

**Council of the District of Columbia
Committee on Economic Development**

Draft Report

1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

To: Members of the Council of the District of Columbia

From: Kwame R. Brown, Chairperson
Committee on Economic Development

Date: November 15, 2010

Subject: Bill 18-967, the “Food, Environmental, and Economic Development in the District of Columbia Act of 2010”

The Committee on Economic Development, to which B18-967, the “Food, Environmental, and Economic Development in the District of Columbia Act of 2010,” was sequentially referred, reports favorably on the legislation and recommend its approval by the Council of the District of Columbia.

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STATEMENT OF PURPOSE AND EFFECT

Bill 18-967, the “Food, Environmental, and Economic Development in the District of Columbia Act of 2010,” would establish a program to attract grocery stores to the District’s food deserts in order to fight the obesity epidemic and create jobs in low-income neighborhoods. It would also provide assistance to corner stores, farmers markets, and other small food retailers in order to expand access to healthy foods in underserved areas.

LEGISLATIVE HISTORY

July 13, 2010	Introduction of B18-967 by Councilmembers Cheh, K. Brown, Catania, Wells, and Thomas.
July 23, 2010	Notice of Intent to Act on B18-967 is published in the <i>District of Columbia Register</i>
September 8, 2010	Sequential Referral of B18-967 to the Committee on Economic Development and the Committee on Government Operations and the Environment
September 23, 2010	Working Group Meeting 1 (Incentives for Grocery Stores: Grants and Loans)
September 24, 2010	Notice of Public Hearing on B18-967 is published in the <i>District of Columbia Register</i>
September 30, 2010	Working Group Meeting 2 (Incentives for Grocery Stores: Tax and Zoning)
October 7, 2010	Working Group Meeting 3 (Incentives for Corner Stores)
October 14, 2010	Working Group Meeting 4 (Grocery Ambassador, Environmental Rebates, and Other Incentives)
October 18, 2010	Joint Public Hearing on B18-967 held by the Committee on Government Operations and the Environment and the Committee on Economic Development
October 28, 2010	Working Group Meeting 5
November 15, 2010	Consideration and vote on B18-967 by the Committee on Economic Development
November 16, 2010	Consideration and vote on B18-967 by the Committee on Government Operations and the Environment

BACKGROUND AND COMMITTEE REASONING

1. Many of the District's Low-Income Neighborhoods are Located in Food Deserts.

In Spring 2010, D.C. Hunger Solutions and Social Compact issued a report that examined the District's grocery gap.¹ The report concluded that there is a huge disparity in the availability of healthy foods in neighborhoods across the District. "Wards 2 and 3 have access to approximately four times as many major chain supermarkets as Wards 7 and 8, which have three major chain supermarkets for 140,000 residents," said Mark McCaffrey, Chief Operating Officer, Capital Area Food Bank.² The report found that there are significant food deserts in low-income areas of Wards 5, 6, 7, and 8.³

The District's food deserts have far fewer grocery stores per capita than Wards 2 and 3. Residents in these neighborhoods have to travel much further to reach a grocery store than do other residents in Northwest. Of the handful of full-service grocery stores in these communities, many are in poor condition and offer few healthy items for sale. In October 2010, members of the Metropolitan Washington Public Health Association visited two of the three grocery stores in Ward 8. They found few healthy foods offered. The limited amount of fresh produce for sale included over-ripened bananas, spoiled strawberries, and wilted lettuce on the shelves.⁴

The lack of access to healthy food has a disproportionate impact on the poor. "Low-income households with already-tight food budgets often have little or no extra money to spend on travel to distant grocery stores; larger grocery stores tend to have lower prices than small markets for healthier foods, and consequently, those who live far from full-service grocers may ultimately pay a 'poverty tax' to purchase higher-priced foods in small neighborhood stores," said Alex Ashbrook, Director, D.C. Hunger Solutions.⁵ "Food deserts in DC are depriving equal access to healthy, affordable, and nutritious food, particularly in Wards 5, 7, and 8, which have a predominately African-American and low-income population," said Acasia Olson who testified on behalf of the Metropolitan Washington Public Health Association.⁶

2. Insufficient Access to Healthy Foods Contributes to the District's Obesity Epidemic.

The District of Columbia has an obesity epidemic. According to the D.C. Department of Health, 55% of residents are overweight or obese.⁷ Last year, Children's National Medical

¹ *When Healthy Food is Out of Reach: An Analysis of the Grocery Gap in the District of Columbia*, D.C. Hunger SOLUTIONS AND SOCIAL COMPACT, 2010, available online at <http://www.dchunger.org/pdf/grocerygap.pdf>.

² Testimony of Mark McCaffrey.

³ *When Healthy Food is Out of Reach: An Analysis of the Grocery Gap in the District of Columbia*, D.C. Hunger SOLUTIONS AND SOCIAL COMPACT, 2010, at 18.

⁴ Testimony of Acasia Olson and Heather Drake.

⁵ Testimony of Alex Ashbrook.

⁶ Testimony of Acasia Olson.

⁷ *Working Towards a Healthy DC: The District of Columbia's Overweight and Obesity Action Plan*, D.C. DEPARTMENT OF HEALTH, 2010, at 6, available online at <http://newsroom.dc.gov/show.aspx/agency/doh/section/2/release/19808/year/2010>.

Center found that 43% of schoolchildren in the District are overweight or obese.⁸ The obesity rate is even more dramatic in the District's poorest neighborhoods – where the District's food deserts are located. In Wards 7 and 8, 73% and 72% of residents are overweight or obese.⁹ This epidemic worsens each year.

The long-term effects of obesity on public health are clear and devastating. Obesity can lead to diabetes, hypertension, dyslipidemia, liver disease, sleep apnea, and heart disease.¹⁰ The American Cancer Society, American Diabetes Association, and American Heart Association have linked to higher rates of cardiovascular disease and certain types of cancer, and have explained that it can even lead to an early death.¹¹ As a result of obesity, experts are predicting that “[t]his will be the first generation to have a life expectancy shorter than that of their parents.”¹²

Physicians have explained that a lack of access to healthy foods is a leading contributor to the District's obesity epidemic. “Poor nutrition is a significant driver of disease, diminished quality of life, and increased health care costs,” said Douglas Van Zoeren, M.D., Service Chief, Adult Medicine, Kaiser Permanente.¹³ “While we work with our own patients to prevent disease and advocate positive lifestyle choices, we recognize it is impossible for people to eat healthy and comply with medical advice if they do not have access to healthy, affordable food.”¹⁴

At the public hearing on this legislation, Tanikka Cunningham, Executive Director of Healthy Solutions, described working with a 12-year-old in Ward 7 who weighed 280 pounds and was diagnosed with Type II diabetes.¹⁵ When Cunningham explained the importance of eating healthier food, the child's mother replied, “What am I supposed to do if I have to take two busses to the Safeway.”¹⁶ Alex Ashbrook concluded, “Lack of access to healthy foods is helping drive the obesity epidemic in our city.”¹⁷

The Institute of Medicine notes that the efforts of parents and community members to teach children to eat and live healthy “can be undermined by local environments that are poorly suited to supporting healthy behaviors – and may even promote unhealthy behaviors. For

⁸ *Analysis of the Body Mass Index of District of Columbia Students, 2008-2009*, D.C. DEPARTMENT OF HEALTH; Susan Levine and Rob Stein, *Obesity Threatens a Generation*, WASHINGTON POST, May 17, 2008, available online at http://www.washingtonpost.com/wp-dyn/content/article/2008/05/17/AR2008051701373_pf.html.

⁹ Working Towards a Healthy DC: The District of Columbia's Overweight and Obesity Action Plan, D.C. DEPARTMENT OF HEALTH, 2010, at 14.

¹⁰ Testimony of Yolandra Hancock, M.D. for Bill 18-564, the Healthy Schools Act of 2010.

¹¹ *Facts, Learning for Life, Physical Education in Schools*, AMERICAN CANCER SOCIETY, AMERICAN DIABETES ASSOCIATION & AMERICAN HEART ASSOCIATION, available online at <http://www.actionforhealthykids.org/resources/files/learning-for-life-pe.pdf>.

¹² Testimony of Yolandra Hancock, M.D. for Bill 18-564, the Healthy Schools Act of 2010.

¹³ Testimony of Douglas Van Zoeren, M.D.

¹⁴ *Id.*

¹⁵ Testimony of Tanikka Cunningham.

¹⁶ *Id.*

¹⁷ Testimony of Alex Ashbrook

example, many communities lack ready sources of healthy food choices, such as supermarkets and grocery stores.”¹⁸

Without grocery stores nearby, the cost of healthy food rises for District residents who must either pay for transportation to the nearest grocer or pay higher prices for food purchased at smaller convenience stores. A report by The Reinvestment Fund concluded, “Shoppers who cannot economize by traveling to the suburbs must spend a larger portion of their grocery budget to purchase the same amount of food from smaller stores, where both the selection and quality of goods is likely inferior.”¹⁹

Research has shown that expanding access to healthy foods will improve public health. Dr. Van Zoeren explained, “A 2002 study in the American Journal of Public Health showed a 32% increase in fresh fruit and vegetable consumption for each full-service grocery in a census tract.”²⁰ Increased access to healthy foods has also resulted in reduced rates of overweight and obesity. A separate study found that adults in a community, in which a new grocery store has opened, lost an average of three pounds of weight.²¹ Dr. Van Zoeren said, “From senior citizens and young mothers living on fixed or limited incomes, we routinely hear of the positive effect the availability of affordable, fresh produce . . . has on their personal – and overall families’ – diets and health.”²² To fight obesity, the Institute of Medicine recommends that jurisdictions “increase community access to healthy foods through supermarkets, grocery stores, and convenience/corner stores.”²³

3. The Grocery Gap Also Costs Jobs in Low-Income Neighborhoods and Tax Revenue.

The grocery gap not only contributes to the District’s growing obesity epidemic, but it also has a measurable economic effect on employment and tax revenue. The 2010 report by D.C. Hunger Solutions and Social Compact found that of the \$920 million that District residents spend on groceries each year, 12% is spent in stores located outside of the District.²⁴ Alexandra

¹⁸ *Local Government Actions to Prevent Childhood Obesity*, INSTITUTE OF MEDICINE, 2009, available online at <http://www.iom.edu/Activities/Children/LocalObesPrevention.aspx>.

¹⁹ Ira Goldstein, *CDFI Financing of Supermarkets in Underserved Communities: A Case Study*, THE REINVESTMENT FUND, 2008, at 4-5, available online at http://www.trfund.com/resource/downloads/policypubs/TRF_CDFI_SupermarketStudy.pdf.

²⁰ Testimony of Douglas Van Zoeren, M.D. (explaining that in 2010, Kaiser Permanente surveyed 27 farmers markets across the country and found that 74% of those who shop at farmers markets eat more fruits and vegetables).

²¹ Rebecca Flournoy, *Healthy Food, Healthy Communities: Promising Strategies to Improve Access to Fresh, Healthy Food and Transform Communities*, POLICY LINK, 2010, at 7 (citing Susan Chen, Raymond Florax, and Samantha Snyder, *Obesity in Urban Food Markets: Evidence from Georeferenced Micro Data*, NATIONAL POVERTY CENTER, 2009, available online at http://www.npc.umich.edu/news/events/food-access/chen_et_al_revised.pdf).

²² Testimony of Douglas Van Zoeren, M.D.

²³ *Local Government Actions to Prevent Childhood Obesity*, INSTITUTE OF MEDICINE, 2009 (recommending that local jurisdictions “[c]reate incentive programs to attract supermarkets and grocery stores to underserved neighborhoods (e.g., tax credits, grant and loan programs, small business/economic development programs, and other economic incentives).”).

²⁴ *When Healthy Food is Out of Reach: An Analysis of the Grocery Gap in the District of Columbia*, D.C. HUNGER SOLUTIONS AND SOCIAL COMPACT, 2010, at 14.

Ashbrook testified, “[D]ue to insufficient grocery retail, more than \$100 million in grocery expenditures ‘leak’ out of the city each year into Maryland and Virginia.”²⁵

Flowing to other jurisdictions along with this grocery revenue are the jobs supported by it and the tax revenue it generates. A successful full-service grocery store has annual gross sales of over \$20 million, can employ over 200 residents, and can generate over \$1 million in annual sales tax revenue.²⁶ Therefore, not only does the District lose \$112 million in grocery revenue to Maryland and Virginia each year, but the District also loses the ability to support 5 grocery stores, over 1,000 jobs, and \$5 million in sales taxes. Highlighting the economic effect is the fact that jobs are extremely scarce in the District’s food deserts. Unemployment in Wards 7 and 8 exceeds 20% and 30%.²⁷

Despite clear demand for more grocery retail in the District’s food deserts, significant incentives are needed to attract full-service grocery stores. One of the barriers to the development of grocery stores in urban areas is that startup costs and operating expenses are higher. “Economists have shown that supermarkets locating in lower-income, urban neighborhoods face higher startup costs as well as operational costs when compared with suburban locations,” said Zipper.²⁸ Consequently, grocers often find it more cost effective to build new stores in the suburbs.

The Reinvestment Fund found that “supermarket development can offer new job opportunities for residents of economically distressed areas with less retail displacement.”²⁹ “The average full-size urban supermarket generates between 150 and 250 jobs,” said David Zipper.³⁰ Typically, 75% of these jobs are filled by residents who live within three miles of the store. There is a very high demand for grocery jobs in low-income areas. More hundreds of residents have inquired about filling the 30 jobs in at the Yes! Organic market, which recently opened a store in Ward 7. According to Zipper, a grocery store can generate \$1 million in annual sales tax revenue.³¹ “Large grocery stores bring desperately needed tax revenue to municipalities and often serve as high-volume ‘anchors’ that spur local economic development in struggling communities.”³²

²⁵ Testimony of Alexandra Ashbrook.

²⁶ Meeting with Barry Scher; testimony of David Zipper.

²⁷ D.C. Networks Analyzer, available online at <https://analyzer.dcnetworks.org/>.

²⁸ Testimony of David Zipper. See Ira Goldstein, *CDFI Financing of Supermarkets in Underserved Communities: A Case Study*, THE REINVESTMENT FUND, 2008, at 14 (concluding that “it remains more expensive to operate a supermarket in an urban neighborhood than it is to operate a similar store in a suburban neighborhood); Donald Marion, *Supermarkets in the City*, UNIVERSITY OF MASSACHUSETTS COOPERATIVE EXTENSION SERVICE, 1977, at 1.

²⁹ Ira Goldstein, *CDFI Financing of Supermarkets in Underserved Communities: A Case Study*, THE REINVESTMENT FUND, 2008, at 36 (citing *The Economic Impacts of Supermarkets on Their Surrounding Communities*, ECONSULT, 2006).

³⁰ Testimony of David Zipper. See Judith Bell and Marion Standish, *Building Healthy Communities Through Equitable Food Access*, COMMUNITY DEVELOPMENT INVESTMENT REVIEW, FEDERAL RESERVE BANK OF SAN FRANCISCO, 2009, at 81 (citing Barbara Abell, *Overcoming Obstacles to CDC Supermarket Development, A Guide*, NATIONAL CONGRESS FOR COMMUNITY ECONOMIC DEVELOPMENT, 2001.)

³¹ Testimony of David Zipper.

³² Judith Bell and Marion Standish, *Building Healthy Communities Through Equitable Food Access*, COMMUNITY DEVELOPMENT INVESTMENT REVIEW, FEDERAL RESERVE BANK OF SAN FRANCISCO, 2009, at 81

Treating the District's obesity epidemic costs more than \$370 million each year.³³ As more overweight and obese children reach adulthood, this cost is expected to keep rising. Obesity is expensive because residents who suffer from it are more likely to be diagnosed with heart disease, "resulting in more hospitalizations, medical procedures, need for chronic medications, missed work days and shortened life expectancy."³⁴ Heather Drake, testifying on behalf of the Metropolitan Washington Public Health Association, said that expanding access to healthy foods in underserved areas will reduce the costs of treating obesity over time.³⁵

4. The District Government Has Taken Steps to Expand Access to Healthy Foods.

Many District agencies have been working to address the grocery gap and expand access to healthy food across the District. The Office of the Deputy Mayor for Planning and Economic Development ("DMPED") has been aggressively working to attract grocery retailers to the District. DMPED has developed promotional materials and created an online tool to identify areas that qualify for existing tax incentives. The Washington, DC Economic Partnership has assisted in recruiting full-service grocers to underserved areas in the District. The Office of Planning has approached this issue from an urban planning perspective through its Healthy by Design program.

One of the primary tools to attract grocery retailers to the District is the supermarket tax exemption, which the D.C. Council created in 2000.³⁶ This legislation gives qualifying grocery stores a 10-year exemption from real property taxes, license fees, and personal property taxes. Grocers are also exempt from sales and use taxes on building materials used to develop the grocery store.

However, the supermarket tax exemption has been very difficult to implement because of the difficulty in determining if a specific location qualifies for the exemption and the long delay in reviewing applications. To be eligible for this tax incentive, stores must be located in one of more than a dozen "priority development areas." This definition "has confused many supermarket representatives and lawyers," said Zipper, who noted that he has received calls from grocers and their attorneys who were uncertain as to where the exemption applies.³⁷ Moreover, Zipper testified that these areas "are a dubious guide for identifying neighborhoods lacking access to supermarkets."³⁸ He explained that both Foggy Bottom and Gallery Place are eligible for the supermarket tax exemption "although the relatively strong market conditions in those areas suggest that supermarkets may not require a subsidy to operate profitably."³⁹

³³ *Obesity Statistics in the United States*, NATIONAL CONFERENCE OF STATE LEGISLATURES, 2009, available online at <http://www.ncsl.org/default.aspx?tabid=14367>.

³⁴ See John Blake, *Studies Suggest Overweight Kids are Coronary Time Bombs*, CNN, Nov. 12, 2009, available online at <http://www.cnn.com/2009/HEALTH/11/12/moh.kids.cardiac.problems.obesity/>.

³⁵ Testimony of Heather Drake.

³⁶ See D.C. Code § 47-3801 *et seq.*

³⁷ Testimony of David Zipper.

³⁸ *Id.*

³⁹ *Id.*

During the working group meetings on this legislation, the Executive, grocery store owners, and other stakeholders explained that the supermarket tax exemption can take a very long time to be granted. A grocery store representative stated that he knew of an application that had been pending for more than *two* years. This lengthy delay appears to be due to a bifurcated approval process involving both the Deputy Mayor for Planning and Economic Development and the Office of Tax and Revenue. Such a lengthy delay in approving this exemption weakens its effectiveness.

This year, D.C. Housing Enterprises (“DCHE”), a wholly-owned subsidiary of the D.C. Housing Authority, received \$50 million in New Market Tax Credits. Over the next 7 years, DCHE will use these funds to support retail and commercial development projects located near Hope VI sites and in distressed areas. The agency is very interested in supporting grocery projects in the District’s food deserts.

In Fiscal Year 2009, the Department of Health received funds to assist small corner stores in selling more nutritious foods. More recently, DSLBD provided assistance to 6 corner stores in low-income neighborhoods and identified more than 40 stores that are prime candidates to sell fresh fruits and vegetables. Unfortunately, funding has not been continued for these programs. The Department of Housing and Community Development has funded a façade program to finance improvements to the exterior of retail stores in low-income areas.

Despite these efforts, what appears to be lacking is a coordinated and sustained effort that links the diverse set of agencies seeking to address the District’s grocery gap problem. Most agencies have been working independently on this issue and for short periods of time. By linking the District’s programs and resources together, the District can act more efficiently and effectively in expanding access to healthy foods in underserved, low-income neighborhoods.

5. Pennsylvania and Other States Have Established a Model for Closing the Grocery Gap.

Expanding access to healthy food in low-income areas is not a new idea. Many other jurisdictions have taken steps to address this issue in recent years. The leading program is Pennsylvania’s Fresh Food Financing Initiative. A \$30 million investment from the Commonwealth was matched by \$90 million in private funds and federal tax credits. Over the past 5 years, this program has financed over 80 full-service grocery stores and other healthy food retailers in low-income areas, created more than 5,000 jobs, and improved access to healthy foods for more than 400,000 people residents. This program has been recognized by the U.S. Centers for Disease Control and Prevention, National Conference of State Legislatures, National Governors Association, and Harvard University’s Ashe Institute.⁴⁰ Dr. Van Zoeren said, “The Fresh Food Financing Act in Pennsylvania . . . has shown tremendous gains in positively influencing health and food access and is . . . a successful model for other municipalities and states, and even the nation.”⁴¹

⁴⁰ Judith Bell and Marion Standish, *Building Healthy Communities Through Equitable Food Access*, COMMUNITY DEVELOPMENT INVESTMENT REVIEW, FEDERAL RESERVE BANK OF SAN FRANCISCO, 2009, at 85.

⁴¹ Testimony of Douglas Van Zoeren, M.D.

Pennsylvania's program is the model for President Obama's federal Healthy Food Financing Initiative.⁴² A cornerstone of the First Lady's "Let's Move" project to fight childhood obesity, the President has included \$400 million in his Fiscal Year 2011 budget to help other jurisdictions replicate Pennsylvania's success. The U.S. Department of the Treasury has begun the process of awarding the first \$25 million for this program. California, Illinois, Louisiana, New Jersey, and New York have are establishing similar programs, along with the Baltimore, Newark, New Orleans, and New York City.⁴³

6. The FEED-DC Act Will Fight Obesity by Expanding Access to Healthy Foods, Create Jobs in Low-Income Communities, and Improve the Environment.

The FEED-DC Act will establish a "Grocery Store Development Program" within the Office of the Deputy Mayor for Planning and Economic Development in order to attract grocery stores to the District's food deserts. With the assistance of relevant District agencies and other stakeholders, this program will seek funding through the federal Healthy Food Financing Initiative and develop financial packages to incentivize grocers to locate in underserved areas in the District. Other benefits, such as bonus density or other zoning flexibility, will also be available to attract grocery stores. Stores receiving benefits from the District would be required to accept SNAP and WIC benefits, hire local residents, and commit to selling fresh produce and healthy foods for at least 5 years. The Deputy Mayor will designate an employee as the District's "grocery ambassador" who will help expedite the regulatory approval process for grocery stores.

Similarly, a "Healthy Food Retail Program" will be established within the Department of Small and Local Business Development ("DSLBD"). With the support of District agencies and other stakeholders, this program will provide financial and technical assistance on a competitive basis to corner stores, farmers markets, and other small food retailers in expanding retail sales of healthy food. Stores receiving benefits will be strongly encouraged to accept SNAP and WIC benefits, and employ District residents and must agree in writing to sell produce and other healthy foods for at least 3 years. DSLBD will also convene a working group to develop system for distributing fresh produce to corner stores; by working cooperatively, stores should be able to maximize their buying power and lower their retail prices. The District Department of the Environment will assist corner stores in lowering their operating costs by becoming more energy efficient.

⁴² See *Healthy Communities*, LET'S MOVE, available online at <http://www.letsmove.gov/healthycommunity.php>.

⁴³ California (established the California Healthy Food Financing Initiative to assist retailers in selling healthy food); Illinois (appropriated \$10 million in state funds, matched with a projected \$20 million in private funds to provide grants and loans for the development of grocery and fresh food retail); Louisiana (passed the Louisiana Healthy Food Retail Act to establish a healthy food retail financing program); New Jersey (appropriated \$7 million in state economic development funds, matched with \$6 million in private funds to expand access to healthy food); New York State (established a \$10 million state revolving loan fund for grocery development with a matching grants program); Baltimore (created a task force to develop a healthy eating campaign, zoning incentives, increased street vending, and community gardens); Newark (appropriated \$1 million in local funds, matched with \$4 million in private funds for the Newark Fresh Food Program); New Orleans (allocated \$7 million in recovery funds to provide grants and loans through the Fresh Food Retailers Initiative); New York City (established the Food Retail Expansion to Support Health program to provide financial, zoning, and other incentives to attract healthy food retail to underserved areas).

Retailers will be eligible to receive benefits, on a competitive basis, if they are located in a census tract with an average median gross income of 60% or less. Preference will be given to stores within this area that are also located in an area that is underserved by grocery retail. This eligibility area was developed jointly by a number of key stakeholders, including DMPED, D.C. Hunger Solutions, and the D.C. Fiscal Policy Institute. This definition will make it very easy for grocers to know if a particular location qualifies for benefits. This definition is also adopted for the supermarket tax exemption to simplify and clarify its applicability. “By making this change, Council can ensure that benefits from the supermarket tax exemption flow directly – and only to those lower-income neighborhoods where supermarkets are most needed,” said Mr. Zipper.

The FEED-DC Act was developed through a collaborative process involving dozens of stakeholders who participated in regular working group meetings over a two-month period. Participants included District agencies, community leaders, physicians, health experts, developers, community development financial institutions, corner store operators, and grocers. All who participated in this process support this legislation. “[P]assage of this Act is vital to eliminating food deserts from the District and ensures greater access to healthier food options for every resident,” said Acasia Olson, on behalf of the Metropolitan Washington Public Health Association.⁴⁴ “[T]he changes brought about through this legislation will ensure positive health outcomes for areas most affected by food deserts.” Dr. Van Zoeren said, “FEED DC supports the *total* health of the District of Columbia.”⁴⁵

7. The District Should Continue to Examine the Grocery Gap in the Future, and Take Further Action to Fight Obesity and Create Jobs in Low-Income Neighborhoods.

Although the Committee finds that this legislation will fight the obesity epidemic and create jobs by expanding healthy food retail in low-income areas, there is much more that can be done. In addition to increasing the availability of fresh fruits and vegetables and other healthy foods in food deserts, substantial nutrition education is needed to teach residents how to prepare nutritious meals and eat healthier.

When the District’s financial situation improves and more funds are available, the Mayor and the Council should explore other creative programs to promote healthy eating. For example, the City of Boston and the Food Project have jointly developed the Boston Bounty Bucks program, which provides additional funds to SNAP recipients who purchase fresh produce at local farmers markets.⁴⁶ Residents receive a rebate of half of their purchases up to \$10, which expands their buying power and enables low-income residents to buy more fresh fruits and vegetables. To address their food deserts, Baltimore has launched an innovative program in the

⁴⁴ Testimony of Acasia Olson.

⁴⁵ Testimony of Douglas Van Zoeren, M.D. (emphasis in original).

⁴⁶ *Boston Bounty Bucks*, THE FOOD PROJECT, available online at <http://thefoodproject.org/bountybucks>.

city's public libraries whereby residents in low-income neighborhoods can order groceries online and then pick them up the next day.⁴⁷

Additionally, the Mayor and the Council should examine the effectiveness of this legislation in reducing obesity and creating jobs to ensure that the District's resources are used efficiently and effectively.

SECTION-BY-SECTION ANALYSIS

TITLE I – Definitions

Sec. 101. Definitions.

This section would define the following terms:

- (1) A “corner store” is a retail establishment that sells grocery products and has less than 5,000 square feet of selling area. Stores that hold a “Class A” liquor license, commonly known as liquor stores, are excluded. Stores must meet the eligibility requirements for the federal Supplemental Nutrition Assistance Program.
- (2) The “eligible area” for the benefits provided through this bill include census tracts with 60% or lower average median gross income, as defined by the U.S. Department of Housing and Urban Development.
- (3) A “farmers market” is a public market, as defined in D.C. Code § 37-131.01(2), at which farmers and other producers sell fresh produce and healthy foods.
- (4) A “first source agreement” is as defined in D.C. Official Code § 2-219.03.
- (5) A “grocery store” is a retail establishment that has a primary business of selling grocery products and has at least 5,000 square feet of selling area that is used for a general line of food and nonfood grocery products. Stores must meet the eligibility requirements for the federal Supplemental Nutrition Assistance Program.
- (6) “Healthy food” includes fresh fruit and vegetables and other foods that can be legally marketed as “healthy” under federal law. The U.S. Food and Drug Administration has established the requirements for goods to be labeled as “healthy” in 21 C.F.R. § 101.65(d)(2).
- (7) A “small food retailer” is a small business that is not a grocery store or a corner store and whose primary business is the retail sale of grocery items. Stores that hold a

⁴⁷ Kelly Brewington, *Libraries Help Fill City Nutrition Gaps*, BALTIMORE SUN, March 18, 2010, available online at http://articles.baltimoresun.com/2010-03-18/health/bal-md.hs.supermarket18mar18_1_food-deserts-healthy-grocery-stores.

“Class A” liquor license, commonly known as liquor stores, are excluded.

- (8) “SNAP benefits” are benefits provided by the federal Supplemental Nutrition Assistance Program.
- (9) “WIC benefits” are benefits provided by the federal Special Supplemental Nutrition Program for Women, Infants, and Children.

TITLE II – Grocery Store Development Program

Sec. 201. Establishment of a grocery store development program.

(a) A “Grocery Store Development Program” will be created within the Office of the Deputy Mayor for Planning and Economic Development in order to attract grocery stores to and renovate grocery stores in low-income areas in the District.

(b) The District of Columbia Housing Authority, Office of Planning, and the Washington, D.C. Economic Partnership shall provide assistance to the Office of the Deputy Mayor for Planning and Economic Development in order to implement this program.

(c) Under this program, the Deputy Mayor for Planning and Economic Development should:

(1) Establish a working group of stakeholders to apply for federal funding through the Healthy Food Financing Initiative, New Market Tax Credits Program, and other programs. In his Fiscal Year 2011 budget, the President has proposed spending \$400 million to expand access to healthy food in underserved areas.

(2) Provide grants, loans, tax credits, other financial assistance, and technical assistance to grocery stores in low-income areas. These benefits will be awarded to grocery stores in low-income areas on a competitive basis. Priority will be given to areas that are underserved by grocery retail.

Sec. 202. Requirements.

(a) To receive benefits under this legislation, grocery stores are required to accept SNAP benefits, apply to accept WIC benefits and accept WIC benefits if eligible, enter into a first source agreement, and sell fresh produce. At this time, requiring stores to accept WIC benefits is not practical because the District’s WIC application process is complex, cumbersome, and time consuming, and it can often be unclear if a store will qualify. Requiring first source agreements will ensure that stores consider District residents first when hiring new employees.

(b) Grocery stores are required to commit in writing to the requirements of subsection (a) for a period of 5 years. This requirement will help to ensure that stores do not receive benefits for locating in low-income areas and selling health foods, only to change their business model

shortly after obtaining assistance from the District. However, if a store permanently closes, this subsection will not apply.

Sec. 203. Grocery ambassador program.

(a) The Deputy Mayor for Planning and Economic Development will designate a government employee as the District’s “grocery ambassador.” This individual will assist retailers in building or renovating grocery stores in low-income areas by providing research, coordinating with District agencies, expediting regulatory review, and providing other assistance as needed. Grocery stores have stated that the slow and complex bureaucracy in the District government can discourage them from opening new stores in the District. The grocery ambassador will be charged with helping grocery stores to quickly maneuver through regulatory hurdles. Because this designated employee will be located in a Deputy Mayor’s office, the grocery ambassador should have the weight of a top District official behind him to encourage District agencies to act swiftly.

Sec. 204. Other incentives.

(a) The Zoning Commission is directed to grant projects with grocery stores in low-income areas bonus density or other zoning flexibility in order to encourage the development of grocery retail. This subsection would, in effect, reward developers for including grocery stores in their projects. This language was drafted with the assistance of the Office of Planning.

(b) When it considers applications for special exceptions or planned unit developments, the Zoning Commission and Board of Zoning Adjustment is directed to give favorable weight to projects in low-income areas with grocery stores. This subsection would further reward developers for including grocery stores in their projects. This language was also drafted with the assistance of the Office of Planning.

(c) In 2006, the D.C. Council created an expedited review program for green buildings. *See D.C. Official Code § 6-1451.01 et seq.* Under this scheme, construction documents submitted for green buildings are placed at the front of the queue in the Department of Consumer and Regulatory Affairs. This section would expand this expedited review program to include projects with grocery stores. This change will benefit grocery stores by having the District review their plan in a much shorter time period.

Sec. 205. Supermarket tax exemption clarification.

(a) During the series of working group meetings on this legislation, the Committee learned that determining whether a specific site is located in a qualifying area is a very difficult endeavor. Stakeholders urged the Committee to adopt a simple definition that would allow one to quickly and simply determine if a site qualifies for these tax incentives. Therefore, this legislation would adopt the same definition for eligible areas under Section 201 – census tracts with less than 60% average gross median income – as the definition for the supermarket tax exemption. Stakeholders unanimously agreed that this definition is much clearer and will make this exemption much easier to promote and implement.

At a working group meeting, a grocery store representative explained that the definition of “building materials” exempt from the sales tax under the supermarket tax exemption was unclear. This subsection would clarify that “building materials” includes not only the construction materials to erect or build-out a space, but also the furniture, fixtures, and equipment necessary to furnish the space as a grocery store.

(b) The Executive, grocery store owners, and other stakeholders also explained during the working group process that the supermarket tax exemption can take a very long time to be granted. A grocery store representative stated that he knew of an application that had been pending for more than two years. This lengthy delay appears to be due to a bifurcated approval process involving both the Deputy Mayor for Planning and Economic Development and the Office of Tax and Revenue. The Committee worked with both offices to address this problem. The language in this subsection was largely drafted by the Office of Tax and Revenue and would place the sole authority for approving applications for the supermarket tax exemption on the Deputy Mayor for Planning and Economic Development. By empowering the Executive with the authority to approve these tax exemptions, the process for approving supermarket tax exemption applications should be reduced from two years to as few as 45 days.

TITLE III – Healthy Food Retail Program

Sec. 301. Establishment of a healthy corner store program.

(a) A “Healthy Food Retail Program” will be created within the Department of Small and Local Business Development in order to expand access to healthy foods in eligible areas in the District by providing assistance to corner stores, farmers markets, and other small food retailers.

(b) The Department of Health, District Department of the Environment, Office of the Deputy Mayor for Planning and Economic Development, Office of Planning, and the University System of the District of Columbia shall provide assistance to the Department of Small and Local Business Development in order to implement this program.

(c) Under this program, the Department of Small and Local Business Development should provide grants, loans, tax credits, other financial assistance, and technical assistance to corner stores, farmers markets, and other small food retailers in low-income areas. These benefits will be awarded to corner stores, farmers markets, and other small food retailers in low-income areas on a competitive basis. Priority will be given to areas that are underserved by grocery retail.

(d) Corner stores, farmers markets, and other small food retailers are encouraged to work cooperatively to expand access to healthy foods in eligible areas.

(e) The benefits provided by subsection (c) may be used to improve the display areas and interiors of corner stores. This language clarifies that the Department of Small and Local Business Development may assist corner stores by providing display coolers or making other

interior improvements as needed. In contrast, the existing retail façade program, administered by the Department of Housing and Community Development, restricts funds to store exteriors.

(f) The Department of Small and Local Business Development may engage nonprofit organizations in promoting and implementing this program.

(g) The University System of the District of Columbia may provide nutrition education resources to eligible corner stores, farmers markets, and consumers in eligible areas. Nutrition education is an important component to improving public health in low-income areas. Although this legislation does not directly address ways to expand nutrition education, the District should focus existing resources on areas with high rates of obesity and should assist food retailers in teaching residents how to eat healthier.

Sec. 302. Requirements.

(a) To receive benefits under this legislation, corner stores, farmers markets, and other small food retailers are strongly encouraged to apply to accept SNAP benefits, apply to accept WIC benefits, and employ District residents. Both the federal SNAP and WIC programs require stores to sell a specific set of items. Due to their limited size, many small food retailers are simply unable to stock enough goods to qualify to accept these benefits. Thus, participating stores should accept these benefits when possible, but they may not meet the eligibility requirements. Encouraging these stores to employ District residents will help to create new jobs for residents living in low-income areas.

(b) The District may provide resources under Section 301 to assist corner stores, farmers markets, and other small food retailers in acquiring point of sale terminals and other technology necessary for them to accept SNAP and WIC benefits.

(c) Corner stores, farmers markets, and other small food retailers are required to commit in writing to sell produce or other healthy foods for at least three years. This requirement will help to ensure that stores do not receive benefits for selling healthy foods in low-income areas, only to discontinue selling these goods shortly after obtaining assistance from the District. However, if a store permanently closes, this subsection will not apply.

Sec. 303. Healthy food distribution.

(a) During the working group meetings, stakeholders told the Committee that a lack of a system for distributing fresh produce to corner stores is a barrier for stores to sell these goods. They explained how distributors of soft drinks, snack foods, and candy typically deliver goods to corner stores and often stock the store's shelves. As many corner stores in the District are owner-operated or may have only one employee, in order for many corner stores to be able to see fresh produce, there needs to be a way for fresh fruit and vegetables to reach these stores. Therefore, the Department of Small and Local Business Development will convene a working group to develop a plan for establishing a commercial distribution system for fresh produce and healthy foods to corner stores. Corner stores shall be encouraged to work cooperatively in order to maximize their buying power and make fresh produce affordable.

(b) The working group will include representatives from District agencies, the District's grocery ambassador, nonprofit organizations, urban farmers and community gardeners; corner stores and their trade associations; and produce wholesalers.

(c) The working group will issue a report and recommendations to the Mayor and the Council on or before June 30, 2011.

(d) The Department of Small and Local Business Development may issue grants, on a competitive basis, for the establishment of a commercial distribution system for fresh produce and healthy foods

Sec. 304. Energy efficiency.

The District Department of the Environment will develop tools and resources for corner stores to reduce their operating costs by becoming more energy efficient and promote energy efficiency programs to corner stores.

TITLE IV

Sec. 401. Rules.

The Mayor would be permitted to issue rules to implement this act.

Sec. 402. Fiscal impact statement.

The Council would adopt the fiscal impact statement in the committee report.

Sec. 403. Effective date.

This legislation would take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review, and publication in the District of Columbia Register.

IMPACT ON EXISTING LAW

This bill amends Chapter 38 of Title 47 of the D.C. Official Code.

FISCAL IMPACT

The Committee adopts the Fiscal Impact Statement prepared by the Chief Financial Officer.

SUMMARY OF PUBLIC HEARING

On Monday, October 18, 2010, the Committee on Government Operations and the Environment and the Committee on Economic Development held a joint public hearing on Bill 18-967, the “Food, Environmental, and Economic Development in the District of Columbia Act of 2010.” **Councilmember Mary M. Cheh**, Chairperson of the Committee on Government Operations and the Environment, called the hearing to order at 2:15 p.m. in Room 500 of the John A. Wilson Building.

Councilmember Cheh explained that the purpose of the hearing was to consider the “Food, Environmental, and Economic Development in the District of Columbia Act of 2010” and the legislation’s proposed school nutrition requirements, farm-to-school program, physical activity standards, environmental programs, and health and wellness programs. **Councilmember Kwame R. Brown**, Chairperson of the Committee on Economic Development, made an opening statement discussing the importance of job creation and how this legislation can not only improve the health of residents in low-income areas in the District but also create economic opportunities for residents in these neighborhoods, which have high rates of unemployment.

Tanikka Cunningham, Healthy Solutions, testified in support of the bill and made suggestions, including defining “healthy foods” and giving residents an opportunity to benefit from the economic assistance provided.

Tony Perez, UFCW Union Local 400, testified that his union has not taken a formal position on the bill. He said that he generally supports the goals of this legislation and would provide specific recommendations at a later date.

Mark McCaffrey, Capital Area Food Bank, testified about his organization’s success in distributing annually 30 million pounds of food, including 15 million pounds of fresh produce. He also explained the District’s grocery gap and the need for this legislation.

Alex Ashbrook, DC Hunger Solutions, testified that “supporting the FEED ACT is a wise, evidence-based approach to improve residents’ nutrition and overall health, reduce hunger, potentially lower residents’ food costs, and spur economic recovery.”

Acasia Olson, Metropolitan Washington Public Health Association, testified about the importance of enacting this legislation. She explained how a lack of access to healthy food affects public health in low-income communities.

Heather Drake, Metropolitan Washington Public Health Association, testified about her survey of grocery stores in Ward 8. She also discussed the economic costs of obesity and how reducing food deserts will reduce health care costs.

Rachel Moore, Metropolitan Washington Public Health Association,

John Gloster, Ward 8 Farmers Market Cooperative, testified about his experience leading the only farmers market in Ward 8. He explained that his market accepts SNAP, WIC, and other public benefits, and works with the Capital Area Food Bank and corner stores.

Leslie Wheelock, Georgetown Farmers' Market, testified about the benefits of farmers markets in expanding access to healthy food. She urged that the bill be expanded to help establish farmers markets in underserved areas.

Ed Lazere, DC Fiscal Policy Institute, testified in support of the legislation. He made suggestions for clarifying the definition of what areas are eligible to receive benefits and how to improve the existing supermarket tax exemption.

Carl Rollins, Public Witness, testified that the bill will help improve food access in the District. He urged the Council to include farmers markets and discussed the need to build demand for healthy food in low-income neighborhoods.

Barry Scher, Policy Solutions, testified about his experience developing Giant stores in the District, and explained what factors grocers consider when deciding where to locate new stores. He also provided historical background about food retail in the District.

David Zipper, Office of the Deputy Mayor for Economic Development, testified in support of the legislation. He explained the economic impact of grocery stores and his office's ongoing efforts to attract grocery stores to underserved areas in the District. He suggested that the Council clarify the eligibility area and procedure for the supermarket tax exemption and the eligibility area for the benefits provided by this legislation.

Chairperson Cheh thanked the witnesses for their testimony and called the hearing to a close at 4:25 p.m.

COMMITTEE ACTION

On Monday, November 15, at 10:00 a.m., Chairperson Kwame R. Brown convened a regular meeting of the Committee on Economic Development in Room ___ of the John A. Wilson Building. Present with Chairperson Brown were Councilmembers _____.

Chairperson Brown described Bill 18-967, the "Food, Environmental, and Economic Development in the District of Columbia Act of 2010" and its purpose. Mr. Brown then moved for a vote. The Committee voted unanimously, _-_, to approve the bill, as follows:

YES: Chairperson _____, Councilmembers _____

NO:

PRESENT:

ABSENT:

LIST OF ATTACHMENTS

- (A) Bill 18-967, as introduced
- (B) Notice of Intent to Act, published in the *District of Columbia Register*
- (C) Public Hearing Notice, published in the *District of Columbia Register*
- (D) List of Working Group Meetings
- (E) Public Hearing Agenda and Witness List
- (F) Committee Print of Bill 18-967
- (G) Fiscal Impact Statement
- (H) Map of Food Deserts in the District
- (I) Maps Showing the Areas Eligible for the Supermarket Tax Exemption
- (J) Testimony from the October 18, 2010, Public Hearing