

SENATE BILL NO. 165—SENATOR DENIS

PREFILED FEBRUARY 13, 2017

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning the prevention and treatment of obesity. (BDR 40-791)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; defining the term “obesity” as a chronic disease; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to prepare an annual report on obesity; requiring certain school districts to collect data concerning the height and weight of pupils; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law uses the term “obesity” in listing the benefits of breast-feeding,  
2 mandating training for child care providers and mandating public information and  
3 prevention programs of the Division of Public and Behavioral Health of the  
4 Department of Health and Human Services. (NRS 201.232, 432A.1775, 439.517,  
5 439.521) **Section 1** of this bill defines the term “obesity” in the preliminary chapter  
6 of NRS as a chronic disease having certain characteristics. **Sections 2 and 4-6** of  
7 this bill define the term “obesity” as used in those provisions of existing law.  
8 **Section 5** also requires the Division to prepare an annual report on obesity statistics  
9 in this State and the efforts to reduce obesity.

10 Existing law requires certain school nurses to conduct or supervise certain  
11 examinations of pupils in certain grades for scoliosis, visual and auditory problems  
12 or any gross physical defects. School authorities must provide notice of those  
13 examinations to the parent or guardian of a child before performing the  
14 examination, and each school nurse or designee of the nurse must report the results  
15 of those examinations to the Chief Medical Officer. (NRS 392.420) **Section 3** of  
16 this bill: (1) requires the board of trustees of each school district in a county whose  
17 population is 100,000 or more (currently Clark and Washoe counties) to use school  
18 nurses, health personnel and certain teachers and other personnel to conduct  
19 examinations of the height and weight of certain pupils; and (2) provides that,  
20 under certain circumstances, the school authorities are not required to provide  
21 notice to the parent or guardian of a child before conducting the examination.  
22 **Section 3** also requires the Division to: (1) compile a report of the results of those



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23 examinations specific to each region of this State for which the information is  
24 collected; and (2) publish and disseminate the reports.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** The preliminary chapter of NRS is hereby amended  
2 by adding thereto a new section to read as follows:

3     1. *Except as otherwise provided by specific statute or required*  
4 *by context, "obesity" means a chronic disease characterized by an*  
5 *abnormal and unhealthy accumulation of body fat which is*  
6 *statistically correlated with premature mortality, hypertension,*  
7 *heart disease, diabetes, cancer and other health conditions, and*  
8 *may be indicated by:*

9     (a) *A body mass index of 30 or higher in adults;*

10    (b) *A body mass index that is greater than two standard*  
11 *deviations above the World Health Organization's growth*  
12 *standard for children who are at least 5 but less than 19 years of*  
13 *age, or greater than three standard deviations above the standard*  
14 *for children who are less than 5 years of age;*

15    (c) *A body fat percentage greater than 25 percent for men or*  
16 *32 percent for women; or*

17    (d) *A waist size of 40 inches or more for men or 35 inches or*  
18 *more for women.*

19    2. *As used in this section, "chronic disease" means a health*  
20 *condition or disease which presents for a period of 3 months or*  
21 *more or is persistent, indefinite or incurable.*

22    **Sec. 2.** NRS 201.232 is hereby amended to read as follows:

23    201.232 1. The Legislature finds and declares that:

24    (a) The medical profession in the United States recommends  
25 that children from birth to the age of 1 year should be breast fed,  
26 unless under particular circumstances it is medically inadvisable.

27    (b) Despite the recommendation of the medical profession,  
28 statistics reveal a declining percentage of mothers who are choosing  
29 to breast feed their babies.

30    (c) Many new mothers are now choosing to use formula rather  
31 than to breast feed even before they leave the hospital, and only a  
32 small percentage of all mothers are still breast feeding when their  
33 babies are 6 months old.

34    (d) In addition to the benefit of improving bonding between  
35 mothers and their babies, breast feeding offers better nutrition,  
36 digestion and immunity for babies than does formula feeding, and it  
37 may increase the intelligence quotient of a child. Babies who are  
38 breast fed have lower rates of death, meningitis, childhood leukemia  
39 and other cancers, diabetes, respiratory illnesses, bacterial and viral



1 infections, diarrheal diseases, otitis media, allergies, obesity and  
2 developmental delays.

3 (e) Breast feeding also provides significant benefits to the health  
4 of the mother, including protection against breast cancer and other  
5 cancers, osteoporosis and infections of the urinary tract. The  
6 incidence of breast cancer in the United States might be reduced by  
7 25 percent if every woman breast fed all her children until they  
8 reached the age of 2 years.

9 (f) The World Health Organization and the United Nations  
10 Children's Fund have established as one of their major goals for the  
11 decade the encouragement of breast feeding.

12 (g) The social constraints of modern society weigh against the  
13 choice of breast feeding and lead new mothers with demanding time  
14 schedules to opt for formula feeding to avoid embarrassment, social  
15 ostracism or criminal prosecution.

16 (h) Any genuine promotion of family values should encourage  
17 public acceptance of this most basic act of nurture between a mother  
18 and her baby, and no mother should be made to feel incriminated or  
19 socially ostracized for breast feeding her child.

20 2. Notwithstanding any other provision of law, a mother may  
21 breast feed her child in any public or private location where the  
22 mother is otherwise authorized to be, irrespective of whether the  
23 nipple of the mother's breast is uncovered during or incidental to  
24 the breast feeding.

25 3. *As used in this section:*

26 (a) *"Chronic disease" means a health condition or disease*  
27 *which presents for a period of 3 months or more or is persistent,*  
28 *indefinite or incurable.*

29 (b) *"Obesity" means a chronic disease characterized by an*  
30 *abnormal and unhealthy accumulation of body fat which is*  
31 *statistically correlated with premature mortality, hypertension,*  
32 *heart disease, diabetes, cancer and other health conditions, and*  
33 *may be indicated by:*

34 (1) *A body mass index of 30 or higher in adults;*

35 (2) *A body mass index that is greater than two standard*  
36 *deviations above the World Health Organization's growth*  
37 *standard for children who are at least 5 but less than 19 years of*  
38 *age, or greater than three standard deviations above the standard*  
39 *for children who are less than 5 years of age;*

40 (3) *A body fat percentage greater than 25 percent for men*  
41 *or 32 percent for women; or*

42 (4) *A waist size of 40 inches or more for men or 35 inches*  
43 *or more for women.*



1       **Sec. 3.** NRS 392.420 is hereby amended to read as follows:  
2       392.420 1. In each school at which a school nurse is  
3 responsible for providing nursing services, the school nurse shall  
4 plan for and carry out, or supervise qualified health personnel in  
5 carrying out, a separate and careful observation and examination of  
6 every child who is regularly enrolled in a grade specified by the  
7 board of trustees or superintendent of schools of the school district  
8 in accordance with this subsection to determine whether the child  
9 has scoliosis, any visual or auditory problem, or any gross physical  
10 defect. The grades in which the observations and examinations must  
11 be carried out are as follows:

- 12       (a) For visual and auditory problems:  
13           (1) Before the completion of the first year of initial  
14 enrollment in elementary school;  
15           (2) In at least one additional grade of the elementary schools;  
16 and  
17           (3) In one grade of the middle or junior high schools and one  
18 grade of the high schools; and  
19       (b) For scoliosis, in at least one grade of schools below the high  
20 schools.

21       ➤ Any person other than a school nurse, including, without  
22 limitation, a person employed at a school to provide basic first aid  
23 and health services to pupils, who performs an observation or  
24 examination pursuant to this subsection must be trained by a school  
25 nurse to conduct the observation or examination.

26       2. *In addition to the requirements of subsection 1, the board  
27 of trustees of each school district in a county whose population is  
28 100,000 or more shall direct school nurses, qualified health  
29 personnel employed pursuant to subsection 6, teachers who teach  
30 physical education or health or other licensed educational  
31 personnel who have completed training in measuring the height  
32 and weight of a pupil provided by the school district, to measure  
33 the height and weight of a representative sample of pupils who are  
34 enrolled in grades 4, 7 and 10 in the schools within the school  
35 district. The Division of Public and Behavioral Health of the  
36 Department of Health and Human Services shall determine the  
37 number of pupils necessary to include in the representative  
38 sample.*

39       3. If any child is attending school in a grade above one of the  
40 specified grades and has not previously received such an  
41 observation and examination, the child must be included in the  
42 current schedule for observation and examination. Any child who is  
43 newly enrolled in the district must be examined for any medical  
44 condition for which children in a lower grade are examined.



1 ~~13-1~~ 4. A special examination for a possible visual or auditory  
2 problem must be provided for any child who:

3 (a) Is enrolled in a special program;

4 (b) Is repeating a grade;

5 (c) Has failed an examination for a visual or auditory problem  
6 during the previous school year; or

7 (d) Shows in any other way that the child may have such a  
8 problem.

9 ~~14-1~~ 5. The school authorities shall notify the parent or  
10 guardian of any child who is found or believed to have scoliosis, any  
11 visual or auditory problem, or any gross physical defect, and shall  
12 recommend that appropriate medical attention be secured to correct  
13 it. Any written notice provided to the parent or guardian of a child  
14 pursuant to this subsection must include, to the extent that  
15 information is available, a list of any resources that may be available  
16 in the community to provide such medical attention, including,  
17 without limitation, resources available at no charge or at a reduced  
18 cost. If such a list is provided, the principal, his or her designee, or  
19 any employee of the school or the school district is not responsible  
20 for providing such resources to the pupil or ensuring that the pupil  
21 receives such resources.

22 ~~15-1~~ 6. In any school district in which state, county or district  
23 public health services are available or conveniently obtainable, those  
24 services may be used to meet the responsibilities assigned under the  
25 provisions of this section. The board of trustees of the school district  
26 may employ qualified personnel to perform them. Any nursing  
27 services provided by such qualified personnel must be performed in  
28 compliance with chapter 632 of NRS.

29 ~~16-1~~ 7. The board of trustees of a school district may adopt a  
30 policy which encourages the school district and schools within the  
31 school district to collaborate with:

32 (a) Qualified health care providers within the community to  
33 perform, or assist in the performance of, the services required by  
34 this section; and

35 (b) Postsecondary educational institutions for qualified students  
36 enrolled in such an institution in a health-related program to  
37 perform, or assist in the performance of, the services required by  
38 this section.

39 ~~17-1 The~~

40 8. *Except as otherwise provided in this subsection, the* school  
41 authorities shall provide notice to the parent or guardian of a child  
42 before performing on the child the examinations required by this  
43 section. The notice must inform the parent or guardian of the right to  
44 exempt the child from all or part of the examinations. Any child  
45 must be exempted from an examination if the child's parent or



1 guardian files with the teacher a written statement objecting to the  
2 examination.

3 ~~18~~ **9. The school authorities are not required to provide**  
4 **notice to the parent or guardian of a child before measuring the**  
5 **child's height or weight pursuant to subsection 2 if it is not**  
6 **practicable to do so.**

7 **10.** Each school nurse or a designee of a school nurse,  
8 including, without limitation, a person employed at a school to  
9 provide basic first aid and health services to pupils, shall report the  
10 results of the examinations conducted pursuant to this section in  
11 each school at which he or she is responsible for providing services  
12 to the Chief Medical Officer in the format prescribed by the Chief  
13 Medical Officer. Each such report must exclude any identifying  
14 information relating to a particular child. The Chief Medical Officer  
15 shall compile all such information the Officer receives to monitor  
16 the health status of children and shall retain the information.

17 **11. The Division of Public and Behavioral Health of the**  
18 **Department of Health and Human Services shall:**

19 **(a) Compile a report relating to each region of this State for**  
20 **which data is collected regarding the height and weight of pupils**  
21 **measured pursuant to subsection 2 and reported to the Chief**  
22 **Medical Officer pursuant to subsection 9; and**

23 **(b) Publish and disseminate the reports not later than 12**  
24 **months after receiving the results of the examinations pursuant to**  
25 **subsection 10.**

26 **Sec. 4.** NRS 432A.1775 is hereby amended to read as follows:

27 432A.1775 1. Each person who is employed in a child care  
28 facility that provides care for more than 12 children, other than in a  
29 facility that provides care for ill children, shall complete:

30 (a) Before January 1, 2014, at least 15 hours of training;

31 (b) On or after January 1, 2014, and before January 1, 2015, at  
32 least 18 hours of training;

33 (c) On or after January 1, 2015, and before January 1, 2016, at  
34 least 21 hours of training; and

35 (d) On or after January 1, 2016, 24 hours of training each year.

36 2. Except as otherwise provided in subsection 1, each person  
37 who is employed in any child care facility, other than in a facility  
38 that provides care for ill children, shall complete at least 15 hours of  
39 training each year.

40 3. At least 2 hours of the training required by subsections 1 and  
41 2 each year must be devoted to the lifelong wellness, health and  
42 safety of children and must include training relating to childhood  
43 obesity, nutrition and physical activity.

44 **4. As used in this section:**



1 (a) "Chronic disease" means a health condition or disease  
2 which presents for a period of 3 months or more or is persistent,  
3 indefinite or incurable.

4 (b) "Obesity" means a chronic disease characterized by an  
5 abnormal and unhealthy accumulation of body fat which is  
6 statistically correlated with premature mortality, hypertension,  
7 heart disease, diabetes, cancer and other health conditions, and  
8 may be indicated by:

9 (1) A body mass index of 30 or higher in adults;

10 (2) A body mass index that is greater than two standard  
11 deviations above the World Health Organization's growth  
12 standard for children who are at least 5 but less than 19 years of  
13 age, or greater than three standard deviations above the standard  
14 for children who are less than 5 years of age;

15 (3) A body fat percentage greater than 25 percent for men  
16 or 32 percent for women; or

17 (4) A waist size of 40 inches or more for men or 35 inches  
18 or more for women.

19 **Sec. 5.** NRS 439.517 is hereby amended to read as follows:

20 439.517 1. Within the limits of available money, the Division  
21 shall establish the State Program for Wellness and the Prevention of  
22 Chronic Disease to increase public knowledge and raise public  
23 awareness relating to wellness and chronic diseases and to educate  
24 the residents of this State about:

25 ~~1-~~ (a) Wellness, including, without limitation, behavioral  
26 health, proper nutrition, maintaining oral health, increasing physical  
27 fitness, preventing obesity and tobacco use; and

28 ~~1-~~ (b) The prevention of chronic diseases, including, without  
29 limitation, arthritis, asthma, cancer, diabetes, cardiovascular disease,  
30 stroke, heart disease and oral disease.

31 2. As used in this section:

32 (a) "Chronic disease" means a health condition or disease  
33 which presents for a period of 3 months or more or is persistent,  
34 indefinite or incurable.

35 (b) "Obesity" means a chronic disease characterized by an  
36 abnormal and unhealthy accumulation of body fat which is  
37 statistically correlated with premature mortality, hypertension,  
38 heart disease, diabetes, cancer and other health conditions, and  
39 may be indicated by:

40 (1) A body mass index of 30 or higher in adults;

41 (2) A body mass index that is greater than two standard  
42 deviations above the World Health Organization's growth  
43 standard for children who are at least 5 but less than 19 years of  
44 age, or greater than three standard deviations above the standard  
45 for children who are less than 5 years of age;



1           ***(3) A body fat percentage greater than 25 percent for men***  
2 ***or 32 percent for women; or***

3           ***(4) A waist size of 40 inches or more for men or 35 inches***  
4 ***or more for women.***

5           **Sec. 6.** NRS 439.521 is hereby amended to read as follows:

6           439.521 ***1.*** To carry out the provisions of NRS 439.514 to  
7 439.525, inclusive, the Division shall, within the limits of available  
8 money, and with the advice and recommendations of the Advisory  
9 Council:

10          ~~11~~ ***(a)*** Periodically prepare burden reports concerning health  
11 problems and diseases, including, without limitation, a lack of  
12 physical fitness, poor nutrition, tobacco use and exposure to tobacco  
13 smoke, ~~obesity,~~ chronic diseases, ***, including, without limitation,***  
14 ***obesity and diabetes,*** and other diseases, as determined by the  
15 Division, using the most recent information obtained through  
16 surveillance, epidemiology and research. As used in this  
17 ~~subsection,~~ ***paragraph,*** “burden report” means a calculation of the  
18 impact of a particular health problem or chronic disease on this  
19 State, as measured by financial cost, mortality, morbidity or other  
20 indicators specified by the Division.

21          ~~12~~ ***(b)*** ***Prepare an annual report on obesity pursuant to***  
22 ***paragraph (a) which must:***

23               ***(1) Include, without limitation:***

24                       ***(I) Current obesity rates in this State;***

25                       ***(II) Information regarding obesity with regard to***  
26 ***specific demographics;***

27                       ***(III) Actions taken by the Division regarding obesity;***  
28 ***and***

29                       ***(IV) The State’s goals and achievements regarding***  
30 ***obesity rates.***

31               ***(2) On or before March 15 of each year, be submitted to the***  
32 ***Director of the Legislative Counsel Bureau for transmittal to:***

33                       ***(I) The Legislative Committee on Health Care during***  
34 ***even-numbered years; and***

35                       ***(II) The Legislature during odd-numbered years.***

36               ***(c)*** Identify, review and encourage, in coordination with the  
37 Department of Education, the Nevada System of Higher Education  
38 and other appropriate state agencies, existing evidence-based  
39 programs related to nutrition, physical fitness and tobacco  
40 prevention and cessation, including, without limitation, programs of  
41 state and local governments, educational institutions, businesses and  
42 the general public.

43               ~~13~~ ***(d)*** Develop, promote and coordinate recommendations for  
44 model and evidence-based programs that contribute to reductions in



1 the incidence of chronic disease in this State. The programs should  
2 encourage:

3 ~~[(a)]~~ (1) Proper nutrition, physical fitness and health among the  
4 residents of this State, including, without limitation, parents and  
5 children, senior citizens, high-risk populations and persons with  
6 special needs; and

7 ~~[(b)]~~ (2) Work-site wellness policies that include, without  
8 limitation, tobacco-free and breast feeding-friendly environments,  
9 healthy food and beverage choices and physical activity  
10 opportunities in schools, businesses and public buildings.

11 ~~[(4)]~~ (e) Assist on projects within this State as requested by, and  
12 in coordination with, the President's Council on Fitness, Sports and  
13 Nutrition.

14 ~~[(5)]~~ (f) Identify and review methods for reducing health care  
15 costs associated with tobacco use and exposure to tobacco smoke,  
16 ~~obesity,~~ chronic diseases , *including, without limitation, obesity*  
17 *and diabetes*, and other diseases, as determined by the Division.

18 ~~[(6)]~~ (g) Maintain a website to provide information and  
19 resources on nutrition, physical fitness, health, wellness and the  
20 prevention of ~~obesity and~~ chronic diseases ~~+~~  
21 ~~—7.]~~ , *including, without limitation, obesity and diabetes*.

22 (h) Solicit information from and, to the extent feasible,  
23 coordinate its efforts with:

24 ~~[(a)]~~ (1) Other governmental agencies;

25 ~~[(b)]~~ (2) National health organizations and their local and state  
26 chapters;

27 ~~[(c)]~~ (3) Community and business leaders;

28 ~~[(d)]~~ (4) Community organizations;

29 ~~[(e)]~~ (5) Providers of health care;

30 ~~[(f)]~~ (6) Private schools; and

31 ~~[(g)]~~ (7) Other persons who provide services relating to tobacco  
32 use and exposure, physical fitness and wellness and the prevention  
33 of ~~obesity,~~ chronic diseases , *including, without limitation,*  
34 *obesity and diabetes*, and other diseases.

35 ~~[(8)]~~ (i) Establish, maintain and enhance statewide chronic  
36 disease surveillance systems.

37 ~~[(9)]~~ (j) Translate surveillance, evaluation and research  
38 information into press releases, briefs, community education and  
39 advocacy materials and other publications that highlight chronic  
40 diseases and the key risk factors of those diseases.

41 ~~[(10)]~~ (k) Identify, assist and encourage the growth of, through  
42 funding, training, resources and other support, the community's  
43 capacity to assist persons who have a chronic disease.



1 ~~H11~~ (l) Encourage relevant community organizations to  
2 effectively recruit key population groups to receive clinical  
3 preventative services, including, without limitation:

4 ~~H(a)~~ (1) Screening and early detection of breast, cervical and  
5 colorectal cancer, diabetes, high blood pressure and obesity;

6 ~~H(b)~~ (2) Oral screenings; and

7 ~~H(e)~~ (3) Tobacco cessation counseling.

8 ~~H2~~ (m) Promote positive policy, system and environmental  
9 changes within communities and the health care system based on,  
10 without limitation, the Chronic Care Model developed by the  
11 MacColl Center for Health Care Innovation and the Patient-  
12 Centered Medical Home Recognition Program of the National  
13 Committee for Quality Assurance.

14 ~~H3~~ (n) Review and revise the Program as needed.

15 2. *As used in this section:*

16 (a) *“Chronic disease” means a health condition or disease*  
17 *which presents for a period of 3 months or more or is persistent,*  
18 *indefinite or incurable.*

19 (b) *“Obesity” means a chronic disease characterized by an*  
20 *abnormal and unhealthy accumulation of body fat which is*  
21 *statistically correlated with premature mortality, hypertension,*  
22 *heart disease, diabetes, cancer and other health conditions, and*  
23 *may be indicated by:*

24 (1) *A body mass index of 30 or higher in adults;*

25 (2) *A body mass index that is greater than two standard*  
26 *deviations above the World Health Organization’s growth*  
27 *standard for children who are at least 5 but less than 19 years of*  
28 *age, or greater than three standard deviations above the standard*  
29 *for children who are less than 5 years of age;*

30 (3) *A body fat percentage greater than 25 percent for men*  
31 *or 32 percent for women; or*

32 (4) *A waist size of 40 inches or more for men or 35 inches*  
33 *or more for women.*

34 **Sec. 7.** The provisions of subsection 1 of NRS 218D.380 do  
35 not apply to any provision of this act which adds or revises a  
36 requirement to submit a report to the Legislature.

37 **Sec. 8.** This act becomes effective on July 1, 2017.

