


OFFICE OF MARY M. CHEH

COUNCILMEMBER, WARD 3

CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS & THE ENVIRONMENT

MEMORANDUM

TO: All Councilmembers
FROM: Councilmember Mary M. Cheh 
DATE: December 14, 2009
SUBJECT: Bill 18-564 – Healthy Schools Act of 2009

I. SUMMARY

Great effort is being made to reform public education in the District of Columbia. Test scores are rising. Curricula are being strengthened. School facilities are improving. Charter school options are increasing. Now, it even appears that more parents are choosing to enroll their children in our public schools.

What has been overlooked during this reform effort, however, is improving the nutrition, health, and wellness of our public school students. Facing a childhood obesity epidemic, poor student nutrition, insufficient physical activity, an unsustainable environment, and risk of long-term health consequences, there is significant cause for concern. Teaching students to live a healthy lifestyle and making school environments healthier can have a major, lifelong impact on the wellbeing of our youngest generation.

This legislation is designed to complement the existing educational reforms enacted by the Mayor and the Council. It is drafted to support the initiatives of District of Columbia Public Schools (“DCPS”), the Office of the State Superintendent of Education (“OSSE”), and the State Board of Education (“SBOE”). The bill would apply to all of our public school students: those attending both DCPS and public charter schools. Twenty community organizations, including the American Heart Association, DC Farm-to-School Network, and DC Hunger Solutions, provided invaluable assistance in drafting this legislation.

Specifically, this bill would (1) raise school nutritional requirements to meet national standards; (2) establish a farm-to-school program in the District of Columbia; (3) address the youth obesity epidemic by increasing physical activity; (4) promote recycling, composting, clean air, green schools, and school gardens; (5) improve school wellness, asthma treatment, and allergy management; and (6) reconstitute an existing body as a Healthy Youth and Schools Commission to create long-term solutions.

After this bill is introduced, I plan to convene working groups of stakeholders to examine each component of the legislation. The goal is to pass the bill in the spring so that it can take effect at the beginning of the 2010 – 2011 school year in August.

II. PROBLEM

The problems of childhood nutrition, health, and wellness have been clearly defined:

Nutrition

- More than 60% of schoolchildren exceed U.S. dietary guidelines for saturated fat.¹
- 85% of female teenagers do not consume enough calcium, which can lead to osteoporosis.²
- In the District, 81% of high school students do not eat the recommended five daily servings of fruits and vegetables.³
- Skipping breakfast can negatively affect children's academic performance and being hungry can lead to poor behavior in school and difficulty learning.⁴
- According to the CDC, "Healthy eating contributes to overall healthy growth and development, including healthy bones, skin, and energy levels; and a lowered risk of dental caries, eating disorders, constipation, malnutrition, and iron deficiency anemia."⁵
- 27 states have passed school nutrition policies,⁶ while 21 states have enacted farm-to-school policies.⁷ The District has done neither.

Farm-to-School Program

- Serving fresh produce grown on local farms in schools has resulted in increased consumption of fruits and vegetables.⁸

¹ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Nutrition Fact Data Sheet* (citing U.S. DEPARTMENT OF AGRICULTURE, *Continuing Survey of Food Intakes by Individuals 1994-96, 1998*), available online at <http://www.cdc.gov/healthyyouth/nutrition/facts.htm>.

² *Id.* (citing U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *Bone Health and Osteoporosis: A Report of the Surgeon General*, 2004).

³ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Comparison Between District of Columbia Students and U.S. Students, 2007 Youth Risk Behavior Survey*, available online at http://www.cdc.gov/HealthyYouth/yrbs/pdf/states/yrbs07_dc_us_comparison.pdf.

⁴ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Nutrition Fact Data Sheet* (citing E. Pollitt and R. Mathews, AMERICAN JOURNAL OF CLINICAL NUTRITION, *Breakfast and Cognition: An Integrative Summary*, 1998), available online at <http://www.cdc.gov/healthyyouth/nutrition/facts.htm>.

⁵ *Id.* (citing U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES AND U.S. DEPARTMENT OF AGRICULTURE, *Dietary Guidelines for Americans*, 6th Edition, 2005).

⁶ AMERICAN ACADEMY OF PEDIATRICS, *2008 State Legislation Report*, available online at <http://www.aap.org/advocacy/statelegprpt.pdf>.

⁷ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *State Indicator Report on Fruits and Vegetables*, 2009, available online at http://www.fruitsandveggiesmatter.gov/health_professionals/data_policy.html.

⁸ NATIONAL FARM TO SCHOOL NETWORK, *Farm to School Talking Points: Support Mandatory Funding for Farm to School Projects*, available online at <http://www.farmtoschool.org/files/FarmtoSchoolTalkingPoints.pdf>.

- Farm fresh products taste better, and research has shown that children prefer them to non-local produce.⁹
- Serving fresh, local produce is healthier; helps small, local farms; reduces transportation distances and costs; and is more sustainable.
- Community experts have said that enough fresh, local, healthy produce exists to feed every District student.

Childhood Obesity and Physical Education

- Within the last 30 years, childhood obesity rates have tripled in the United States.¹⁰
- According to the CDC, 18% of high school students in the District are obese,¹¹ and 35% are overweight.¹² The rate of adolescent obesity in the District of Columbia is the highest in the nation¹³ and nearly half of the children in some wards are overweight.¹⁴ The CDC refers to obesity as an “epidemic.”¹⁵
- 70% of high school students in the District failed to meet the CDC’s recommended levels of physical activity.¹⁶
- 84% of high school students in the District did not attend physical education classes daily.¹⁷
- Research has shown that 80% of children who were overweight between the ages of 10 and 15 years were obese adults at age 25.¹⁸ According to the CDC,

⁹ *Id.*

¹⁰ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Childhood Overweight and Obesity* (citing sources), available online at <http://www.cdc.gov/obesity/childhood/index.html>.

¹¹ Obesity is defined as having a body mass index exceeding the 95th percentile for the same age and sex. See U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Defining Childhood Overweight and Obesity*, available online at <http://www.cdc.gov/obesity/childhood/defining.html>.

¹² Overweight is defined as having a body mass index exceeding the 85th percentile for the same age and sex. See *id.*

¹³ TRUST FOR AMERICA’S HEALTH, *F as in Fat: How Obesity Policies are Failing America*, 2007, available online at <http://healthyamericans.org/reports/obesity2007/Obesity2007Report.pdf>; see also U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *The Childhood and Adolescent Obesity Epidemic Confronting Virginia Schools, 2007-2008*, available online at <http://www.cdc.gov/nceh/ehs/ephli/Reports/VonKutzeleben.doc>.

¹⁴ Susan Levine and Rob Stein, WASHINGTON POST, *Obesity Threatens a Generation*, May 17, 2008, available online at http://www.washingtonpost.com/wp-dyn/content/article/2008/05/17/AR2008051701373_pf.html.

¹⁵ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *The Obesity Epidemic and District of Columbia Students*, available online at http://www.cdc.gov/HealthyYouth/yrbs/pdf/obesity/dc_obesity_combo.pdf.

¹⁶ *Id.* (citing *The 2007 District of Columbia Youth Risk Behavior Survey*).

¹⁷ *Id.*

¹⁸ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *Childhood Overweight and Obesity* (citing multiple sources), available online at <http://www.cdc.gov/obesity/childhood/index.html>.

“if overweight begins before 8 years of age, obesity in adulthood is likely to be more severe.”¹⁹

- According to the Surgeon General, being overweight creates an increased risk of diabetes, heart disease, high cholesterol, high blood pressure, asthma, and cancer.²⁰
- Childhood obesity can lead to hypertension and heart disease later in life.²¹
- Thirty-one states have enacted legislation to address childhood obesity,²² while 25 states have passed laws to address childhood obesity by increasing physical activity.²³ According to the American Academy of Pediatrics, the District has done neither.

Environment

- Every day, tens of thousands of Styrofoam trays, disposable cutlery, and other containers are thrown away at District schools.
- Approximately two-thirds of DCPS schools and most charter schools do not recycle.
- Even at DCPS schools that do recycle, the waste from DCPS' food service provider is neither recycled nor composted.
- School buses idle in front of District schools, which causes poor air quality and aggravates asthma conditions.
- The District lacks a program to encourage the use of green spaces at schools to create gardens as both educational tools and to produce healthy foods for students.

Health and Wellness

- More than half of the children in the District do not have a personal doctor, and 34% of children have not had a preventative medical visit and dental visit in the past year.²⁴

¹⁹ *Id.*

²⁰ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *Overweight and Obesity: Health Consequences*, available online at <http://www.surgeongeneral.gov/topics/obesity/calltoaction/factsheet03.pdf>.

²¹ Rae-Ellen W. Kavey, et. al, AMERICAN HEART ASSOCIATION, *Guidelines for Primary Prevention of Atherosclerotic Cardiovascular Disease Beginning in Childhood*, available online at <http://circ.ahajournals.org/cgi/content/full/107/11/1562>.

²² THE HENRY J. KAISER FAMILY FOUNDATION, *District of Columbia: State Laws Addressing Childhood Obesity, 2008*, available online at <http://www.statehealthfacts.org/profileind.jsp?ind=52&cat=2&rgn=10>.

²³ AMERICAN ACADEMY OF PEDIATRICS, *2008 State Legislation Report*, available online at <http://www.aap.org/advocacy/stateleg rpt.pdf>.

²⁴ D.C. ASSEMBLY ON SCHOOL HEALTH CARE, *School Health Centers: Bringing Health Care to Schools for Student Success* (citing U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *The National Survey of Children's Health 2003*), available online at <http://www.dcasbhc.org/Fact%20Sheet.pdf>.

- Because 32% of children in the District live in poverty (and 19.2% live in extreme poverty),²⁵ access to care is limited for many students.
- According to the Department of Health (“DOH”), “The District of Columbia has one of the nation’s highest asthma rates. . . . Recent studies indicate that most children in low-income and minority populations are severely impacted by this chronic disorder.”²⁶
- A 2009 DOH report concluded that more than one-in-six children in the District has asthma.²⁷
- At a November 30, 2009, Council hearing, Judith Sandalow, Executive Director of the Children’s Law Center, testified, “We have watched children go from failing out of third grade to getting straight A’s because we have got their asthma under control”
- A November 2009 article in *Pediatrics* stated that “[f]ood allergy among children is a serious health issue that can be life-threatening.”²⁸

III. SECTION-BY-SECTION ANALYSIS

TITLE I – Definitions

Sec. 101. Definitions.

(1) “*Locally-grown*” means from a grower in Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia.

(2) “*Locally-processed*” means processed at a facility in Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia.

(3) “*Meals*” means breakfast, lunch, and after-school meals served as a part of the National School Lunch Program, School Breakfast Program, and Summer Food Service Program.

²⁵ *Id.*

²⁶ D.C. DEPARTMENT OF HEALTH, *Asthma in the District of Columbia*, December 2003, available online at http://www.dcasthma.org/doh_asthma_report_2003.pdf.

²⁷ D.C. DEPARTMENT OF HEALTH, *Strategic Plan for Addressing Asthma in the District of Columbia 2009-2013*, available online at http://www.dcasthma.org/dc_doh_strategic_asthma_plan_2009_2013.pdf.

²⁸ Amy M. Branum and Susan L. Lukacs, PEDIATRICS, *Food Allergy Among Children in the United States*, November 16, 2009, available online at <http://pediatrics.aappublications.org/cgi/content/abstract/peds.2009-1210v1>.

(4) “*Minimally-processed*” means foods that are nearest their whole, raw, and natural state, and contain no artificial flavors or colors, synthetic ingredients, chemical preservatives, or dyes.

(5) “*Moderate physical activity*” means movement resulting in an increased heart rate and breathing.

(6) “*Public School*” means schools operated by DCPS and public charter schools. This term does not include private or parochial schools.

(7) “*Sustainable practices*” means those agricultural techniques that minimize carbon emissions and other environmental degradation, regenerate soil nutrients through crop rotation or other methods that minimize environmental impact, avoid the use of chemical fertilizers, synthetic pesticides and herbicides, or avoid non-therapeutic antibiotics and hormones.

TITLE II – School Nutrition

Sec. 201. Nutritional standards and requirements for meals served in public schools.

- (a) All breakfast, lunch, and after-school meals served in schools would be required to meet federal standards.²⁹ Because public schools are reimbursed by the federal government, through OSSE, for these meals, this requirement already exists, but is not codified. Including it in the legislation establishes a baseline for the Council to create our local nutritional standards that exceed the federal requirements.
- (b) Breakfast and lunch meals are required to meet the local nutritional standards in subsection (c) according to a sliding scale. Sixty percent of meals served in schools would be required to meet local nutritional standards by August 1, 2010. This requirement increases to 80% by August 1, 2012, and 100% by August 1, 2014. According to Chartwells, the DCPS food service provider, the company can currently meet heightened standards for approximately 60% of meals served.
- (c) This section establishes local nutritional standards for school meals that exceed the federal baseline. These standards were developed by the Institute of Medicine, one of the United States National Academies, and released in an October 2009 report.³⁰

²⁹ See The Child Nutrition Act, 42 U.S.C. § 1771 *et seq.*; the Richard B. Russell National School Lunch Act, 42 U.S.C. § 1751 *et seq.*; and 7 C.F.R. Parts 210, 215, 220 and 225.

³⁰ See INSTITUTE OF MEDICINE, *School Meals: Building Blocks for Healthy Children*, October 20, 2009, available online at <http://www.iom.edu/Reports/2009/School-Meals-Building-Blocks-for-Healthy-Children.aspx>.

- (d) Cold, filtered water would be required to be made available to students when meals are served to students in public schools. Making cold, filtered water available to students encourages its consumption, and discourages consumption of unhealthy beverages.
- (e) Public schools would be required to offer free breakfast to all students. DCPS currently provides free, universal breakfast in all of its schools. This provision would extend this successful program to all charter schools and increase the number of students who eat breakfast.
- (f) Public elementary schools would be required to serve breakfast in classrooms if more than 40% of their students qualify for free and reduced-price lunch because of family income. Public middle and high schools would be required to offer alternative serving models, such as breakfast in the classroom, grab and go carts, or other innovative models if more than 40% of their students qualify for free and reduced-price lunch. Some public schools already do this³¹ and this provision would increase the number of students who eat breakfast.
- (g) Students whose family incomes are within 131% and 185%³² of the federal poverty level qualify for reduce-price lunch and pay about 20 cents per meal. DCPS has eliminated the reduced price co-payment in over 70 schools. This provision would expand this program to all DCPS schools and the public charter schools so that low-income students would receive free lunch, which would increase the number of students who eat lunch.
- (h) Public schools would be required to provide meals that meet any special dietary needs of children who qualify for free and priced-price meals. Many schools are unaware that this is already required by federal law.³³ Codifying this requirement in District law will encourage schools to comply.
- (i) Public schools would be required to solicit feedback from students, faculty, and parents regarding nutritious meals.
- (j) Public schools would be encouraged to maximize their participation in federal school meal programs and promote healthy eating to students.
- (k) Each public school would be required to maintain a regularly updated list of each ingredient and allergen in all meals served to students. This list would be available to parents in the public school's office upon request. Currently, it is very difficult for parents to know what ingredients are in school meals, which can be critical for children with serious allergies.

³¹ See Bill Turque, WASHINGTON POST, *Meal Program Aims to Keep Kids Hungry for Learning*, November 16, 2009, available online at <http://www.washingtonpost.com/wp-dyn/content/article/2009/11/15/AR2009111502535.html>.

³² For a family of four, this income range is between \$28,886 and \$40,793. See 2009 HHS POVERTY GUIDELINES, available online at <http://aspe.hhs.gov/POVERTY/09poverty.shtml>.

³³ See Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

- (l) Public schools would be required to provide at least thirty minutes for students to eat lunch. A number of community experts suggested this provision, which ensures that students have sufficient time to eat a healthy meal.

Sec. 202. Healthy vending, fundraising, and prizes in schools.

- (a) This section codifies the existing healthy vending policy adopted by the Board of Education in 2006, as updated by the American Heart Association. Community experts say that this policy is excellent, but that it is only followed by about 85% of DCPS schools. This section makes these rules apply to all DCPS and charter schools.
- (b) The healthy vending policy is not applicable to:
 - (1) Food and drinks available only to faculty and staff members;
 - (2) Food provided at no cost by parents; and
 - (3) Food sold or provided at sporting events.
- (c) Food sold in school stores would be required to meet the nutritional standards of subsection (a).
- (d) Schools would be prohibited from allowing vendors to sell food and drinks on school property. Currently, some high schools allow outside companies (i.e. Papa John's pizza) to sell food on campus after school.
- (e) Street vendors would be prohibited from selling food within 200 yards of a school from one hour prior to when the school is in session through an hour after the school day ends.
- (f) This section would prohibit unhealthy foods and drinks from being used as incentives, prizes, or awards in public schools.
- (g) OSSE would be required to enforce these rules by fining schools no more than \$500 per day for violating this section.

Sec. 203. Participation in federal programs.

- (a) Elementary schools are eligible to participate in the USDA's Fresh Fruit and Vegetable Program if more than 50% of their students qualify for free and reduced-price lunch.³⁴ This program provides funding for fresh fruit and vegetable snacks served to students outside of meals. All eligible schools would be required to participate. According to the DC Farm-to-School Network, only 23 of 88 eligible schools in the District are participating this year.

³⁴ See U.S. DEPARTMENT OF AGRICULTURE, *Fresh Fruit and Vegetable Program Fact Sheet*, available online at <http://www.fns.usda.gov/cnd/FFVP/Resources/FFVPfactsheet.pdf>.

- (b) The USDA's Schools and Child Nutrition Commodity Programs provide extra funds to schools to purchase produce bought by the federal government as part of farm supports.³⁵ All eligible schools would be required to participate, whenever possible (i.e. schools would be exempt if they lacked the space to store the large quantity of commodities that are delivered).

Sec. 204. Effective Date.

This title has a separate effective date so that it is clear that these school nutritional requirements will apply at the start of the next school year in August 2010. Making these provisions effective at the end of this school year would significantly complicate implementation.

TITLE III – Farm-to-School Program

Sec. 301. Local food sourcing, reimbursement, and education.

- (a) Public schools would be required to serve locally-grown, locally-processed, and minimally-processed foods from growers engaged in sustainable practices whenever possible. A preference would be given to fresh foods grown or processed in our closest neighbors, Maryland and Virginia.
- (b) OSSE presently distributes the federal funds that reimburse schools for providing student meals. This provision would give public schools a 5-cent bonus per lunch meal when the fruits and vegetables served are locally-grown, locally-processed, and minimally-processed, and are grown on farms engaged in sustainable practices. According to community experts, this nickel incentive is large enough to significantly increase the amount of fresh, local foods and vegetables served in schools. A similar program has been successful in California.³⁶
- (c) This section would require public schools to work with OSSE, community organizations, and food service providers to teach students and food service staff about the economic, environmental, and nutritional benefits of purchasing and eating locally-grown, locally-processed, and minimally-processed foods that are grown on farms engaged in sustainable practices.
- (d) Present agreements with large food service providers make it difficult for schools to purchase fresh produce from local farms. This provision would prohibit schools from entering into food service contracts that bar them

³⁵ See U.S. DEPARTMENT OF AGRICULTURE, *Schools and Child Nutrition Commodity Programs Fact Sheet*, available online at <http://www.fns.usda.gov/FDD/programs/schcnp/pfs-schcnp.pdf>.

³⁶ See CAL. ED. CODE § 49565.1.

from purchasing locally-grown, locally-processed, and minimally-processed foods that are grown on farms engaged in sustainable practices.

- (e) Frequently, large food service providers do not disclose the origin of the produce they serve. This provision would require food service providers to identify, disclose, and certify the location where fruits and vegetables served to schools are grown and processed and whether farms are engaged in sustainable practices.

Sec. 302. Grants.

Significant logistical hurdles make it difficult for schools to serve fresh, local produce. These challenges include transportation and storage. One solution would be to develop a cooperative arrangement with schools and community organizations to obtain fresh, local produce in season, centrally store it, and distribute it to individual schools. This provision would enable OSSE, when funds are made available, to issue grants to schools and organizations to help them develop innovative solutions to these logistical challenges.

Sec. 303. Programs.

This section would require OSSE, DDOE, community organizations, food service providers, and schools to develop programs to promote the economic, environmental, and nutritional benefits of purchasing and eating locally-grown and minimally-processed foods that are grown on farms engaged in sustainable practices. Community experts are already willing to do this, and this provision would assist their efforts.

This section would further codify the existing local flavor week, which is an annual, zero-cost program created by the DC Farm-to-School Network. It also establishes a “harvest of the month program,” which is used by states such as California and Oregon³⁷ to highlight and promote healthy, local, seasonal foods.

Sec. 304. Mandatory reporting.

By September 30 of each year, OSSE would be required to transmit to the Council and Mayor a comprehensive report on the District’s farm-to-school initiatives and recommendations for improvement.

³⁷ See CALIFORNIA DEPARTMENT OF PUBLIC HEALTH, *Harvest of the Month*, available online at <http://www.harvestofthemonth.com>; PORTLAND PUBLIC SCHOOLS, *Harvest of the Month*, available online at http://www.nutrition.pps.k12.or.us/.docs/_sid/8ad9a07e862c019915b61ee1fbc0e8e8/pg/10116.

TITLE IV – Childhood Obesity and Physical Education

Sec. 401. Requirements.

- (a) This title is modeled after the American Heart Association's model physical education legislation, which has been adopted in states such as Florida, Oregon, and New Jersey.³⁸ Beginning in August 2010, students in kindergarten through grade 8 would be required to participate in physical education classes for the entire school year. Students in kindergarten through grade 5 would be required to meet the national standard of 150 minutes of physical education each week. Students in grades 6 through 8 would be required to meet the national standard of 225 minutes of physical education each week.
- (b) Physical education classes would be required to follow the learning standards adopted by the State Board of Education.
- (c) At least 50 percent of physical education class time would be devoted to actual physical activity (as opposed to lectures on health and nutrition). As much time as possible would be required to be devoted to moderate physical activity.

Sec. 402. Exemptions.

- (a) A CDC report found that 41% of schools in the District did not permit students to be exempt from physical education requirements for health reasons.³⁹ Students with disabilities would be exempt from these requirements if their individualized education program set forth different physical education objectives.
- (b) Students with chronic health problems, disabling conditions, or special needs would be exempt from these requirements upon request of a parent or guardian.
- (c) Some schools, especially public charter schools, may lack facilities to have full physical education programs. Therefore, OSSE would be permitted to give a two-year exemption to schools to comply with these requirements.

Sec. 403. Punishment.

Requiring or withholding physical activity, including recess, could not be used to punish students.

³⁸ See FLA. STAT. § 1003.455; OR. REV. STAT. Ch. 839; N.J. STAT. § 18A:35-8.

³⁹ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *School Health Profiles 2008*, available online at http://www.cdc.gov/healthyyouth/profiles/2008/profiles_report.pdf.

Sec. 404. Mandatory reporting.

OSSE would be required, beginning in 2011, to report to the Council annually about schools' compliance with the physical education requirements.

TITLE V – Environment

Sec. 501. School recycling.

- (a) The Chancellor would be required to recycle paper, bottles, cans, and cardboard at all DCPS schools, including food services. Currently, DCPS is working to expand its recycling pilot program, which now includes 40 schools. Codifying this requirement will give the Chancellor's Office the support it needs to extend the program to all schools.
- (b) Requiring DCPS to recycle will cost money because a second hauler is required to visit each school to transport the recyclables. Therefore, this requirement would only take effect when funds become available.

Sec. 502. School composting.

- (a) The Chancellor would be required to compost food waste at all DCPS schools. Currently, DCPS and its food service vendor would like to compost, but lack the funds and infrastructure to do so.
- (b) This provision would establish a pilot program for composting at DCPS schools. DCPS, DPW, OPEFM, and DDOE would be required to work together with DCPS' food service provider to develop a plan. The District and the DCPS food service vendor are interested in composting at schools but lack the funds to purchase a central pulper and to pay for the necessary transportation costs.
- (c) This provision would only become effective once funds were appropriated. This section is intentionally separate from Section 501 so that if funds are found to support recycling, but not composting, the recycling requirement can take effect.

Sec. 503. Sustainable products.

Currently, school meals create enormous amounts of waste. Because most schools lack full kitchens, tens of thousands of Styrofoam trays are disposed of every day. This section would require schools to use sustainable products when serving meals to students by October 1, 2014.

Sec. 504. Report on greening schools.

DCPS would be required to prepare a sustainability report and include recommendations and a timeline for reducing waste, eliminating products such as Styrofoam, and making public schools more eco-friendly. Currently, the Chancellor's Office has someone working on these issues.

Sec. 505. Air Quality.

- (a) Community experts have stated that the idling of busses in front of District schools is a significant cause of air pollution and harms the one-in-six students who have asthma. This section amends the DCMR to prohibit vehicles from idling for more than 1 minute within 100 feet of a school, except on days when an Excessive Heat Warning has been issued by the National Weather Service.
- (b) This provision amends another section of the DCMR to create the same prohibition.
- (c) The Environmental Protection Agency's Indoor Air Quality Tools for Schools program "help[s] schools maintain a healthy environment in school buildings by identifying, correcting, and preventing [indoor air quality] problems."⁴⁰ By adopting indoor air quality management practices, school environments will improve.

Sec. 506. Greener schools.

- (a) Currently, newly constructed or substantially improved public schools are required by law to obtain LEED Silver certification. Although the District lacks the funds to raise this requirement, this provision would create an aspirational goal of achieving LEED Gold certification and would draw attention to this goal. Before construction would commence, this section would require schools to explain why LEED Gold certification cannot be met.
- (b) This provision amends the DCMR to the same effect.

Sec. 507. School gardens program.

- (a) This section establishes a School Gardens Program within OSSE.
- (b) This program would work with DDOE, DCPS, DPR, OPEFM, and community organizations to:

⁴⁰ U.S. ENVIRONMENTAL PROTECTION AGENCY, *Indoor Air Quality Tools for Schools Program*, available online at <http://www.epa.gov/iaq/schools/>.

- (1) Develop a plan to expand gardens in public schools, including the removal of asphalt or cement to provide outdoor space for gardens;
 - (2) Provide training, planning, testing, and technical assistance to public schools starting and maintaining school gardens; and
 - (3) Create curricula for using school gardens as educational tools;
- (c) When funds are made available, the program would issue grants to schools and organizations to support the development of school gardens in public schools.
 - (d) This provision would require the program to issue a report to the Mayor and the Council by September 30, 2011, about the state of public school gardens in the District of Columbia, plans for expanding them, and recommendations for improving the program.
 - (e) Currently, some food service vendors are reluctant to serve produce grown in school gardens – even though federal officials have advocated it.⁴¹ This provision would clarify that serving produce grown in a school garden (i.e. as an educational tool) is permissible when tests show that the soil is safe and when produce is handled safely. It also allows schools to sell produce grown in school gardens so long as the revenue benefits the school where the food was grown. This practice is followed in other jurisdictions.
 - (f) When feasible, schools gardens would include a demonstration compost pile.

TITLE VI – Health and Wellness

Sec. 601. Local wellness policies.

- (a) Federal law required each local education agency (“LEA”) to adopt a local wellness policy (“LWP”) by August 2006 in order to continue to receive funding under the National School Lunch program.⁴² The Board of Education adopted a LWP for DCPS in 2006 and most of the charter schools have used a template to adopt theirs. This provision would require each LEA to work with parents, students, food service providers, and community experts to develop their LWPs so that serious thought and consideration will go into their creation and that all stakeholders are engaged. As federal law contains no requirements for updating LWPs, this provision would require LWPs to be revised every three years.

⁴¹ See U.S. Department of Agriculture, School Gardens Q&As, Memo Code 32-2009, available online at http://www.fns.usda.gov/cnd/governance/Policy-Memos/2009/SP_32-2009_os.pdf.

⁴² See Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108-265, 118 Stat. 729 (June 30, 2004).

- (b) In addition to federal requirements, LWPs would also include discussion of environmental sustainability and farm-to-school initiatives.
- (c) A major complaint about LWPs is that they are not promoted or widely known, particularly within DCPS, because its policy was adopted by the former Board of Education. A CDC report found that only 45% of schools in the District had copies of their LWP.⁴³ LWPs would be required to be posted on each school's website, shared with food service providers and PTAs, and made available in each school's office.
- (d) Currently, there is no procedure to ensure that LWPs comply with federal requirements and are actually followed by schools. This provision would give OSSE such authority.

Sec. 602. School wellness centers.

Currently, the District operates a handful of wellness centers at schools, such as Woodson, Anacostia, and Spingarn. These facilities offer comprehensive medical services, are managed by Children's Hospital, and are staffed by medical residents from Georgetown University. They bring quality medical care to disadvantaged children who might otherwise not have access. Students, parents, school officials, and community organizations have stated that these centers have been very successful and should be expanded. This provision would direct DOH, DCPS, and OPEFM to develop a plan to expand this program to include all DCPS comprehensive high schools by 2015.

Sec. 603. Asthma educators.

Certified Asthma Educators are trained to educate and counsel about ways to manage this chronic condition and minimize the impact of asthma on students' lives. For school nurses hired after October 1, 2010, preference would be given to nurses possessing national certification as asthma educators. DCPS would further examine the feasibility of requiring all school nurses to obtain this certification.

Sec. 604. Allergy plans.

Currently, there is no coordinated effort by schools to identify student allergies and share that information with teachers, nurses, and food service providers. DCPS' food service provider is working on developing an allergy policy and has stated that information about the allergies of students at each school would be very helpful for them to have. This provision would require each school to develop an allergy plan, designate a school official as the allergy coordinator (most likely the school nurse),

⁴³ U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, *School Health Profiles 2008*, available online at http://www.cdc.gov/healthyyouth/profiles/2008/profiles_report.pdf.

and ask parents to provide information about their children's allergies. This information would be shared with the school nurse and food service provider, and would be updated each school year.

TITLE VII – Healthy Youth and Schools Commission

Sec. 701. Establishment of the Healthy Youth and Schools Commission.

- (a) In 2005, Mayor Williams established the Mayor's Commission on Food and Nutrition.⁴⁴ This body seems to be successful, but is scheduled to disband on September 30, 2010.⁴⁵ This title would reconstitute this group as the "Healthy Youth and Schools Commission" and broaden its mission to address not only nutrition, but also health and wellness issues affecting children.
- (b) This provision outlines the specific functions of the Commission, which are based on the Commission's current functions:
 - (1) Advising on the operations of all District health, wellness, and nutrition programs;
 - (2) Reviewing and advising on the "best practices" in health, wellness, and nutrition programs across the United States;
 - (3) Recommending standards, or revisions to existing standards, concerning the health, wellness, and nutrition of youth and schools in the District;
 - (4) Advising on the development of on-going program of public information and outreach programs on health, wellness, and nutrition;
 - (5) Making recommendations on enhancing the collaborative relationship between the District government, the federal government, local non-profits, colleges and universities, and the private sector in connection with health, wellness, and nutrition; and
 - (6) Identifying gaps in funding and services, or methods of expanding services to District residents.
- (c) The Commission would be required to submit to the Council and the Mayor, by September 30 of each year, a comprehensive report on the health, wellness, and nutrition of youth and schools in the District.

Sec. 702. Composition and organization of the commission.

- (a) Currently, the existing Commission that is about to expire has 21 members. The reconstituted Commission would be non-partisan and composed of 11 members who are experts in health, wellness, or nutrition.

⁴⁴ See Mayor's Order 2005-47 (Mar. 3, 2005).

⁴⁵ See *id.* at § IX.

Nine members would be appointed by the Mayor, no more than 5 of whom would be District employees. The Chairperson of the Council and the Chairperson of the Council Committee with oversight of education would each appoint one member.

- (b) Members would serve three-year terms on the Commission, with staggered terms for the initial members.
- (c) The Mayor would designate one member as the Chairperson.
- (d) A member would serve for no more than two consecutive, full terms.
- (e) Unless excused by the Chairperson, a member who failed to attend three consecutive meetings would be automatically removed.
- (f) Members would not be compensated, but could be reimbursed for actual expenses.

Sec. 703. Rules of procedure and powers.

- (a) The Chairperson would convene meetings and six members would constitute a quorum.
- (b) All meetings, reports, and recommendations would be a matter of public record.
- (c) The Commission would meet at least four times each year.
- (d) The Commission could create subcommittees chaired by a member. Persons who are not members of the Commission could sit on the subcommittees.

Sec. 704. Administration.

Currently, OSSE provides administrative and technical support to the Commission. This provision would continue OSSE's support of the reconstituted Commission.

TITLE VIII

Sec. 801. Rulemaking.

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

Sec. 802. Fiscal Impact Statement.

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

Sec. 803. Effective Date.

Except where otherwise provided, 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.

IV. MOVING FORWARD

The Healthy Schools Act was developed with the assistance of experts from 20 local and national organizations. This bill is endorsed by such groups as the American Heart Association, DC Hunger Solutions, DC Farm-to-School Network, Capital Area Food Bank, DC Central Kitchen, and DC Environmental Education Consortium.

In January, I will work with the Committee of the Whole to convene a series of working group meetings that will bring all interested stakeholders together to examine and discuss each component of the legislation.

I hope to schedule a hearing at the end of February so that it is ready for a Council vote in the spring. This schedule should enable the Congressional review period to end during the summer, so that the legislation can take effect prior to the start of the 2010 – 2011 school year.

If you have any questions, please contact Drew Newman, Legislative Counsel, at (202) 724-8062 or dnewman@dccouncil.us.

V. REFERENCES

- The Child Nutrition Act, 42 U.S.C. § 1771 et seq.
- The Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108-265, 118 Stat. 729 (June 30, 2004).
- The Richard B. Russell National School Lunch Act, 42 U.S.C. § 1751 et seq.
- The Rehabilitation Act of 1973, 29 U.S.C. § 791 et seq.
- Title 7, Code of Federal Regulations, Parts 210, 215, 220 and 225.
- Mayor's Order 2005-47 (Mar. 3, 2005).
- INSTITUTE OF MEDICINE, *School Meals: Building Blocks for Healthy Children*, October 20, 2009.