

Budget Implications:

Enactment of this bill is necessary to implement the 2008-09 Executive Budget.

Effective Date:

This bill takes effect April 1, 2008, except that selected provisions take effect immediately or on other specified dates.

Part C– Healthy Schools Act: Enhance school nutrition standards and increase State reimbursement to school districts to help support the costs of purchasing healthier food options.

Purpose:

This bill would require the State Education Department (SED), the Department of Health (DOH), and the Department of Agriculture and Markets to establish nutritional and dietary standards for foods and beverages sold, served or offered in elementary and secondary schools. In addition, school districts would be required to establish a school breakfast program in middle schools and high schools that participate in the Federal School Lunch Program, and to develop local school wellness policies that would ensure community involvement in creating healthier schools.

This bill would also increase access to and affordability of healthy school meals by increasing the State subsidy on reduced priced meals, effectively making these meals free to eligible students. Finally, recognizing the potential cost associated with offering healthy food options, this bill would increase the State subsidy on all meals effective October 1, 2009.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

This bill would amend State law to: (1) improve nutritional and dietary standards for foods and beverages available in schools; (2) increase access to and affordability of healthy meals, including breakfast; (3) provide additional training and technical assistance to schools in complying with nutritional standards; and (4) require school districts to file local school wellness policies with SED. Specifically:

- By no later than July 31, 2008, this bill would require the Commissioner of Health to recommend nutritional and dietary standards to the Commissioner of Education on food and beverages sold, served or offered on school grounds.
- Effective October 1, 2008, this bill would increase the State subsidy by 25 cents on reduced priced meals, permitting these meals to be provided at no cost to eligible students.

- By no later than December 31, 2008, this bill would require the Commissioner of Education to promulgate regulations establishing nutritional and dietary standards for food and beverages sold, served or offered on school grounds.
- By no later than February 1, 2009, and every five years thereafter, this bill would require the Commissioner of Education to report to the New York State Board of Regents, the Legislature and the Governor on the results of an assessment of the current level of physical activity and nutritional instruction in all elementary and secondary schools.
- Effective July 1, 2009, this bill would require that all school districts participating in the National School Lunch Act or the Child Nutrition Act file a local school wellness policy with SED.
- Regulations promulgated by SED, with input from DOH and the Department of Agriculture and Markets, would take effect no earlier than September 1, 2009.
- Beginning October 1, 2009, this bill would increase the State subsidy on all school meals to help support the costs of purchasing healthier food options.
- By no later than September 1, 2011, this bill would require that all middle schools and high schools participating in the National School Lunch Program offer a school breakfast program.
- By no later than December 15, 2011, and once a year thereafter, this bill would require SED, in collaboration with DOH and the Department of Agriculture and Markets, to report to the Legislature and the Governor on the impact of nutrition standards on the health of New York's students.

Currently, school districts that participate in any program authorized by the National School Lunch Program are required to comply with federally mandated minimum nutrition standards. In addition, the Education Law prohibits the sale of certain "sweetened foods" until after the end of the last meal period of the school day; requires physical education programs; and requires that all elementary schools and certain high-need middle schools that participate in the National School Lunch Program establish a breakfast program.

Recognizing the epidemic of obesity in children, this bill would create a healthier school environment by requiring State agencies with expertise in childhood nutrition and education to establish nutritional standards for food and beverages sold, served or offered in New York's elementary and secondary schools. The bill would also require schools to consider new ways to increase student physical activity, help students learn to make appropriate nutritional choices, and promote additional changes for healthier schools.

The bill requires DOH, in consultation with SED and the Department of Agriculture and Markets, to develop recommendations for nutritional and dietary standards for foods and beverages sold, served or offered in elementary and secondary schools. SED will be responsible for promulgating regulations based on the recommended standards. These regulations will apply to school districts, private schools that participate in any program authorized by the National School Lunch Program or the Child Nutrition Act of 1966, boards of cooperative educational services, charter schools and schools operating under Articles 83, 85, 87 and 88 of Education Law.

To ensure that healthy food is served both inside and outside of school cafeterias, the regulations would cover foods and beverages sold, served or offered by any source, including school stores, vending machines and school cafeterias. If schools offer meals, they must: (1) offer a meat alternative and vegetables that are not fried at lunch, and fruit with no added sweeteners at both breakfast and lunch; (2) ensure that 50% of grain products offered over a school week are whole grain products; and (3) ensure that entrees sold separately from the school meal are the same as, or nutritionally comparable to, the entrees sold as part of the school meals. In addition, the bill prohibits the sale of candy, soda, gum and other sweetened foods in schools at any time of day.

The regulations and other restrictions in the bill would not apply to items purchased off school grounds for personal consumption or for classroom activities or celebrations. Nor would the regulations apply to food and beverages sold, served or offered at after-school activities attended by both adults and students, such as concerts or sporting events.

In addition to promulgating nutritional standards, SED would be required to conduct and report on an assessment of the physical education and nutrition instruction provided in schools throughout the State. This assessment would evaluate compliance with current physical education standards and would examine whether schools offer a variety of activities designed to promote physical fitness as part of a healthy lifestyle.

In order to ensure that more students receive a daily breakfast, this bill would require school districts that participate in the National School Lunch Program to establish a school breakfast program for middle school and high schools. This is already a requirement for elementary schools and in all schools which have a certain proportion of children who are eligible for reduced priced lunches. Expanding this requirement to middle and high schools is important because evidence shows that students of all ages have better academic performance, fewer disciplinary outbursts and fewer absences if they eat a healthy breakfast.

This bill amplifies Federal provisions by requiring more districts to develop wellness policies and expanding the group of people involved in creating these policies. Local school wellness polices must address a variety of child health issues related to the school environment, such as whether students are provided with sufficient time to eat breakfast and lunch and how to increase opportunities for physical activity. Schools are

required to file their wellness policies with the SED each year. In addition, the policies must be made available to DOH upon request to allow DOH to assist schools in creating a healthier environment.

To increase access to and affordability of healthy school meals, this bill provides an increase in the State subsidy for reduced priced meals, effective October 1, 2008, to permit these meals to be served at no cost to eligible students. In addition, this bill increases the State subsidy for all meals served at school, starting with the 2009-10 school year, to reflect costs associated with healthier food options.

Finally, this bill enhances DOH's responsibilities under the Childhood Obesity Prevention Program by requiring DOH to engage in media promotions, community programs and collaboration with various nutrition and physical education professionals, including the New York State Comprehensive Care Centers for Eating Disorders, all in an effort to improve nutrition for children and adolescents.

A similar Governor's Program Bill was introduced during the 2007-08 legislative session. In addition, both the Senate and the Assembly passed different bills during the 2007-08 session that addressed some elements of the Governor's Program Bill.

Budget Implications:

Enactment of this bill is necessary to implement the 2008-09 Executive Budget which includes an increase of \$5.0 million in SFY 2008-09 to fund additional State reimbursement for school meals. When fully implemented in 2010-11, there will be an additional \$37.1 million in State support to schools for school nutrition.

Effective Date:

This bill is effective immediately. However, provisions of the bill will become operational on various dates. For example regulations pertaining to nutritional standards cannot take effect before September 1, 2009, and schools impacted by the breakfast requirement will not be required to offer breakfast until September 1, 2011.

Part D– Enhance regulatory flexibility for SUNY and CUNY.

Purpose:

To provide enhanced flexibility for the State University of New York (SUNY) and the City University of New York (CUNY) in the areas of procurement and property management.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

The Commission on Higher Education's recent Preliminary Report to the Governor recommended that the regulatory reforms enacted after the 1985 report, *The Challenge*