By: Nelson, et al  
Substitute the following for S.B. No. 530:

By: Patrick  

A BILL TO BE ENTITLED  
AN ACT  
relating to physical activity requirements and physical fitness assessment for certain public school students.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 28.002(l) and (l-1), Education Code, are amended to read as follows:

(1) A school district shall [The State Board of Education, after consulting with educators, parents, and medical professionals, by rule may] require a student enrolled in kindergarten or a grade level below grade six [nine] to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the [school] district's physical education curriculum or through structured activity during a school campus's daily recess[, except that the board may not require more than 30 minutes of daily physical activity]. A school district shall require students enrolled in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum. If a school district determines, for any particular grade level below grade six, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level.
to participate in moderate or vigorous physical activity for at
least 135 minutes during each school week. The board must 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. Additionally, a school
district may as an alternative require a student enrolled in a grade
level for which the district uses block scheduling to participate
in moderate or vigorous physical activity for at least 225 minutes
during each period of two school weeks. A school district must provide
for an exemption for:

(1) any student who is unable to participate in the
required daily physical activity because of illness or
disability; and

(2) a middle school or junior high school student who
participates in an extracurricular activity with a moderate or
vigorous physical activity component that is considered a
structured activity under rules adopted by the commissioner.

(1-1) In adopting rules relating to an activity described by
Subsection (1)(2), the commissioner may 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.
SECTION 2. Section 28.004, Education Code, is amended by amending Subsection (k) and adding Subsection (l) to read as follows:

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(1) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level [30 minutes per school day or 135 minutes per school week] of physical activity required by Section 28.002(l); and

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities.

(1) The local school health advisory council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding unstructured and undirected play, academic and social development, and the health
benefits of daily recess in making the recommendations. The
council shall ensure that local community values are reflected in
any policy recommendation made to the district under this
subsection.

SECTION 3. Chapter 38, Education Code, is amended by adding
Subchapter C to read as follows:

SUBCHAPTER C. PHYSICAL FITNESS ASSESSMENT

Sec. 38.101. ASSESSMENT REQUIRED. (a) Except as provided
by Subsection (b), a school district annually shall assess the
physical fitness of students enrolled in grades three through
eight.

(b) A school district is not required to assess a student
for whom, as a result of disability or other condition identified by
commissioner rule, the assessment instrument adopted under Section
38.103 is inappropriate.

Sec. 38.102. PARENTAL NOTIFICATION. A school district
shall provide the results of a student's physical fitness
assessment under this subchapter to the student's parent or
guardian, accompanied by an explanation of the results.

Sec. 38.103. ADOPTION OF ASSESSMENT INSTRUMENT. (a) The
commissioner by rule shall adopt an assessment instrument to be
used by a school district in assessing student physical fitness
under this subchapter.

(b) The assessment instrument must:

(1) be based on factors related to student health,
including the following factors that have been identified as
essential to overall health and function:
(A) aerobic capacity;

(B) body composition; and

(C) muscular strength, endurance, and flexibility; and

(2) include criterion-referenced standards specific to a student's age and gender and based on the physical fitness level required for good health.

Sec. 38.104. REPORTING OF SUMMARY RESULTS. (a) A school district shall compile the results of the physical fitness assessment required by this subchapter and provide summary results, aggregated by grade level and any other appropriate category identified by commissioner rule, to the agency. The summary results may not contain the names of individual students or teachers.

(b) The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.

Sec. 38.105. ANALYSIS OF RESULTS. (a) The agency shall analyze the results received by the agency under this subchapter and identify, for each school district, any correlation between the results and the following:

(1) student academic achievement levels;

(2) student attendance levels;

(3) student obesity;

(4) student disciplinary problems; and

(5) school meal programs.

(b) The agency may contract with a public or private entity
for that entity to conduct all or part of the analysis required by Subsection (a).

(c) Not later than September 1 of each year, the agency shall report the findings of the analysis under this section of the results obtained during the preceding school year to the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, for use by the committee in:

(1) assessing the effectiveness of coordinated health programs provided by school districts in accordance with Section 38.014; and

(2) developing recommendations for modifications to coordinated health program requirements or related curriculum.

Sec. 38.106. DONATIONS. The agency and each school district may accept donations made to facilitate implementation of this subchapter.

Sec. 38.107. RULES. The commissioner shall adopt rules necessary to implement this subchapter.

SECTION 4. Not later than September 1, 2008, the Texas Education Agency, in consultation with the School Health Advisory Committee established under Section 1001.0711, Health and Safety Code, shall provide a report to the legislature that details options and recommendations for providing moderate or vigorous daily physical activity for students for at least 30 minutes outside the seven-hour instructional day. The options and recommendations must be developed with consideration for the needs of students who are enrolled in multiple enrichment curriculum courses.
SECTION 5. The commissioner of education shall adopt the physical fitness assessment instrument required under Subchapter C, Chapter 38, Education Code, as added by this Act, and rules necessary to implement that subchapter not later than the date that enables the instrument to be used by school districts during the 2007-2008 school year.


SECTION 7. Section 28.002(1), Education Code, as amended by this Act, applies to students enrolled in kindergarten or a grade level below grade six beginning with the 2007-2008 school year and to students enrolled in grade levels six, seven, and eight beginning with the 2008-2009 school year.

SECTION 8. Except as otherwise provided by this Act, this Act applies beginning with the 2007-2008 school year. This Act shall apply to junior high or middle schools only upon adoption of a coordinated school health program for these grades by the Texas Education Agency.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.