

SENATE BILL NO. 402—SENATORS DENIS, SPEARMAN,
PARKS, HARDY, KIHUEN; SEGERBLOM AND SMITH

MARCH 17, 2015

JOINT SPONSORS: ASSEMBLYMEN DIAZ; BUSTAMANTE
ADAMS, CARRILLO, FLORES AND THOMPSON

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning the prevention
and treatment of obesity. (BDR 40-891)

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”;
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:

Existing law uses the term “obesity” in listing the benefits of breast-feeding,
mandating training for child care providers and mandating public information and
prevention programs of the Division of Public and Behavioral Health of the
Department of Health and Human Services. (NRS 201.232, 432A.1775, 439.517,
439.521) **Section 1** of this bill defines the term “obesity” in the preliminary chapter
of NRS as an abnormal and unhealthy accumulation of body fat which is
statistically correlated with certain conditions. **Sections 2, 3, 4 and 5** of this bill
define the term “obesity” as used in those provisions of existing law. **Section 5** also
requires the Division to prepare an annual report on obesity statistics in this State
and the efforts to reduce obesity.

Existing law requires the board of trustees of each school district in a county
whose population is 100,000 or more (currently Clark and Washoe Counties),
through June 30, 2015, to: (1) conduct examinations of the height and weight of
certain pupils in the schools within the school district; (2) provide notice of such
examinations to the parent or guardian of a child before performing the
examination; and (3) report the results of such examinations to the Chief Medical



* S B 4 0 2 R 2 *

Officer. (NRS 392.420) **Section 2.5** of this bill: (1) requires the board of trustees of each such school district to use school nurses, health personnel and certain teachers and other personnel to conduct such examinations on and after July 1, 2015; and (2) provides that, under certain circumstances, the school authorities are not required to provide notice to the parent or guardian of a child before conducting such an examination. **Section 2.5** also requires the Division of Public and Behavioral Health of the Department of Health and Human Services to: (1) compile a report of the results of such examinations specific to each region of this State for which such information is collected; and (2) publish and disseminate the reports.

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

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

Except as otherwise provided by specific statute or required by the context, "obesity" means an abnormal and unhealthy accumulation of body fat which is statistically correlated with premature mortality, hypertension, heart disease, diabetes, cancer and other health conditions, and may be indicated by:

1. *A body mass index of 30 or higher in adults;*

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

3. *A body fat percentage greater than 25 percent for men or 32 percent for women; or*

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

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

201.232 1. The Legislature finds and declares that:

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

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

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

(d) In addition to the benefit of improving bonding between mothers and their babies, breast feeding offers better nutrition, digestion and immunity for babies than does formula feeding, and it may increase the intelligence quotient of a child. Babies who are



1 breast fed have lower rates of death, meningitis, childhood leukemia
2 and other cancers, diabetes, respiratory illnesses, bacterial and viral
3 infections, diarrheal diseases, otitis media, allergies, obesity and
4 developmental delays.

5 (e) Breast feeding also provides significant benefits to the health
6 of the mother, including protection against breast cancer and other
7 cancers, osteoporosis and infections of the urinary tract. The
8 incidence of breast cancer in the United States might be reduced by
9 25 percent if every woman breast fed all her children until they
10 reached the age of 2 years.

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

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

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

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

27 3. *As used in this section, "obesity" means an abnormal and*
28 *unhealthy accumulation of body fat which is statistically*
29 *correlated with premature mortality, hypertension, heart disease,*
30 *diabetes, cancer and other health conditions, and may be indicated*
31 *by:*

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

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

38 (c) *A body fat percentage greater than 25 percent for men or*
39 *32 percent for women; or*

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

42 **Sec. 2.5.** NRS 392.420 is hereby amended to read as follows:

43 392.420 1. In each school at which a school nurse is
44 responsible for providing nursing services, the school nurse shall
45 plan for and carry out, or supervise qualified health personnel in



1 carrying out, a separate and careful observation and examination of
2 every child who is regularly enrolled in a grade specified by the
3 board of trustees or superintendent of schools of the school district
4 in accordance with this subsection to determine whether the child
5 has scoliosis, any visual or auditory problem, or any gross physical
6 defect. The grades in which the observations and examinations must
7 be carried out are as follows:

8 (a) For visual and auditory problems:

9 (1) Before the completion of the first year of initial
10 enrollment in elementary school;

11 (2) In at least one additional grade of the elementary schools;
12 and

13 (3) In one grade of the middle or junior high schools and one
14 grade of the high schools; and

15 (b) For scoliosis, in at least one grade of schools below the high
16 schools.

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

22 2. *In addition to the requirements of subsection 1, the board*
23 *of trustees of each school district in a county whose population is*
24 *100,000 or more shall direct school nurses, qualified health*
25 *personnel employed pursuant to subsection 6, teachers who teach*
26 *physical education or health or other licensed educational*
27 *personnel who have completed training in measuring the height*
28 *and weight of a pupil provided by the school district, to measure*
29 *the height and weight of a representative sample of pupils who are*
30 *enrolled in grades 4, 7 and 10 in the schools within the school*
31 *district. The Division of Public and Behavioral Health of the*
32 *Department of Health and Human Services shall determine the*
33 *number of pupils necessary to include in the representative*
34 *sample.*

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

41 ~~13-1~~ 4. A special examination for a possible visual or auditory
42 problem must be provided for any child who:

43 (a) Is enrolled in a special program;

44 (b) Is repeating a grade;



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

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

~~{4.}~~ 5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

~~{5.}~~ 6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

~~{6.}~~ 7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

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

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

~~{7.—The}~~

8. *Except as otherwise provided in this subsection, the* school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if the child's parent or guardian files with the teacher a written statement objecting to the examination.

~~{8.}~~ ***The school authorities are not required to provide notice to the parent or guardian of a child before measuring the child's height or weight pursuant to subsection 2 if it is not practicable to do so.***

9. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he or she is responsible for providing services to the Chief Medical Officer in the format prescribed by the Chief Medical



Officer. Each such report must exclude any identifying information relating to a particular child. The Chief Medical Officer shall compile all such information the Officer receives to monitor the health status of children and shall retain the information.

10. The Division of Public and Behavioral Health of the Department of Health and Human Services shall:

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

(b) Publish and disseminate the reports not later than 12 months after receiving the results of the examinations pursuant to subsection 9.

Sec. 3. NRS 432A.1775 is hereby amended to read as follows:

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

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

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

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

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

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

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

4. As used in this section, "obesity" means an abnormal and unhealthy accumulation of body fat which is statistically correlated with premature mortality, hypertension, heart disease, diabetes, cancer and other health conditions, and may be indicated by:

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

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

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



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

Sec. 4. NRS 439.517 is hereby amended to read as follows:

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

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

~~1-2~~ **(b)** The prevention of chronic diseases, including, without limitation, asthma, cancer, diabetes, cardiovascular disease, *obesity* and oral disease.

2. *As used in this section, "obesity" means an abnormal and unhealthy accumulation of body fat which is statistically correlated with premature mortality, hypertension, heart disease, diabetes, cancer and other health conditions, and may be indicated by:*

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

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

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

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

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

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

~~1-1~~ **(a)** Periodically prepare burden reports concerning health problems and diseases, including, without limitation, a lack of physical fitness, poor nutrition, tobacco use and exposure to tobacco smoke, obesity, chronic diseases, *including, without limitation, diabetes*, and other diseases, as determined by the Division, using the most recent information obtained through surveillance, epidemiology and research. As used in this ~~subsection~~ *paragraph*, "burden report" means a calculation of the impact of a particular health problem or chronic disease on this State, as measured by financial cost, mortality, morbidity or other indicators specified by the Division.



~~12.1~~ (b) Prepare an annual report on obesity pursuant to paragraph (a) which must:

(1) Include, without limitation:

(I) Current obesity rates in this State;

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

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

(IV) The State's goals and achievements regarding obesity rates.

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

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

(II) The Legislature during odd-numbered years.

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

~~13.1~~ (d) Develop, promote and coordinate recommendations for model and evidence-based programs that contribute to reductions in the incidence of chronic disease in this State. The programs should encourage:

~~14.1~~ (1) Proper nutrition, physical fitness and health among the residents of this State, including, without limitation, parents and children, senior citizens, high-risk populations and persons with special needs; and

~~15.1~~ (2) Work-site wellness policies that include, without limitation, tobacco-free and breast feeding-friendly environments, healthy food and beverage choices and physical activity opportunities in schools, businesses and public buildings.

~~16.1~~ (e) Assist on projects within this State as requested by, and in coordination with, the President's Council on Fitness, Sports and Nutrition.

~~17.1~~ (f) Identify and review methods for reducing health care costs associated with tobacco use and exposure to tobacco smoke, obesity, chronic diseases , *including, without limitation, diabetes*, and other diseases, as determined by the Division.

~~18.1~~ (g) Maintain a website to provide information and resources on nutrition, physical fitness, health, wellness and the prevention of obesity and chronic diseases ~~19.1~~ *including, without limitation, diabetes*.



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

~~(a)~~ (1) Other governmental agencies;

~~(b)~~ (2) National health organizations and their local and state chapters;

~~(c)~~ (3) Community and business leaders;

~~(d)~~ (4) Community organizations;

~~(e)~~ (5) Providers of health care;

~~(f)~~ (6) Private schools; and

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

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

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

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

~~(11)~~ (l) Encourage relevant community organizations to effectively recruit key population groups to receive clinical preventative services, including, without limitation:

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

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

~~(c)~~ (3) Tobacco cessation counseling.

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

~~(13)~~ (n) Review and revise the Program as needed.

2. *As used in this section, "obesity" means an abnormal and unhealthy accumulation of body fat which is statistically correlated with premature mortality, hypertension, heart disease, diabetes, cancer and other health conditions, and may be indicated by:*

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

(b) *A body mass index that is greater than two standard deviations above the World Health Organization's growth standard for children who are at least 5 but less than 19 years of*



1 *age, or greater than three standard deviations above the standard*
2 *for children who are less than 5 years of age;*

3 *(c) A body fat percentage greater than 25 percent for men or*
4 *32 percent for women; or*

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

7 **Sec. 6.** The provisions of subsection 1 of NRS 218D.380 do
8 not apply to any provision of this act which adds or revises a
9 requirement to submit a report to the Legislature.

10 **Sec. 7.** This act becomes effective on July 1, 2015.

