structured activity during a school campus's
1-47 daily recess, except that the board may not require more than 30
1-48 minutes of daily physical activity. If the board adopts rules under
1-49 this subsection, the board must provide for an exemption for a
1-50 student who is unable to participate in daily physical activity
1-51 because of illness or disability. To encourage school districts to
1-52 promote physical activity for children through classroom curricula
1-53 for health and physical education, the agency, in consultation with
1-54 the Department of State Health Services, shall designate nationally
1-55 recognized health and physical education program guidelines that a
1-56 school district may use in the health curriculum under Subsection
1-57 (a)(1)(E) or the physical education curriculum under Subsection
1-58 (a)(2)(B).

1-59 SECTION 2. Subsection (k), Section 28.004, Education Code,
1-60 is amended to read as follows:

1-61 (k) A school district shall publish in the student handbook
1-62 and post on the district's Internet website, if the district has an
1-63 Internet website [make available for reasonable public

2-1 inspection]:

2-2 (1) a statement of the policies adopted to ensure that

2-3 [~~students in~~] elementary school, middle school, and junior high

2-4 school students [~~grades~~] engage in at least 30 minutes per school

2-5 day or 135 minutes per school week of physical activity; and

2-6 (2) a statement of:

2-7 (A) the number of times during the preceding year

2-8 the district's school health advisory council has met;

2-9 (B) whether the district has adopted and enforces

2-10 policies to ensure that district campuses comply with agency

2-11 vending machine and food service guidelines for restricting student

2-12 access to vending machines; and

2-13 (C) whether the district has adopted and enforces

2-14 policies and procedures that prescribe penalties for the use of

2-15 tobacco products by students and others on school campuses or at

2-16 school-sponsored or school-related activities.

2-17 SECTION 3. The heading to Section 38.013, Education Code,

2-18 is amended to read as follows:

2-19 Sec. 38.013. COORDINATED HEALTH PROGRAM FOR ELEMENTARY,

2-20 MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

2-21 SECTION 4. Section 38.013, Education Code, is amended by

2-22 amending Subsections (a) and (a-1) and adding Subsection (c) to

2-23 read as follows:

2-24 (a) The agency shall make available to each school district

2-25 one or more coordinated health programs designed to prevent

2-26 obesity, cardiovascular disease, and Type 2 diabetes in elementary

2-27 school, middle school, and junior high school students. Each

2-28 program must provide for coordinating:

2-29 (1) health education;

2-30 (2) physical education and physical activity;

2-31 (3) nutrition services; and

2-32 (4) parental involvement.

2-33 (a-1) The commissioner by rule shall adopt criteria for

2-34 evaluating a coordinated health program before making the program

2-35 available under Subsection (a). Before adopting the criteria, the

2-36 commissioner shall request review and comment concerning the

2-37 criteria from the [~~Texas~~] Department of State Health Services

2-38 [~~Health's~~] School Health Advisory Committee. The commissioner may

2-39 make available under Subsection (a) only those programs that meet

2-40 criteria adopted under this subsection.

2-41 (c) The commissioner by rule shall adopt criteria for

2-42 evaluating the nutritional services component of a program under

2-43 this section that includes an evaluation of program compliance with

2-44 the Department of Agriculture guidelines relating to foods of

2-45 minimal nutritional value.

2-46 SECTION 5. The heading to Section 38.014, Education Code,

2-47 is amended to read as follows:

2-48 Sec. 38.014. IMPLEMENTATION OF COORDINATED HEALTH PROGRAM

2-49 FOR ELEMENTARY, MIDDLE, AND JUNIOR HIGH SCHOOL STUDENTS.

2-50 SECTION 6. Subsection (a), Section 38.014, Education Code,

2-51 is amended to read as follows:

2-52 (a) Each school district shall:

2-53 (1) participate in appropriate training for the

2-54 implementation of the program approved by the agency under Section

2-55 38.013; and

2-56 (2) implement the program in each elementary school,

2-57 middle school, and junior high school in the district.

2-58 SECTION 7. Subchapter A, Chapter 38, Education Code, is

2-59 amended by adding Section 38.0141 to read as follows:

2-60 Sec. 38.0141. REPORTING OF CERTAIN HEALTH AND SAFETY

2-61 INFORMATION REQUIRED. Each school district shall provide to the

2-62 agency information as required by the commissioner, including

2-63 statistics and data, relating to student health and physical

2-64 activity and information described by Section 28.004(k), presented

2-65 in a form determined by the commissioner. The district shall

2-66 provide the information required by this section for the district

2-67 and for each campus in the district.

2-68 SECTION 8. Subsection (a), Section 39.182, Education Code,

2-69 is amended to read as follows:

3-1 (a) Not later than December 1 of each year, the agency shall
 3-2 prepare and deliver to the governor, the lieutenant governor, the
 3-3 speaker of the house of representatives, each member of the
 3-4 legislature, the Legislative Budget Board, and the clerks of the
 3-5 standing committees of the senate and house of representatives with
 3-6 primary jurisdiction over the public school system a comprehensive
 3-7 report covering the preceding school year and containing:
 3-8 (1) an evaluation of the achievements of the state
 3-9 educational program in relation to the statutory goals for the
 3-10 public education system under Section 4.002;
 3-11 (2) an evaluation of the status of education in the
 3-12 state as reflected by the academic excellence indicators adopted
 3-13 under Section 39.051;
 3-14 (3) a summary compilation of overall student
 3-15 performance on academic skills assessment instruments required by
 3-16 Section 39.023 with the number and percentage of students exempted
 3-17 from the administration of those instruments and the basis of the
 3-18 exemptions, aggregated by grade level, subject area, campus, and
 3-19 district, with appropriate interpretations and analysis, and
 3-20 disaggregated by race, ethnicity, gender, and socioeconomic
 3-21 status;
 3-22 (4) a summary compilation of overall performance of
 3-23 students placed in a disciplinary [~~an~~] alternative education
 3-24 program established under Section 37.008 on academic skills
 3-25 assessment instruments required by Section 39.023 with the number
 3-26 of those students exempted from the administration of those
 3-27 instruments and the basis of the exemptions, aggregated by
 3-28 district, grade level, and subject area, with appropriate
 3-29 interpretations and analysis, and disaggregated by race,
 3-30 ethnicity, gender, and socioeconomic status;
 3-31 (5) a summary compilation of overall performance of
 3-32 students at risk of dropping out of school, as defined by Section
 3-33 29.081(d), on academic skills assessment instruments required by
 3-34 Section 39.023 with the number of those students exempted from the
 3-35 administration of those instruments and the basis of the
 3-36 exemptions, aggregated by district, grade level, and subject area,
 3-37 with appropriate interpretations and analysis, and disaggregated
 3-38 by race, ethnicity, gender, and socioeconomic status;
 3-39 (6) an evaluation of the correlation between student
 3-40 grades and student performance on academic skills assessment
 3-41 instruments required by Section 39.023;
 3-42 (7) a statement of the dropout rate of students in
 3-43 grade levels 7 through 12, expressed in the aggregate and by grade
 3-44 level, and a statement of the completion rates of students for grade
 3-45 levels 9 through 12;
 3-46 (8) a statement of:
 3-47 (A) the completion rate of students who enter
 3-48 grade level 9 and graduate not more than four years later;
 3-49 (B) the completion rate of students who enter
 3-50 grade level 9 and graduate, including students who require more
 3-51 than four years to graduate;
 3-52 (C) the completion rate of students who enter
 3-53 grade level 9 and not more than four years later receive a high
 3-54 school equivalency certificate;
 3-55 (D) the completion rate of students who enter
 3-56 grade level 9 and receive a high school equivalency certificate,
 3-57 including students who require more than four years to receive a
 3-58 certificate; and
 3-59 (E) the number and percentage of all students who
 3-60 have not been accounted for under Paragraph (A), (B), (C), or (D);
 3-61 (9) a statement of the projected cross-sectional and
 3-62 longitudinal dropout rates for grade levels 9 through 12 for the
 3-63 next five years, assuming no state action is taken to reduce the
 3-64 dropout rate;
 3-65 (10) a description of a systematic, measurable plan
 3-66 for reducing the projected cross-sectional and longitudinal
 3-67 dropout rates to five percent or less for the 1997-1998 school year;
 3-68 (11) a summary of the information required by Section
 3-69 29.083 regarding grade level retention of students and information

4-1 concerning:

4-2 (A) the number and percentage of students

4-3 retained; and

4-4 (B) the performance of retained students on

4-5 assessment instruments required under Section 39.023(a);

4-6 (12) information, aggregated by district type and

4-7 disaggregated by race, ethnicity, gender, and socioeconomic

4-8 status, on:

4-9 (A) the number of students placed in a

4-10 disciplinary [an] alternative education program established under

4-11 Section 37.008;

4-12 (B) the average length of a student's placement

4-13 in a disciplinary [an] alternative education program established

4-14 under Section 37.008;

4-15 (C) the academic performance of students on

4-16 assessment instruments required under Section 39.023(a) during the

4-17 year preceding and during the year following placement in a

4-18 disciplinary [an] alternative education program; and

4-19 (D) the dropout rates of students who have been

4-20 placed in a disciplinary [an] alternative education program

4-21 established under Section 37.008;

4-22 (13) a list of each school district or campus that does

4-23 not satisfy performance standards, with an explanation of the

4-24 actions taken by the commissioner to improve student performance in

4-25 the district or campus and an evaluation of the results of those

4-26 actions;

4-27 (14) an evaluation of the status of the curriculum

4-28 taught in public schools, with recommendations for legislative

4-29 changes necessary to improve or modify the curriculum required by

4-30 Section 28.002;

4-31 (15) a description of all funds received by and each

4-32 activity and expenditure of the agency;

4-33 (16) a summary and analysis of the instructional

4-34 expenditures ratios and instructional employees ratios of school

4-35 districts computed under Section 44.0071;

4-36 (17) a summary of the effect of deregulation,

4-37 including exemptions and waivers granted under Section 7.056 or

4-38 39.112;

4-39 (18) a statement of the total number and length of

4-40 reports that school districts and school district employees must

4-41 submit to the agency, identifying which reports are required by

4-42 federal statute or rule, state statute, or agency rule, and a

4-43 summary of the agency's efforts to reduce overall reporting

4-44 requirements;

4-45 (19) a list of each school district that is not in

4-46 compliance with state special education requirements, including:

4-47 (A) the period for which the district has not

4-48 been in compliance;

4-49 (B) the manner in which the agency considered the

4-50 district's failure to comply in determining the district's

4-51 accreditation status; and

4-52 (C) an explanation of the actions taken by the

4-53 commissioner to ensure compliance and an evaluation of the results

4-54 of those actions;

4-55 (20) a comparison of the performance of

4-56 open-enrollment charter schools and school districts on the

4-57 academic excellence indicators specified in Section 39.051(b) and

4-58 accountability measures adopted under Section 39.051(g), with a

4-59 separately aggregated comparison of the performance of

4-60 open-enrollment charter schools predominantly serving students at

4-61 risk of dropping out of school, as defined by Section 29.081(d),

4-62 with the performance of school districts; ~~and~~

4-63 (21) a summary of the information required by Section

4-64 38.0141 regarding student health and physical activity from each

4-65 school district; and

4-66 (22) any additional information considered important

4-67 by the commissioner or the State Board of Education.

4-68 SECTION 9. Subchapter D, Chapter 1001, Health and Safety

4-69 Code, is amended by adding Section 1001.0711 to read as follows:

5-1 Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. (a) The
5-2 commission by rule shall establish a School Health Advisory
5-3 Committee at the department to provide assistance to the council in
5-4 establishing a leadership role for the department in support for
5-5 and delivery of coordinated school health programs and school
5-6 health services.

5-7 (b) The committee shall include at least:

5-8 (1) one representative from the Department of
5-9 Agriculture, appointed by the commissioner of agriculture; and

5-10 (2) one representative from the Texas Education
5-11 Agency, appointed by the commissioner of education.

5-12 (c) Section 2110.008, Government Code, does not apply to a
5-13 committee created under this section.

5-14 SECTION 10. Section 38.013, Education Code, as amended by
5-15 this Act, applies only to approval of a coordinated health program
5-16 evaluated on or after the effective date of this Act. The Texas
5-17 Education Agency shall continue to make available to school
5-18 districts a coordinated health program evaluated and approved
5-19 before the effective date of this Act under Section 38.013,
5-20 Education Code, as that section existed before amendment by this
5-21 Act, until the approval of the program expires as provided by 19
5-22 T.A.C. Section 102.1031.

5-23 SECTION 11. Except as provided by Section 10 of this Act,
5-24 this Act applies beginning with the 2006-2007 school year.

5-25 SECTION 12. Not later than January 1, 2006, the Health and
5-26 Human Services Commission shall adopt rules to establish the School
5-27 Health Advisory Committee as provided by Section 1001.0711, Health
5-28 and Safety Code, as added by this Act.

5-29 SECTION 13. This Act takes effect immediately if it
5-30 receives a vote of two-thirds of all the members elected to each
5-31 house, as provided by Section 39, Article III, Texas Constitution.
5-32 If this Act does not receive the vote necessary for immediate
5-33 effect, this Act takes effect September 1, 2005.

5-34 * * * * *