

## **BILL ANALYSIS**

Senate Research Center

S.B. 25  
By: Kolkhorst  
Health & Human Services  
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Enrolled

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

The U.S. spends \$4.5 trillion annually on healthcare, with 90% of those healthcare expenditures on chronic and mental health conditions. The food industry grosses \$1.46 trillion annually, of which 45%, is gross profit.

Despite exorbitant healthcare spending, American health is rapidly declining, as seen by key measures, including a 79% increase in early-onset (under 50 years of age) cancers. Ten of the seventeen cancers whose rates increased were related to excess body weight. Obesity now affects 20% of children and 42% of adults. Type 1 diabetes has nearly doubled in the past 40 years. Although obesity is linked heavily to chronic illness, American diets are often overlooked. Instead, drug companies bring drugs to market to treat obesity by suppressing hunger signals, as opposed to addressing the root cause.

Recent studies show the link between an increased ultra-processed foods diet and an increased risk of early mortality. Ultra-processed food makes up 73% of the US food supply. The American daily diet consists of a 57% consumption of ultra-processed foods, which is shown to link to depression, obesity, type 2 diabetes, cancer, and cardiovascular disease. On average, ultra-processed foods are 52% cheaper than minimally processed alternatives.

The U.S. is 4% of the total world population and produces at least 64% of the world's pharma profits, yet we rank 60th in the world for life expectancy. The healthcare industry has ignored the issues related to chronic disease and instead focuses on using the medical profession to prescribe medication and increase profits.

Understanding the root causes of increased chronic diseases is of growing significance to policymakers. Changes in diet and the role of ultra-processed foods in chronic health conditions are possible contributing factors to the trends outlined above. C.S.S.B. 25 seeks to remedy this by addressing chronic disease through nutrition education, enhanced physical activity requirements, and examining who controls our food system.

#### **Key Provisions**

- Establishes a nutrition advisory council with a focus on metabolic health, functional medicine, and chronic disease.
- Requires food labels to warn consumers which ingredients are banned in other countries.
- Requires daily physical education and prohibits the removal of recess, physical education, and sports practice for disciplinary reasons.
- Requires updated nutrition training for all Texas physicians, medical residents, and medical students.

#### **Committee Substitute Changes**

- Expands physical education requirements and prohibitions to charter schools.
- Expands required nutrition education to Texas high schools and institutions of higher education.
- Removes the three percent ownership interest in a food, beverage, or pharmaceutical company.

- Prohibits an individual from asserting a private right of action against a manufacturer for improper labeling.
- Authorizes the attorney general to assert a claim against a manufacturer for improper labeling.
- Includes a set list of ingredients banned in Australia, the UK, the EU, and Canada to be used for labeling purposes.
- Applies only to a food product label developed or copyrighted on or after January 1, 2027.

S.B. 25 amends current law relating to health and nutrition standards to promote healthy living, including requirements for food labeling, primary and secondary education, higher education, and continuing education for certain health care professionals and authorizes a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 3 (Section 51.3025, Education Code) of this bill.

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 8 (Section 119B.008, Health and Safety Code) and SECTION 19 of this bill.

Rulemaking authority is expressly granted to the Texas Medical Board in SECTION 10 (Section 156.061, Occupations Code) and SECTION 11 (Section 204.1563, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Board of Nursing in SECTION 12 (Section 301.309, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Licensing and Regulation in SECTION 13 (Sections 701.302 and 701.303, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 28.002, Education Code, by amending Subsections (1) and (1-1) and adding Subsections (1-4) and (u), as follows:

(1) Requires a school district or open-enrollment charter school to require a student enrolled in full-day prekindergarten, in kindergarten, or in a grade level below grade six to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year as part of the district's or school's physical education curriculum or through structured activity during a school campus's daily recess. Makes conforming changes.

(1-1) Requires, rather than authorizes, the commissioner of education (commissioner), in adopting rules relating to an activity described by Subsection (1)(2) (relating to requiring a school district or open-enrollment charter school to provide for an exemption for a middle school or junior high school student who participates in certain activities), to permit an exemption for a student who participates in a school-related activity or an activity sponsored by a private league or club if, rather than only if, the student provides proof of participation in the activity.

(1-4) Prohibits a school employee, in providing a physical education curriculum under Subsection (1), from restricting participation in recess or other physical activity offered as part of the district's or 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 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.

(u) Requires the State Board of Education (SBOE), in adopting the essential knowledge and skills for the health curriculum under Subsection (a)(2)(B) (relating to requiring each school district that offers kindergarten through grade 12 to offer, as a required curriculum, an enrichment curriculum that includes health, with an emphasis on certain kinds of health) for a grade level from kindergarten through grade eight, to adopt essential knowledge and skills that include nutrition instruction based on nutritional guidelines recommended by the Texas Nutrition Advisory Committee established under Chapter 119B, Health and Safety Code (advisory committee).

SECTION 2. Amends Subchapter A, Chapter 28, Education Code, by adding Section 28.0115, as follows:

Sec. 28.0115. **ELECTIVE COURSE ON NUTRITION AND WELLNESS.** 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 Section 28.025 (High School Diploma and Certificate; Academic Achievement Record), using materials SBOE approves. Provides that the nutrition instruction is required to include curriculum requirements based on nutritional guidelines recommended by the advisory committee and is authorized to incorporate other relevant material, including culinary skills, horticulture, and consumer economics.

SECTION 3. Amends Subchapter F, Chapter 51, Education Code, by adding Section 51.3025, as follows:

Sec. 51.3025. **NUTRITION EDUCATION COURSEWORK.** (a) Defines "institution of higher education."

(b) Requires the Texas Higher Education Coordinating Board by rule to require institutions of higher education to provide the opportunity for students enrolled in an associate or baccalaureate degree program at the institution to complete a course of instruction in nutrition education. Requires that the course include curriculum requirements based on nutritional guidelines recommended by the advisory committee.

SECTION 4. Amends Subchapter A, Chapter 63, Education Code, by adding Section 63.0025, as follows:

Sec. 63.0025. **REQUIRED NUTRITION CURRICULUM.** Provides that a health-related institution of higher education listed in Section 63.002(c) (relating to providing that the amount available for distribution from the permanent health fund for higher education is authorized to be appropriated only for certain programs at certain institutions of higher education) is eligible for distribution of money under Subchapter A (Permanent Health Fund for Higher Education) only if the institution:

- (1) develops nutrition curriculum requirements based on nutrition guidelines recommended by the advisory committee; and
- (2) requires all medical students or students in other majors related to health care service provision who are enrolled at the institution to successfully complete the curriculum requirements developed under Subdivision (1).

SECTION 5. Amends Subchapter B, Chapter 63, Education Code, by adding Section 63.103, as follows:

Sec. 63.103. **REQUIRED NUTRITION CURRICULUM.** Provides that a health-related institution of higher education listed in Section 63.101(a) (relating to providing that a separate permanent endowment fund is established for the benefit of each of certain institutions of higher education) is eligible for distribution of money from a fund established under Subchapter B (Permanent Funds for Health-Related Institutions) only if the institution:

- (1) develops nutrition curriculum requirements based on nutrition guidelines recommended by the advisory committee; and
- (2) requires all medical students or students in other majors related to health care service provision who are enrolled at the institution to successfully complete the curriculum requirements developed under Subdivision (1).

SECTION 6. Amends Subchapter C, Chapter 63, Education Code, by adding Section 63.2025, as follows:

Sec. 63.2025. **REQUIRED NUTRITION CURRICULUM.** Provides that a health-related institution providing graduate medical education is eligible for a grant award under Subchapter C (Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-Related Programs) if the institution:

- (1) develops nutrition curriculum requirements based on nutrition guidelines recommended by the advisory committee; and
- (2) requires all students in nursing, allied health, or other majors related to health care service provision who are enrolled at the institution to successfully complete the curriculum requirements developed under Subdivision (1).

SECTION 7. Amends Subchapter D, Chapter 63, Education Code, by adding Section 63.303, as follows:

Sec. 63.303. **REQUIRED NUTRITION CURRICULUM.** Provides that a health-related institution providing graduate medical education is eligible for a grant award under Subchapter D (Permanent Fund for Minority Health Research and Education) only if the institution:

- (1) develops nutrition curriculum requirements based on nutrition guidelines recommended by the advisory committee established under Chapter 119B, Health and Safety Code; and
- (2) requires all medical students or students in other majors related to health care service provision who are enrolled at the institution to successfully complete the curriculum requirements developed under Subdivision (1).

SECTION 8. Amends Subtitle E, Title 2, Health and Safety Code, by adding Chapter 119B, as follows:

CHAPTER 119B. TEXAS NUTRITION ADVISORY COMMITTEE

Sec. 119B.001. **DEFINITION.** Defines "advisory committee."

Sec. 119B.002. **ADVISORY COMMITTEE ESTABLISHED.** Provides that the advisory committee is established to develop nutritional guidelines for residents of this state. Provides that the advisory committee is administratively attached to the Department of State Health Services (DSHS).

Sec. 119B.003. **MEMBERSHIP.** (a) Provides that the advisory committee is composed of seven members appointed by the governor, including certain professionals and representatives.

- (b) Requires the governor, in appointing the advisory committee members, to consider recommendations provided by the chairs of certain committees, 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.

(c) Provides that an individual is ineligible for appointment to the advisory committee if the individual owns or controls an ownership interest in a food, beverage, or pharmaceutical manufacturing company or is related within the third degree of consanguinity or affinity, as determined by Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, to an individual who owns or controls an ownership interest in a food, beverage, dietary supplement, or pharmaceutical manufacturing company.

(d) Requires an individual, before accepting an appointment under this section, 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. Provides that an advisory committee member who fails to disclose an affiliation described by this subsection is subject to removal by the governor.

(e) Provides that advisory committee members serve staggered four-year terms.

Sec. 119B.004. ADVISORY COMMITTEE DUTIES. Requires the advisory committee to:

(1) 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;

(2) provide an independent review of scientific studies analyzing the effects of ultra-processed foods on human health;

(3) provide education on the effects of ultra-processed foods on human health; and

(4) develop and maintain dietary and nutritional guidelines based on the consensus of available scientific studies and information concerning diet and nutrition.

Sec. 119B.005. ANNUAL REPORT. 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.

Sec. 119B.006. DEPARTMENT NUTRITIONAL GUIDELINES WEB PAGE. (a) Requires DSHS to post on a publicly available web page on DSHS's Internet website the guidelines developed under Section 119B.004 in a manner that is easily accessible and readily understandable.

(b) Requires DSHS to annually update information posted under this section based on the report submitted under Section 119B.005.

Sec. 119B.007. EXPIRATION. Provides that the advisory committee is abolished and this chapter expires December 31, 2032.

Sec. 119B.008. RULES. Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules as necessary to implement this chapter.

SECTION 9. Amends Subchapter D, Chapter 431, Health and Safety Code, by adding Sections 431.0815, 431.0816, and 431.0817, as follows:

Sec. 431.0815. **FOOD CONTAINING ARTIFICIAL COLOR, ADDITIVES, OR CERTAIN BANNED CHEMICALS.** (a) Requires a food manufacturer to ensure each food product the manufacturer offers for sale in this state includes a warning label disclosing the use of any of certain ingredients, if the United States Food and Drug Administration requires the ingredient to be named on a food label and the ingredient is used in a product intended for human consumption.

(b) Requires that the warning label include a certain statement if the food contains an ingredient listed in Subsection (a) printed in a font size not smaller than the smallest font used to disclose other consumer information required by the United States Food and Drug Administration, 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.

(c) Requires a food manufacturer or, to the extent a food manufacturer provides the information required under this section to a retailer, a retailer that offers a product described by Subsection (a) for sale in this state on the manufacturer's or retailer's Internet website to disclose to the consumer all labeling information required under Subsection (b) and DSHS rule by posting a legible statement on the manufacturer's or retailer's Internet website on which the product is offered for sale or otherwise communicating the information to the consumer.

(d) Provides that this section does not apply to certain products, ingredients, or chemicals.

(e) Provides that this section does not create a private cause of action for a violation of this section.

(f) Defines "food manufacturer."

Sec. 431.0816. **ENFORCEMENT BY ATTORNEY GENERAL.** (a) Authorizes the attorney general, if the attorney general believes a manufacturer has violated or is violating Section 431.0815, to bring an action on behalf of this state to enjoin the manufacturer from violating that section.

(b) Provides that, in addition to seeking an injunction under Subsection (a), the attorney general is authorized to request and the court is authorized to order any other relief that may be in the public interest, including the imposition of a civil penalty in an amount not to exceed \$50,000 per day for each distinct food product in violation of Section 431.0815 and an order requiring reimbursement to this state for the reasonable value of investigating and bringing an enforcement action for a violation of Section 431.0815.

Sec. 431.0817. **FEDERAL PREEMPTION.** Provides that, on and after September 1, 2025, and the effective date of a federal law or regulation issued by the United States Food and Drug Administration or the United States Department of Agriculture, Section 431.0815 has no effect if:

(1) for a specific ingredient, including a food additive and color additive, listed under Section 431.0815(a), the law or regulation prohibits the use of the ingredient, imposes conditions on the use of the ingredient, including a condition requiring a warning or disclosure statement, or determines an ingredient or class of ingredients is safe for human consumption; or

(2) the law or regulation requires a labeling statement relating to ultra-processed or processed foods.

SECTION 10. Amends Subchapter B, Chapter 156, Occupations Code, by adding Section 156.061, as follows:

Sec. 156.061. CONTINUING EDUCATION IN NUTRITION AND METABOLIC HEALTH. (a) Requires a physician licensed under Subtitle B (Physicians) who submits an application for renewal of a license to practice medicine to complete, in accordance with this section and rules adopted under this section, continuing medical education regarding nutrition and metabolic health.

(b) Requires the Texas Medical Board (TMB) to adopt rules to implement this section. Requires that the rules prescribe the number of hours of the continuing medical education required by this section and the content of the continuing medical education required by this section based on the nutritional guidelines recommended by the advisory committee.

SECTION 11. Amends Subchapter D, Chapter 204, Occupations Code, by adding Section 204.1563, as follows:

Sec. 204.1563. CONTINUING MEDICAL EDUCATION IN NUTRITION AND METABOLIC HEALTH. (a) Requires a license holder, as part of continuing medical education requirements under Section 204.1562 (Continuing Medical Education Requirements), in accordance with this section and rules adopted under this section, to complete continuing medical education regarding nutrition and metabolic health.

(b) Requires TMB, on recommendations of the Texas Physician Assistant Board, to adopt rules to implement this section. Requires that the rules prescribe the number of hours of the continuing medical education required by this section and the content of the continuing medical education required by this section based on the nutritional guidelines recommended by the advisory committee.

SECTION 12. Amends Subchapter G, Chapter 301, Occupations Code, by adding Section 301.309, as follows:

Sec. 301.309. CONTINUING EDUCATION IN NUTRITION AND METABOLIC HEALTH. (a) Requires a license holder, as part of continuing education requirements under Section 301.303 (Continuing Competency), in accordance with this section and rules adopted under this section, to complete continuing education regarding nutrition and metabolic health.

(b) Requires the Texas Board of Nursing (BON) to adopt rules to implement this section. Requires that the rules prescribe the number of hours of the continuing education required by this section and the content of the continuing education required by this section based on the nutritional guidelines recommended by the advisory committee.

SECTION 13. Amends Subchapter G, Chapter 701, Occupations Code, by adding Sections 701.302 and 701.303, as follows:

Sec. 701.302. CONTINUING EDUCATION REQUIREMENTS. 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 license holders as a condition for license renewal. Requires that the rules require a license holder to complete not more than 12 hours of continuing education as a prerequisite to renewal of the license under Chapter 701 (Dietitians) and prescribe a process to assess a license holder's participation in continuing education courses.

Sec. 701.303. CONTINUING EDUCATION IN NUTRITION AND METABOLIC HEALTH. (a) Requires a license holder, as part of the continuing education requirements under Section 701.302, in accordance with this section and rules adopted under this section, to complete continuing education regarding nutrition and metabolic health.

(b) Requires TCLR to adopt rules to implement this section. Requires that the rules prescribe the number of hours of the continuing education required by this section and the content of the continuing education required by this section based on the nutritional guidelines recommended by the advisory committee.

SECTION 14. Amends Section 701.304, Occupations Code, to authorize TCLR or TDLR to refuse to renew the license of a person who fails to perform certain actions, including completing the continuing education requirements under Section 701.302, and to make nonsubstantive changes.

SECTION 15. Provides that Sections 28.002(u) and 28.0115, Education Code, as added by this Act, apply beginning with the 2027–2028 school year.

SECTION 16. Makes application of Section 51.3025, Education Code, as added by this Act, prospective to July 1, 2027.

SECTION 17. (a) Requires a health-related institution of higher education, not later than July 1, 2027, to develop and implement curriculum required by Sections 63.0025, 63.103, 63.2025, and 63.303, Education Code, as added by this Act, to remain eligible for funding under those sections.

(b) Provides that a health-related institution of higher education is not required to comply with Sections 63.0025, 63.103, 63.2025, and 63.303, Education Code, as added by this Act, until July 1, 2027.

SECTION 18. (a) Requires the governor, not later than December 31, 2025, to appoint the members of the advisory committee established under Chapter 119B, Health and Safety Code, as added by this Act, and to provide for staggered member terms as required by that chapter.

(b) Requires the advisory committee, not later than September 1, 2026, 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 the initial report required under Section 119B.005, Health and Safety Code, as added by this Act.

(c) Requires DSHS, as soon as practicable after the submission of the report under Subsection (b) of this section, to post information required under Section 119B.006, Health and Safety Code, as added by this Act, on DSHS' Internet website.

SECTION 19. (a) Requires the executive commissioner, not later than December 31, 2025, to adopt rules to implement changes made by Section 431.0815, Health and Safety Code, as added by this Act.

(b) Makes application of Section 431.0815, Health and Safety Code, as added by this Act, prospective to January 1, 2027.

SECTION 20. (a) Makes application of Section 156.061, Occupations Code, as added by this Act, prospective to January 1, 2027.

(b) Requires TMB to adopt the rules required by Section 156.061, Occupations Code, as added by this Act.

SECTION 21. (a) Makes application of Section 204.1563, Occupations Code, as added by this Act, prospective.



(b) Requires TMB, not later than December 31, 2026, to adopt the rules required by Section 204.1563, Occupations Code, as added by this Act.

SECTION 22. (a) Makes application of Section 301.309, Occupations Code, as added by this Act, prospective.

(b) Requires BON, not later than December 31, 2026, to adopt the rules required by Section 301.309, Occupations Code, as added by this Act.

SECTION 23. (a) Makes application of Sections 701.302 and 701.303, Occupations Code, as added by this Act, prospective to January 1, 2027.

(b) Requires TCLR, not later than December 31, 2026, to adopt rules required by Sections 701.302 and 701.303, Occupations Code, as added by this Act.

SECTION 24. Effective date: September 1, 2025.