

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 26, 2025

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB25** by Kolkhorst (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; authorizing a civil penalty.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB25, As Passed 2nd House: a negative impact of (\$6,406,053) through the biennium ending August 31, 2027.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2026	(\$2,850,922)
2027	(\$3,555,131)
2028	(\$3,560,411)
2029	(\$3,564,803)
2030	(\$3,569,291)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2025</i>
2026	(\$2,850,922)	24.0
2027	(\$3,555,131)	24.0
2028	(\$3,560,411)	24.0
2029	(\$3,564,803)	24.0
2030	(\$3,569,291)	24.0

Fiscal Analysis

The bill would require students in grade levels six, seven, and eight to participate in moderate or vigorous daily physical activity for at least 30 minutes for four semesters as part of the school district's or open-enrollment charter school's physical education curriculum. Some exemptions would be allowed.

The bill would prohibit school employees from restricting student participation in recess and physical activities offered as part of a school district's or school's physical education curriculum in kindergarten and grade levels one through eight based on academic performance or behavior.

The bill would require each school district's and open-enrollment charter school's high school programs to provide a one-half elective credit in nutrition and wellness education using materials approved by the State Board of Education and based on nutritional guidelines recommended by the Texas Nutrition Advisory Committee.

The bill would require institutions of higher education to provide an opportunity for each associate or baccalaureate degree program student to complete a course in nutrition education that is based on recommendations by the Texas Nutrition Advisory Committee.

The bill would require health-related institutions of higher education to implement nutrition guidelines recommended by the Texas Nutrition Advisory Committee into curriculum requirements for medical students, nursing students, allied health majors, and other majors related to health care service provision to receive funding from permanent funds outlined in Chapter 63 of the Texas Education Code.

The bill would establish the Texas Nutrition Advisory Committee to develop nutritional guidelines for the state consisting of seven members appointed by the Governor. The advisory committee would be administratively attached to the Department of State Health Services (DSHS).

The bill would require the Texas Nutrition Advisory Committee to produce an annual report to be submitted 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 bill would require DSHS to maintain a website with nutritional guidelines and the annual report developed by the Texas Nutrition Advisory Committee.

The Health and Human Services Commission executive commissioner may adopt rules as necessary to implement Texas Nutrition Advisory Committee establishment and duties. The advisory committee and the related chapter shall expire on December 31, 2032.

The bill would require food manufacturers to include a warning label on each product it offers for sale in the state disclosing the use 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 for human consumption. The warning label would include language that states that the product contains an ingredient that is not recommended by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom. Products for sale in the state on the manufacturer's or retailer's Internet website shall include the warning label information on the website on which the product is offered for sale or through another communication to the consumer. The bill would allow for certain exemptions.

The bill would allow for preemption of warning labels for specific ingredients if a federal law or regulation prohibits the use of the ingredient, imposes conditions on the use of the ingredient, or determines an ingredient or class safe for human consumption; or the law or regulation requires a labeling statement relating to ultra-processed or processed foods.

The bill would authorize the Attorney General to enforce labeling requirements by food manufacturers by seeking an injunction, through civil penalties and reimbursements for reasonable value of investigating and bringing an enforcement action for violations.

The bill would require licensed physicians, physician assistants, nurses, and dietitians to complete continuing medical education regarding nutrition and metabolic health. The Texas Medical Board, Texas Board of Nursing, and Texas Commission of Licensing and Regulation shall adopt rules to implement requirements.

The bill would authorize the Texas Department of Licensing and Regulation to monitor and enforce the dietitian continuing education program and provides grounds for refusing renewal. The bill provides new provisions to be applicable for renewals filed on or after January 1, 2027, after rules have been adopted by the Texas Commission of Licensing and Regulation by December 31, 2026.

Methodology

According to DSHS, 24.0 full-time equivalent positions (FTEs) would be needed to implement the provisions of the bill. This analysis assumes costs for salaries and benefits for these positions total \$2.2 million in fiscal year 2026 and \$2.9 million in fiscal year 2027, all from the General Revenue Fund. The lower cost in fiscal year 2026 is attributable to an assumed start date for the positions later in the fiscal year. Additional costs for these positions total \$0.6 million from the General Revenue Fund in fiscal year 2026 and \$0.5 million from the General Revenue Fund in fiscal year 2027.

To support the regular operations of the newly created Texas Nutrition Advisory Committee, a Program Specialist V position (1.0 FTE) would be needed to provide administrative support, including organizing meetings and agendas, report drafting, establishing bylaws and rules, and establishing the webpage. A Research Specialist V position (1.0 FTE) would assist the advisory committee with research, literature reviews, and collection of recommendations for the required report.

Requirements for labeling foods by food manufacturers would require Sanitarian III positions (2.0 FTEs) to serve as compliance officers to review and endorse inspection reports and prepare new enforcement cases resulting from the new labeling requirements. These positions would also aid in the development of inspection and enforcement procedures, manage complaints, respond to increased stakeholder inquiries, and provide specialized knowledge in food, color, and chemical additives.

Additional Sanitarian III positions (12.0 FTEs) would inspect the largest, most complex food retailers and manufacturers with products covered by the bill's requirements, with a goal to verify compliance with an inspection once every five years. Five of these positions would be needed for retailers while seven would be needed for food manufacturers. These positions also help Managing Inspectors with quality assurance and training responsibilities. Sanitarian II positions (5.0 FTEs) would inspect food manufacturers with products covered by the bill's requirements, with a goal to verify compliance with an inspection once every five years. Travel costs for inspector Sanitarian II and Sanitarian III positions are estimated to total \$0.1 million from the General Revenue Fund in each fiscal year.

A Manager IV position (1.0 FTE) would manage the team of inspectors, which would include scheduling, training, and quality assurance of inspection activities.

A Program Specialist III position (1.0 FTE) would process new cases through the agency compliance process, and an Attorney IV position (1.0 FTE) would process new cases through due process.

This analysis assumes a five-year inspection cycle. A shorter inspection cycle would require additional positions and incur additional costs to implement.

Additional workload at the Office of the Attorney General for enforcement activities would result in additional workload for the agency. However, those costs can be absorbed within existing resources.

According to the University of Houston System, University of North Texas System, Texas Tech University System, Texas State University System, University of Texas System, and Texas A&M University System, and the Higher Education Coordinating Board, any costs associated with implementation of the bill can be absorbed within existing resources.

According to the Health and Human Services Commission, any costs associated with rulemaking can be absorbed within existing resources.

According to the Texas Medical Board, Texas Board of Nursing, and Texas Department of Licensing and Regulation, any costs associated with new licensing requirements or rulemaking can be absorbed within existing resources.

This analysis assumes that any costs associated with developing additional school district or school requirements and a nutrition curriculum for high schools can be absorbed within existing resources by the Texas Education Agency.

According to the Comptroller of Public Accounts, state revenue could increase due to recovery of penalties and costs associated with violations; however, the extent to which it would impact state revenue cannot be estimated. Additionally, the amount of fund distributions and grants, under Chapter 63 of the Education Code, that would not be disbursed to health-related institutions or institutions of higher education that do not implement required nutrition guidelines are unknown; therefore, the fiscal impact on the state cannot be estimated.

Technology

Included in the costs described above are one-time and ongoing Information Technology (IT) costs for DSHS related to the additional 24.0 FTEs which total less than \$0.1 million in each fiscal year.

Additional IT costs for DSHS related to the modification of the Regulatory Automated System can be absorbed with existing resources.

Local Government Impact

School districts and charter schools may need additional staff and resources to provide students with two additional semesters of physical education in middle school. School districts and charter schools would need to make changes to master scheduling, may need to hire staff, and would need to purchase or develop materials to be used in providing instruction in the new nutrition course. However, the fiscal implications of the bill cannot be determined at this time.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 452 Department of Licensing and Regulation, 503 Texas Medical Board, 507 Texas Board of Nursing, 529 Health and Human Services Commission, 537 State Health Services, Department of, 701 Texas Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

LBB Staff: JMc, NPe, ER, APA, NV