

MISSISSIPPI LEGISLATURE

2007 Regular Session

To: Education; Appropriations

By: Senator(s) Chaney, Thomas, Clarke, Wilemon, King, Albritton, Burton, Butler, Chassaniol, Dawkins, Dearing, Gollott, Gordon, Harden, Hewes, Horhn, Jackson (11th), Jordan, Lee (47th), Michel, Morgan, Pickering, Ross, Tollison, Walls, White

## **Senate Bill 2369**

**(As Sent to Governor)**

AN ACT TO BE KNOWN AS THE MISSISSIPPI HEALTHY STUDENTS ACT; TO AMEND SECTION 37-13-134, MISSISSIPPI CODE OF 1972, TO REQUIRE A MINIMUM PERIOD OF PHYSICAL ACTIVITY-BASED INSTRUCTION AND A MINIMUM PERIOD OF HEALTH EDUCATION INSTRUCTION IN GRADES K-8, AS DEFINED BY THE STATE BOARD OF EDUCATION; TO REQUIRE ONE-HALF OF A CARNEGIE UNIT IN PHYSICAL EDUCATION OR PHYSICAL ACTIVITY IN GRADES 9-12 FOR GRADUATION; TO PROVIDE THAT BEGINNING WITH THE 2008-2009 SCHOOL YEAR, THE SCHOOL WELLNESS PLANS OF LOCAL SCHOOL DISTRICTS SHALL PROMOTE INCREASED PHYSICAL ACTIVITY, HEALTHY EATING HABITS AND ABSTINENCE FROM THE USE OF TOBACCO AND ILLEGAL DRUGS; TO REQUIRE THE APPROPRIATION OF SUFFICIENT STATE-SOURCE FUNDS FOR THE STATE DEPARTMENT OF EDUCATION TO EMPLOY A PHYSICAL ACTIVITY COORDINATOR TO ASSIST SCHOOL DISTRICTS IN THE IMPLEMENTATION OF PHYSICAL EDUCATION PROGRAMS; TO PROVIDE THAT THE STATUTORY DUTIES OF THE LOCAL SCHOOL HEALTH

COUNCILS SHALL BE MANDATORY RATHER THAN PERMISSIVE; TO DIRECT THE STATE BOARD OF EDUCATION TO ADOPT REGULATIONS, FOR COMPLIANCE BY SCHOOL DISTRICTS BEGINNING WITH THE 2008-2009 SCHOOL YEAR, THAT ADDRESS THE FOLLOWING AREAS: HEALTHY FOOD AND BEVERAGE CHOICES; HEALTHY FOOD PREPARATION; MARKETING OF HEALTHY FOOD CHOICES TO STUDENTS AND STAFF; FOOD PREPARATION INGREDIENTS AND PRODUCTS; MINIMUM AND MAXIMUM TIME ALLOTMENT FOR STUDENTS AND STAFF LUNCH AND BREAKFAST PERIODS; THE AVAILABILITY OF FOOD ITEMS DURING THE LUNCH AND BREAKFAST PERIODS; AND METHODS TO INCREASE PARTICIPATION IN THE CHILD NUTRITION SCHOOL BREAKFAST AND LUNCH PROGRAMS; TO PROVIDE THAT THE STATE SUPERINTENDENT OF PUBLIC EDUCATION SHALL APPOINT AN ADVISORY COMMITTEE TO ASSIST THE STATE BOARD OF EDUCATION IN DEVELOPING THE REGULATIONS REQUIRED BY THIS ACT; AND FOR RELATED PURPOSES.

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

**SECTION 1.** This act shall be known as the Mississippi Healthy Students Act.

**SECTION 2.** Section 37-13-134, Mississippi Code of 1972, is amended as follows:

37-13-134. (1) The Legislature recognizes that there is a problem with Mississippi student inactivity and obesity \* \* \*, and therefore requires the following guidelines for school district physical education, health education and physical activity and fitness classes:

Kindergarten through Grade 8: One hundred fifty (150) minutes per week of physical activity-based instruction and forty-five (45) minutes per week of health education instruction, as defined by the State Board of Education.

Grades 9 through 12: 1/2 Carnegie unit requirement in physical education or physical activity for graduation.

All instruction in physical education, health education and physical activity must be based on the most current state standards provided by the State Department of Education.

(2) Beginning with the 2006-2007 school year, each local school board shall, consistent with regulations adopted by the State Board of Education, adopt a school wellness plan which shall promote a healthy lifestyle for Mississippi's school children and staff. Beginning with the 2008-2009 school year, the school wellness plan shall also promote increased physical activity, healthy eating habits and abstinence from the use of tobacco and illegal drugs through programs that incorporate healthy lifestyle choices into core subject areas which may be developed in partnership with the Institute for America's Health.

(3) The Legislature shall appropriate sufficient state-source funds for \* \* \* the State Department of Education \* \* \* to employ a physical activity coordinator to assist districts on current and effective practices and on implementation of physical education and physical activity programs.

(4) The physical activity coordinator employed under Section 37-13-133 must have the qualifications prescribed in any of the following paragraphs, which are listed in the order of preference:

(a) A doctorate in physical education, exercise science or a highly related field, and at least three (3) years of experience in teaching physical education in Grades K-12 or in physical activity promotion/fitness leadership; or

(b) A master's degree in physical education, exercise science or a highly related field, and at least five (5) years of experience in teaching physical education in Grades K-12 or in physical activity promotion/fitness leadership; or

(c) A bachelor's degree in physical education, a teacher's license, and at least seven (7) years of experience in teaching physical education in Grades K-12 or in physical activity promotion/fitness leadership.

(5) The Governor's Commission on Physical Fitness and Sports created under Section 7-1-551 et seq., the Mississippi Council on Obesity Prevention and Management created under Section 41-101-1 et seq., the Task Force on Heart

Disease and Stroke Prevention created under Section 41-103-1 et seq., the Mississippi Alliance for Health, Physical Education, Recreation and Dance, and the Mississippi Alliance for School Health shall provide recommendations to the State Department of Education regarding the employment of the physical activity coordinator. The department shall consider the recommendations of those entities in employing the physical activity coordinator.

(6) The physical activity coordinator shall present a state physical activity plan each year to the Governor's Commission on Physical Fitness and Sports, the Mississippi Council on Obesity Prevention and Management, the Task Force on Heart Disease and Stroke Prevention, the Mississippi Alliance for Health, Physical Education, Recreation and Dance, and the Mississippi Alliance for School Health.

(7) The physical activity coordinator shall monitor the districts for adherence to current Mississippi school accountability standards and for implementation of the physical education curriculum on file with the State Department of Education. The State Department of Education shall monitor and act as a clearinghouse for the activities of the local school health councils established pursuant to subsection (8) of this section.

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(8) (a) The local school board of each school district shall establish a local school health council for each school which shall ensure that local community values are reflected in the local school's wellness plan to address school health. Such councils shall be established no later than November 1, 2006.

(b) The local school health council's duties shall include, but not be limited to, the following:

(i) Recommend age appropriate curriculum and the number of hours of instruction to be provided in health and physical activity-based education, provided that the number of hours shall not be less than that required by Section 37-13-134;

(ii) Recommend appropriate practices that \* \* \* include a coordinated approach to school health \* \* \* designed to prevent obesity, cardiovascular disease, Type II diabetes and other health risks, through coordination of:

1. Health education;
2. Physical education;
3. Nutritional services;
4. Parental/Community involvement;
5. Instruction to prevent the use of tobacco, drugs and alcohol;
6. Physical activity;
7. Health services;
8. Healthy environment; \* \* \*
9. Counseling and psychological services;
10. Healthy lifestyles; and
11. Staff wellness.

(iii) Provide guidance on the development and implementation of the local school wellness plan. \* \* \*

(c) The local school board shall appoint members to the local school health council. At a minimum, the school board shall appoint one (1) person from each of the following groups:

- (i) Parents who are not employed by the school district;
- (ii) The director of local school food services;
- (iii) Public schoolteachers;
- (iv) Public school administrators;
- (v) District students;
- (vi) Health care professionals;
- (vii) The business community;
- (viii) Law enforcement;
- (ix) Senior citizens;
- (x) The clergy;
- (xi) Nonprofit health organizations; and

(xii) Faith-based organizations.

(9) Nothing in this section shall be construed to prohibit or limit the sale or distribution of any food or beverage item through fund-raisers conducted by students, teachers, school groups, or parent groups when the items are intended for sale off the school campus.

**SECTION 3.** (1) The State Board of Education shall adopt regulations as provided in this section not later than March 1, 2008, which shall be effective for compliance by school districts beginning with the 2008-2009 school year, for the Child Nutrition School Breakfast and Lunch Programs that are not in conflict with the regulations of the United States Department of Agriculture (USDA). The regulations shall take into account the most recent and advanced scientific principles regarding good human health and fitness, and the effect of the regulations must be that the good health, well-being and fitness of Mississippi school children shall be advanced. The regulations shall include, but not be limited to, the following areas:

- (a) Healthy food and beverage choices;
- (b) Healthy food preparation;
- (c) Marketing of healthy food choices to students and staff;
- (d) Food preparation ingredients and products;
- (e) Minimum and maximum time allotment for students and staff lunch and breakfast periods;
- (f) The availability of food items during the lunch and breakfast periods of the Child Nutrition School Breakfast and Lunch Programs; and
- (g) Methods to increase participation in the Child Nutrition School Breakfast and Lunch Programs.

(2) To assist the State Board of Education in developing the regulations required by this section, the State Superintendent of Public Education shall appoint an advisory committee comprised of the following members: one (1) representative of the Office of Child Nutrition in the State Department of Education; one (1) member of the State Board of Education; one (1) licensed

dietitian; one (1) licensed physician; one (1) local public school superintendent; one (1) school food service director from each of the four (4) congressional districts; one (1) principal of a local public elementary or middle school; one (1) principal of a local public high school; the president of the Mississippi School Nutrition Association or his designee; one (1) member of the Senate, who shall serve in an advisory capacity only; and one (1) member of the House of Representatives, who shall serve in an advisory capacity only. All members of the advisory committee must be residents of the state and active practitioners in their respective fields. The State Superintendent shall appoint the members of the advisory committee not later than April 30, 2007, and shall designate the member who will be the chairman of the committee. The advisory committee shall hold its first meeting not later than June 1, 2007, and shall meet at such other times as necessary. The advisory committee shall make its recommendations to the State Board of Education on the regulations required by this section not later than October 15, 2007.

To effectuate the purposes of this section, upon the request of the chairman of the advisory committee, any department, division, board, bureau, commission or agency of the state or of any political subdivision of the state shall provide to the committee such facilities, assistance and data that will enable the committee to properly carry out its functions under this section.

Members of the advisory committee who are not public employees who live in the Jackson, Mississippi, metropolitan area or a member of the Legislature shall receive per diem at the rate authorized by Section 25-3-69 for attending meetings of the committee, and shall be reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. The legislative members of the committee shall be paid from the contingent expense fund of the house of which he or she is a member in the same manner as provided for committee meetings when the Legislature is not in session; however, no per diem or expense for attending meetings of the committee may be paid while the Legislature is in session. A committee member may not incur

per diem, travel or other expenses unless previously authorized by vote, at a meeting of the committee, which action must be recorded in the official minutes of the meeting. Nonlegislative members will be paid from funds available to the State Department of Education or from any other funds made available to the committee for that purpose.

(3) Local school districts may adopt rules and regulations that may be more stringent but not in conflict with those adopted by the State Board of Education under this section.

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2007, except for Section 3, which shall take effect and be in force from and after the passage of this act.

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