|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| C.S.H.B. 25 |
| By: Hull |
| Public Health |
| Committee Report (Substituted) |

|  |
| --- |
| **BACKGROUND AND PURPOSE**  According to the Make America Healthy Again Commission, the United States spends $4.5 trillion annually on health care, with 90 percent of those health care expenditures spent on chronic health conditions and mental health conditions. The bill author has informed the committee of numerous concerns, including that, despite this exorbitant health care spending, the health of Americans is rapidly declining, that there are increases in early onset cancers, obesity, and type 1 diabetes, that a Harvard School of Public Health study concludes that there is a link between an increased ultra-processed food diet and an increased risk of early mortality, and that, according to the U.S. National Library of Medicine's National Center for Biotechnology Information, such processed food makes up 73 percent of the U.S. food supply.  C.S.H.B. 25 seeks to establish the Texas Nutrition Advisory Committee to develop nutritional guidelines for Texas residents and, among other provisions, establishes food product labeling and disclosure requirements to warn consumers about certain ingredients, updates certain physical education curriculum requirements for school districts and makes them applicable to open-enrollment charter schools, requires the State Board of Education to adopt state curriculum standards that include nutrition instruction established by the advisory committee, provides for an elective course on nutrition and wellness for a high school program, requires nutrition education coursework for students at institutions of higher education, conditions certain state grants and awards on an institution of higher education developing a required nutrition curriculum, and creates certain continuing education requirements regarding nutrition and metabolic health for licensed physicians, physician assistants, nurses, and dietitians. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 3 of this bill, to the executive commissioner of the Health and Human Services Commission in SECTIONS 8 and 19 of this bill, to the Texas Medical Board in SECTIONS 10 and 11 of this bill, to the Texas Board of Nursing in SECTION 12 of this bill, and to the Texas Commission of Licensing and Regulation in SECTION 13 of this bill. |
| **ANALYSIS**  C.S.H.B. 25 amends the Education Code, Health and Safety Code, and Occupations Code to update health and nutrition standards to promote healthy living in Texas, including by creating the Texas Nutrition Advisory Committee, by creating certain physical education and nutrition curriculum requirements at public school districts and open-enrollment charter schools, by establishing nutrition curriculum requirements at certain health-related institutions of higher education, and by requiring certain warning label disclosures for foods containing certain ingredients.  **Texas Nutrition Advisory Committee**  Creation and Composition  C.S.H.B. 25 amends the Health and Safety Code to establish the Texas Nutrition Advisory Committee to develop nutritional guidelines for Texas residents. The bill establishes that the advisory committee is administratively attached to the Department of State Health Services (DSHS) and provides for the composition of the seven-member committee, appointed by the governor not later than December 31, 2025, including at least:   * one expert in metabolic health, culinary medicine, lifestyle medicine, or integrative medicine; * one licensed physician certified in functional medicine; * one member representing the Texas Department of Agriculture; * one member representing a rural community; * one member representing an urban community; and * one pediatrician specializing in metabolic health.   In appointing the advisory committee members, the governor must do the following:   * consider recommendations provided by the chair of the senate committee on health and human services, the chair of the house of representatives committee on public health, and the chair of the house of representatives committee on human services; and * ensure not more than two members are affiliated with an academic or health-related institution of higher education if the appointment could reasonably create a conflict of interest between the goals of the advisory committee and the goals of the institution.   The bill makes an individual ineligible for appointment to the advisory committee if the individual owns or controls an ownership interest in a food, beverage, dietary supplement, or pharmaceutical manufacturing company or who is related within the third degree of consanguinity or affinity, as determined by state law, to such an individual. The bill requires an individual, before accepting an appointment to the advisory committee, to disclose all past or existing affiliations with a food, beverage, dietary supplement, or pharmaceutical manufacturing company or any other affiliation that could reasonably create a conflict of interest with the goals of the advisory committee. An advisory committee member who fails to disclose such an affiliation is subject to removal by the governor.  C.S.H.B. 25 establishes that the advisory committee members serve staggered four-year terms and requires the governor, not later than December 31, 2025, to provide for those terms.  Advisory Committee Duties  C.S.H.B. 25 requires the advisory committee to do the following:   * examine the impact of nutrition on human health and examine the connection between ultra-processed foods, including foods containing artificial color and food additives, and the prevalence of chronic diseases and other chronic health issues; * provide an independent review of scientific studies analyzing the effects of ultra‑processed foods on human health; * provide education on the effects of ultra-processed foods on human health; and * develop and maintain dietary and nutritional guidelines based on the consensus of available scientific studies and information concerning diet and nutrition.   Annual Report and Web Page  C.S.H.B. 25 requires the advisory committee, not later than September 1 of each year, to prepare and submit to DSHS, the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature with primary jurisdiction over health and safety a written report that includes a summary of the scientific studies, nutritional guidelines incorporating any new scientific findings, and any other recommendations the advisory committee considers appropriate based on new scientific studies. The bill requires the initial report to be prepared and submitted not later than September 1, 2026.  C.S.H.B. 25 requires DSHS to post on a publicly available web page on its website the guidelines developed under the bill's provisions in a manner that is easily accessible and readily understandable. The bill requires DSHS to post the required information as soon as practicable after the submission of the initial report and to annually update such information based on the report.  Rulemaking and Expiration  C.S.H.B. 25 authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules as necessary to implement the bill's provisions relating to the advisory committee. The advisory committee is abolished and provisions relating to the committee expire December 31, 2032.  **Physical Education and Nutrition Curriculum Requirements for Public School Districts and Open-Enrollment Charter Schools**  C.S.H.B. 25 amends the Education Code to make applicable to an open-enrollment charter school the same requirements, and exceptions to those requirements, for certain daily physical activity of the applicable enrolled students for the prescribed amount of time that are currently applicable to a school district. The bill increases from four to six the minimum number of semesters for which students enrolled in grade levels six, seven, and eight must participate in moderate or vigorous daily physical activity for at least 30 minutes during those grade levels as part of the physical education curriculum requirements and also makes this provision applicable to the curriculum of an open-enrollment charter school. These provisions apply only to students entering the sixth grade during the 2026-2027 school year or a later school year. For students entering a grade above sixth grade during the 2026-2027 school year, the daily physical activity requirement that existed before the amendment by the bill applies, and those provisions are continued in effect for that purpose.  C.S.H.B. 25, with respect to the rules adopted by the commissioner of education under current law with regard to exemptions from the daily physical activity requirement for a student, explicitly requires the commissioner to permit an exemption from the applicable daily activity requirement for a student who participates in a school-related activity or an activity sponsored by a private league or club if the student provides proof of participation in the activity, and the bill, accordingly, removes the provision authorizing such an exemption only if the student provides that proof.  C.S.H.B. 25 prohibits a school employee, in providing an applicable physical education curriculum, from restricting participation in the following:   * recess or other physical activity offered as part of the district's or charter school's physical education curriculum for a student enrolled in kindergarten or in a grade level below grade six as a penalty for the student's academic performance or behavior; or * physical activity offered as part of the district's or charter school's physical education curriculum for a student enrolled in grade level six, seven, or eight as a penalty for the student's academic performance or behavior.   C.S.H.B. 25 requires the State Board of Education (SBOE), in adopting the state curriculum standards for the health curriculum for a grade level from kindergarten through grade eight, to adopt such standards that include nutrition instruction based on nutritional guidelines recommended by the Texas Nutrition Advisory Committee established under the bill's provisions. This provision applies beginning with the 2027-2028 school year.  C.S.H.B. 25 requires each school district and open-enrollment charter school offering a high school program to provide an elective course in nutrition and wellness that meets the requirements for a one-half elective credit under the foundation high school program, using materials the SBOE approves. The bill requires such instruction to include curriculum requirements based on nutritional guidelines recommended by the Texas Nutrition Advisory Committee established under the bill's provisions. The instruction may incorporate other relevant material, including culinary skills, horticulture, and consumer economics. These provisions apply beginning with the 2027-2028 school year.  **Nutrition Curriculum Requirements at Institutions of Higher Education**  C.S.H.B. 25 requires the Texas Higher Education Coordinating Board (THECB) by rule to require public institutions of higher education to require each student enrolled in an associate or baccalaureate degree program at the institution to complete a course of instruction in nutrition education. The course must include curriculum requirements based on nutritional guidelines recommended by the Texas Nutrition Advisory Committee created under the bill's provisions. These provisions apply beginning with entering students enrolling in an associate or baccalaureate degree program at a public institution of higher education on or after July 1, 2027.  C.S.H.B. 25 conditions the eligibility of certain health-related institutions of higher education to receive money from the applicable permanent funds established for those institutions on the institution, as follows:   * developing nutrition curriculum requirements based on nutritional guidelines recommended by the Texas Nutrition Advisory Committee created under the bill's provisions; and * requiring all applicable students who are enrolled at the institution to successfully complete those curriculum requirements.   These conditions apply with respect to health-related institutions of higher education eligible to receive money or grants from the following funds, as applicable:   * the permanent health fund for higher education; * the separate permanent endowment fund established for the benefit of specific institutions; * the permanent fund for higher education nursing, allied health, and other health-related programs; and * the permanent fund for minority health research and education.   The bill establishes that a health-related institution of higher education is required to develop and implement the curriculum as required by these provisions not later than July 1, 2027, to remain eligible for such funding. A health-related institution of higher education is not required to comply with these provisions until July 1, 2027.  **Manufacturer Warning Label; Enforcement by Attorney General**  C.S.H.B. 25 amends the Health and Safety Code to require a food manufacturer to ensure each food product the manufacturer offers for sale in Texas includes a warning label disclosing the use of certain ingredients, which are specified by the bill, in a product intended for human consumption. The bill requires the warning label, if the food contains such an ingredient, to, as follows:   * include a statement prescribed by the bill in a font size also prescribed by the bill; * be placed in a prominent and reasonably visible location; and * have sufficiently high contrast with the immediate background to ensure the warning is likely to be seen and understood by the ordinary individual under customary conditions of purchase and use.   A food manufacturer or retailer that offers an applicable product described by the bill for sale in Texas on the manufacturer's or retailer's website to disclose to the consumer all such labeling information required under the bill and DSHS rule by posting a legible statement on the applicable website on which the product is offered for sale or otherwise communicating the information to the consumer. For these purposes, "food manufacturer" includes any manufacturer that offers a food product for sale in Texas, regardless of where the product was originally produced. These provisions do not apply to an ingredient used in a product not intended for human consumption or food labeled, prepared, served, or sold in a restaurant or retail establishment. These bill provisions expressly do not create a private cause of action for a violation of these provisions. The bill requires the executive commissioner of HHSC to adopt rules to implement these provisions not later than December 31, 2025. These provisions apply only to a food product label developed or copyrighted on or after January 1, 2027.  C.S.H.B. 25 authorizes the attorney general to bring an action on behalf of the state to enjoin a manufacturer from violating the bill's provisions relating to the requirement to include a warning label of certain ingredients in a product intended for human consumption, if the attorney general believes the manufacturer has violated such provisions. In addition to seeking an injunction under this provision, the attorney general may request and the court may order any other relief that may be in the public interest, including the following:   * the imposition of a civil penalty in an amount not to exceed $50,000 per day for each distinct food product in violation of the bill's requirement to include such a label; and * an order requiring reimbursement to the state for the reasonable value of investigating and bringing an enforcement action for such a violation.   **Continuing Education in Nutrition and Metabolic Health**  Physicians  C.S.H.B. 25 amends the Occupations Code to require a physician licensed under the Medical Practice Act who submits an application for renewal of a license to practice medicine to complete continuing medical education regarding nutrition and metabolic health in accordance with this provision and rules adopted under this provision. The bill requires the Texas Medical Board (TMB), not later than December 31, 2026, to adopt rules to implement this provision. The rules must prescribe the following:   * the number of hours of the continuing medical education required by this provision; and * the content of the required continuing medical education based on the nutritional guidelines recommended by the Texas Nutrition Advisory Committee established under the bill's provisions.   This provision applies only to an application for license renewal filed on or after January 1, 2027. An application for license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.  Physician Assistants  C.S.H.B. 25 requires a person licensed as a physician assistant under the Physician Assistant Licensing Act, as part of the continuing medical education requirements under that act, to complete continuing medical education regarding nutrition and metabolic health in accordance with this bill provision and rules adopted under this provision. The bill requires the TMB, not later than December 31, 2026, on recommendations of the physician assistant board, to adopt rules to implement this provision. The rules must prescribe the following:   * the number of hours of the continuing medical education required by this provision; and * the content of the continuing medical education required by this provision based on the nutritional guidelines recommended by the Texas Nutrition Advisory Committee established under the bill's provisions.   This provision applies only to an application for license renewal filed on or after January 1, 2027. An application for license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.  Nurses  C.S.H.B. 25 requires a person licensed as a nurse under the Nursing Practice Act, as part of the continuing medical education requirements under that act, to complete continuing education regarding nutrition and metabolic health in accordance with this provision and rules adopted under this provision. The bill requires the Texas Board of Nursing, not later than December 31, 2026, to adopt rules to implement this provision. The rules must prescribe the following:   * the number of hours of the continuing medical education required under this provision; and * the content of the required continuing medical education required by this provision based on the nutritional guidelines recommended by the Texas Nutrition Advisory Committee established under the bill's provisions.   This provision applies only to an application for license renewal filed on or after January 1, 2027. An application for license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.  Dietitians  C.S.H.B. 25 requires the Texas Commission of Licensing and Regulation (TCLR) by rule to adopt and the Texas Department of Licensing and Regulation (TDLR) to monitor and enforce a program for the continuing education of a person licensed as a dietitian under the Licensed Dietitian Act as a condition for license renewal under the act. Those rules must, as follows:   * require a license holder to complete not more than 12 hours of continuing education as a prerequisite for license renewal under the act; and * prescribe a process to assess a license holder's participation in continuing education courses.   This provision applies only to an application for license renewal filed on or after January 1, 2027. An application for license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.  C.S.H.B. 25 makes a person's failure to complete the preceding continuing education requirements grounds for TDLR and TCLR to refuse renewal of the license.  C.S.H.B. 25 requires a person licensed as a dietitian under the act to complete continuing education regarding nutrition and metabolic health, as required under the aforementioned continuing education requirement added by the bill, in accordance with this provision and rules adopted under this provision. The bill requires TCLR, not later than December 31, 2026, to adopt rules to implement this provision. The rules must prescribe the following:   * the number of hours of the continuing education required under this provision; and * the content of the continuing education required by this provision based on the nutritional guidelines recommended by the Texas Nutrition Advisory Committee as established under the bill's provisions.   This provision applies only to an application for license renewal filed on or after January 1, 2027. An application for license renewal filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose. |
| **EFFECTIVE DATE**  September 1, 2025. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.B. 25 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.  **Texas Nutrition Advisory Committee**  Both the introduced and the substitute include a Health and Safety Code provision establishing the committee and providing for the gubernatorial appointment of committee members and both versions include the identical procedural provision, Internet posting provision, and initial reporting requirement. However, they differ as follows:   * the substitute includes as a committee member at least one expert in culinary medicine, lifestyle medicine, or integrative medicine as alternative choices for the expert in metabolic health, whereas the introduced did not provide these alternative choices for that expertise; * the substitute includes as a committee member one pediatrician specializing in metabolic health, whereas the introduced did not; * the introduced contained a provision absent from the introduced that expressly prohibited the governor from appointing an individual to the committee if the individual owns or controls a three percent or greater ownership interest in a food, beverage, or pharmaceutical manufacturing company or is related within the third degree of consanguinity to such an individual; * the substitute includes a provision absent from the introduced making an individual ineligible for appointment to the committee if the person owns or controls a food, beverage, dietary supplement, or pharmaceutical manufacturing company or is so related within the third degree of consanguinity to such an individual; * whereas both the introduced and the substitute require disclosure of all past or existing affiliations with food, beverage, or pharmaceutical manufacturing companies, the substitute requires an individual to disclose all past or existing affiliations with a dietary supplement company, whereas the introduced did not include this requirement regarding such a dietary supplement company; and * while the introduced established that advisory committee members serve staggered two-year terms, the substitute establishes that such members serve staggered four-year terms.   **Physical Education and Nutrition Curriculum Requirements for Public School Districts and Open-Enrollment Charter Schools**  The substitute includes the following Education Code provisions that are absent from the introduced:   * provisions making applicable to an open-enrollment charter school the same requirements, and exceptions to those requirements, for certain daily physical activity of the applicable enrolled students for the prescribed amount of time that are currently applicable to a school district; * a provision that revises the authorized exemption from the daily physical activity requirement 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 to explicitly require the commissioner of education to permit such an exemption on such provision; * a provision, and its related procedural provision, requiring the SBOE, in adopting the state curriculum standards for the health curriculum for certain grade levels, to adopt standards that include nutrition instruction based on nutritional guidelines recommended by the advisory committee; and * a provision, and its related procedural provision, requiring each school district and open-enrollment charter school offering a high school program to provide an elective course in nutrition and wellness.   Both the introduced and the substitute prohibit a district or school employee, in providing an applicable physical education curriculum, from restricting participation by certain students in recess or certain other physical activities. However, the substitute does not contain the related procedural provision contained in the introduced that made that prohibition applicable beginning with the 2026-2027 school year.  **Nutrition Curriculum Requirements at Health-Related Institutions of Higher Education**  Both the introduced and the substitute include Education Code provisions conditioning the award of a grant or other distribution of money to certain health-related institutions of higher education from the permanent health fund for higher education, the separate permanent endowment fund established for the benefit of specific institutions, the permanent fund for higher education nursing, allied health, and other health-related programs, and the permanent fund for minority health research and education on the institution requiring the relevant students to successfully complete a nutrition curriculum. However, the introduced referred to the relevant students or students in other health-related majors while the substitute refers to the relevant students or students in other majors related to health care service provision.  The substitute includes a provision and its related procedural provision absent from the introduced requiring the THECB by rule to require public institutions of higher education to require each student enrolled in an associate or baccalaureate degree program at the institution to complete a course of instruction in nutrition education.  **Manufacturer Warning Label Disclosing Artificial Color, Additives, or Banned Chemicals**  Both the introduced and the substitute include a provision setting out a warning label requirement for a food manufacturer, both require the disclosure on that label of the use of certain specified ingredients used in a product, and both require an additional statement on the label if the food contains certain other ingredients. However, the provisions differ as follows:   * with respect to the warning label requirement:   + the introduced required a food manufacturer to label each product the manufacturer offers for sale with the warning label disclosing the use of any artificial color or food additive or of a chemical ingredient banned by Canada, the European Union, or the United Kingdom; whereas   + the substitute requires a food manufacturer to ensure each food product the manufacturer offers for sale in Texas includes such a warning label disclosing the use of any of the 52 types of ingredients specified by the substitute in a product intended for human consumption; * with respect to the additional statement on the warning label:   + the introduced, as follows:     - required at least one of two statements, one of which warns of the artificial color or food additive with the other statement warning of exposure to the banned chemical ingredient;     - specified that the font size of either of the statements is not smaller than the largest font used to disclose other consumer information; and     - included for the first of the two statements prescribed language warning that the product contains artificial color or a food additive and an instruction to visit an FDA website and included for the second of the two statements prescribed language warning that the product may expose the consumer to a chemical banned by the applicable country; whereas   + the substitute, as follows:     - requires a statement if the food contains any of the substitute's 52 specified ingredients;     - specifies that the font size of the statement is not smaller than the smallest font used to disclose other consumer information required by the FDA; and     - includes prescribed language warning that the food product contains an ingredient that is not recommended for human consumption by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom; and * with respect to the prospective application of the warning label requirements:   + the introduced established such applicability to the labeling of food products manufactured on or after January 1, 2026; whereas   + the substitute establishes the applicability to a food product label developed or copyrighted on or after January 1, 2027.   Both the introduced and the substitute make their respective version of the warning label requirement and disclosure provision also applicable to a food manufacturer that offers for sale on the manufacturer's website a product for human consumption containing the versions' applicable ingredients and both require the posting of a legible statement on the manufacturer's website. However, the substitute does the following, in provisions absent from the introduced, with respect to that provision:   * makes the requirements also applicable to a retailer; * requires that retailer to post the legible statement on the retailer's website; and * specifies that the website on which the manufacturer or retailer must post the legible statement is the website on which the product is offered for sale.   The substitute includes a provision not in the introduced establishing that "food manufacturer" includes any manufacturer that offers a food product for sale in Texas, regardless of where the product was originally produced.  The substitute includes the following provisions not in the introduced with respect to the application of the warning label requirements:   * provisions establishing that such provisions do not apply to an ingredient used in a product not intended for human consumption or food labeled, prepared, served, or sold in a restaurant or retail establishment; * a provision establishing that the bill's provisions expressly do not create a private cause of action for a violation of its provisions; * provisions authorizing the attorney general to bring an action on behalf of the state to enjoin the manufacturer from a violation of such bill provisions; and * an authorization for the attorney general and court to request and order, respectively, any other relief that may be in the public interest.   **Continuing Education in Nutrition and Metabolic Health**  Both the introduced and the substitute contain Occupations Code provisions that require the TMB to adopt rules prescribing the content of the continuing education required by the bill for physicians, but they differ as follows:   * the introduced required the rules to prescribe such content by using the nutritional guidelines provided by the advisory committee; whereas * the substitute requires such rules to prescribe the content based on the nutritional guidelines recommended by the advisory committee.   The substitute includes provisions absent from the introduced requiring the TMB and the Texas Board of Nursing to adopt rules prescribing the content of the continuing education required by the bill for physician assistants and nurses and the related procedural provisions for physicians assistants and nurses licensed under the Physician Assistant Licensing Act and Nursing Practice Act, respectively.  The substitute includes general continuing education requirements for license renewal, specific continuing education requirements related to nutrition and metabolic health, grounds for refusing the renewal of such a license, and related procedural provisions for dietitians licensed under the Licensed Dietitian Act, whereas the introduced did not include any provisions regarding dietitians. |