S T A T E O F N E W Y O R K

4118

2009-2010 Regular Sessions

I N S E N A T E

April 13, 2009

Introduced by Sen. OPPENHEIMER -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the public health law, in relation to requiring the department of health to develop media health promotion campaigns to communicate positive correlations between health, physical activity and academic performance and identify and promote best practices in communities to support healthful nutritional choices; to require the commissioner of health, in consultation with the commissioner of education and the commissioner of agriculture and markets, to develop recommendations for nutritional and dietary standards for healthy school foods and beverages; to require the departments of education and health to provide technical assistance to schools in complying with nutritional standards; to amend the education law, in relation to providing training and technical assistance to schools and establishing nutritional standards for food and beverages available in schools and requiring school wellness policies; and to amend the agriculture and markets law, in relation to nutritional and dietary standards

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "healthy schools act".
3 S 2. Legislative findings. The legislature finds that it is in the
4 interest of the state wherever practical to educate and encourage chil-
5 dren to make healthier food choices and develop healthy habits both in
6 and outside school. Because children spend a significant part of their
7 lives in school and at school-related activities, schools can influence
8 children's nutrition and food choices by serving as model environments
9 that support academic performance and healthful behaviors. Similarly,
10 encouraging physical activity in school will teach children the impor-
11 tance of making such activity a regular part of their lives.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 3. Paragraphs (a) and (c) of subdivision 2 of section 2599-b of the public health law, as amended by section 88 of part B of chapter 58 of the laws of 2005, are amended and a new paragraph (h) is added to read as follows:

(a) developing media health promotion campaigns targeted to children and adolescents and their parents and caregivers that emphasize increasing consumption of low-calorie, [high-nutrient] NUTRIENT-RICH foods, decreasing consumption of high-calorie, low-nutrient foods [and], increasing physical activity designed to prevent or reduce obesity, AND COMMUNICATING THE POSITIVE CORRELATION BETWEEN CHILD HEALTH, PHYSICAL ACTIVITY AND ACADEMIC PERFORMANCE;

(c) establishing community-based childhood obesity prevention nutrition education and physical activity programs including programs TO IDENTIFY AND PROMOTE BEST PRACTICES TO HELP COMMUNITIES CHANGE THEIR ENVIRONMENT TO SUPPORT HEALTHFUL NUTRITIONAL CHOICES, AND TO DEVELOP PROGRAMS which involve parents and caregivers, and which encourage communities, families, child care, SCHOOLS and other settings to provide safe and adequate space and time for physical activity and encourage a healthy diet;

(H) INCREASING COLLABORATION, WITHIN AND ACROSS COMMUNITIES, OF COMMUNITY BASED NUTRITION AND PHYSICAL ACTIVITY PROFESSIONALS, EDUCATORS AND HEALTH CARE PROVIDERS, INCLUDING STAFF FROM NEW YORK STATE'S COMPREHENSIVE CARE CENTERS FOR EATING DISORDERS, TO PRESENT CONSISTENT AND EFFECTIVE MESSAGES IN RELATION TO HEALTHY EATING BEHAVIORS AND PHYSICAL ACTIVITY PATTERNS, AND IN PARTICULAR TO ADDRESS THE FACTORS WHICH CONTRIBUTE TO EATING DISORDERS.

S 4. Section 2599-c of the public health law, as amended by section 88 of part B of chapter 58 of the laws of 2005, is amended to read as follows:

S 2599-c. School-based childhood obesity prevention and physical activity programs. 1. The commissioner shall encourage the establishment of school-based childhood obesity prevention and physical activity programs that promote:

[1.] A. A healthy school environment, including physical and aesthetic surroundings and culture designed to prevent and reduce the incidence and prevalence of obesity; and

[2.] B. Parent/community involvement, including an integrated school, parent, and community approach for enhancing the health and well-being of students.

2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION AND THE COMMISSIONER OF AGRICULTURE AND MARKETS, DEVELOP RECOMMENDATIONS FOR NUTRITIONAL AND DIETARY STANDARDS FOR HEALTHY SCHOOL MEALS, ENTREES, SNACKS AND BEVERAGES CONSISTENT WITH SECTION NINE HUNDRED FIFTEEN OF THE EDUCATION LAW. THE RECOMMENDATIONS SHALL BE PROVIDED IN WRITING TO THE COMMISSIONER OF EDUCATION NO LATER THAN MAY THIRTY-FIRST, TWO THOUSAND NINE, AND REVISED RECOMMENDATIONS SHALL BE PROVIDED AS DEEMED NECESSARY BY THE COMMISSIONER. IN COMPLYING WITH THE REQUIREMENTS OF THIS SUBDIVISION THE COMMISSIONER SHALL SEEK THE ADVICE OF NEW YORK STATE'S COMPREHENSIVE CARE CENTERS FOR EATING DISORDERS.

3. THE COMMISSIONER SHALL COLLABORATE WITH THE COMMISSIONER OF EDUCATION AND CONSULT WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS IN GATHERING DATA AND MAKING REPORTS PURSUANT TO PARAGRAPH D OF SUBDIVISION THREE OF SECTION NINE HUNDRED FIFTEEN OF THE EDUCATION LAW.

4. THE COMMISSIONER SHALL, IN COLLABORATION WITH THE COMMISSIONER OF EDUCATION, PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO SCHOOLS TO ASSIST SCHOOLS IN COMPLYING WITH THE REQUIREMENTS OF SECTION NINE

HUNDRED FIFTEEN OF THE EDUCATION LAW AND THE REGULATIONS PROMULGATED THEREUNDER. IN COMPLYING WITH THE REQUIREMENTS OF THIS SUBDIVISION, THE COMMISSIONER SHALL SEEK THE ADVICE OF NEW YORK STATE'S COMPREHENSIVE CARE CENTERS FOR EATING DISORDERS.

S 5. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. THE COMMISSIONER SHALL, IN COLLABORATION WITH THE COMMISSIONER OF HEALTH, PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO SCHOOLS TO ASSIST SCHOOLS IN COMPLYING WITH THE REQUIREMENTS OF SECTION NINE HUNDRED FIFTEEN OF THIS CHAPTER AND THE REGULATIONS PROMULGATED THEREUNDER.

S 6. Section 915 of the education law, as added by chapter 674 of the laws of 1987, is amended to read as follows:

S 915. [Prohibiting the sale of certain sweetened foods. From the beginning of the school day until the end of the last scheduled meal period, no] HEALTHY SCHOOL FOODS AND BEVERAGES. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "SCHOOL MEALS" SHALL MEAN MEALS WHICH MEET THE NUTRITIONAL REQUIREMENTS OF, AND ARE REIMBURSABLE UNDER, ANY PROGRAM AUTHORIZED BY THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT OR THE CHILD NUTRITION ACT OF 1966.

B. "ENTREES" SHALL MEAN A COMBINATION OF FOODS OR A SINGLE FOOD ITEM THAT IS SOLD, SERVED OR OFFERED AS THE MAIN COURSE SEPARATELY FROM SCHOOL MEALS.

C. "SNACKS" SHALL MEAN FOOD ITEMS THAT ARE SOLD, SERVED OR OFFERED INDIVIDUALLY, OUTSIDE OF SCHOOL MEALS, AND THAT DO NOT CONSTITUTE ENTREES THAT ARE SOLD, SERVED OR OFFERED INDIVIDUALLY.

2. A. THIS SECTION AND THE REGULATIONS PROMULGATED HEREUNDER SHALL APPLY TO ELEMENTARY AND SECONDARY SCHOOLS AND PROGRAMS UNDER THE JURISDICTION OF THE FOLLOWING, COLLECTIVELY REFERRED TO IN THIS SECTION AS "SCHOOL DISTRICTS": SCHOOL DISTRICTS, NON-PUBLIC SCHOOLS THAT PARTICIPATE IN ANY PROGRAM AUTHORIZED BY THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT OR THE CHILD NUTRITION ACT OF 1966, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES, CHARTER SCHOOLS AND SCHOOLS OPERATING PURSUANT TO ARTICLES EIGHTY-THREE, EIGHTY-FIVE, EIGHTY-SEVEN AND EIGHTY-EIGHT OF THIS CHAPTER. SUCH SCHOOL DISTRICTS SHALL BE REQUIRED TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND REGULATIONS PROMULGATED HEREUNDER.

B. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH C OF THIS SUBDIVISION, THIS SECTION AND REGULATIONS PROMULGATED HEREUNDER SHALL APPLY TO SCHOOL MEALS, ENTREES, SNACKS AND BEVERAGES: (I) SOLD, SERVED OR OFFERED ON SCHOOL GROUNDS BEFORE, DURING OR AFTER THE REGULAR SCHOOL DAY FROM ANY SOURCE INCLUDING, BUT NOT LIMITED TO, SCHOOL CAFETERIAS, A LA CARTE LINES, SCHOOL STORES, OR VENDING MACHINES; OR (II) SUPPLIED BY SCHOOLS DURING OFFICIAL TRANSPORTATION TO AND FROM SCHOOL AND SCHOOL SPONSORED ACTIVITIES INCLUDING, BUT NOT LIMITED TO, FIELD TRIPS AND INTERSCHOLASTIC SPORTING EVENTS.

C. NOTWITHSTANDING ANY OTHER PARAGRAPH OF THIS SUBDIVISION, THIS SECTION AND REGULATIONS PROMULGATED HEREUNDER SHALL NOT APPLY TO: (I) FOODS AND BEVERAGES PROVIDED UNDER THE FEDERAL CHILD AND ADULT CARE FOOD PROGRAM, WHICH SHALL BE SUBJECT TO THE REQUIREMENTS IMPOSED UNDER THAT PROGRAM; (II) FOODS AND BEVERAGES SOLD, SERVED OR OFFERED AT AFTER SCHOOL ACTIVITIES ATTENDED BY BOTH ADULTS AND STUDENTS, SUCH AS CONCERTS AND SPORTING EVENTS; OR (III) FOODS AND BEVERAGES SOLD: (A) BY STUDENTS, THEIR IMMEDIATE FAMILY MEMBERS OR GUARDIANS OR SCHOOL EMPLOYEES, (B) THROUGH SOURCES OTHER THAN SCHOOL CAFETERIAS, A LA CARTE LINES, SCHOOL STORES, OR VENDING MACHINES, (C) AFTER THE END OF THE LAST SCHEDULED

MEAL PERIOD OF THE SCHOOL DAY, AND (D) ONLY FOR THE PURPOSE OF RAISING FUNDS TO SUPPORT SCHOOL ACTIVITIES.

D. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING: (I) A STUDENT OR SCHOOL EMPLOYEE FROM CONSUMING ANY FOOD OR BEVERAGE PURCHASED BY THE STUDENT OR SCHOOL EMPLOYEE OFF OF SCHOOL GROUNDS AND BROUGHT INTO THE SCHOOL FOR THE STUDENT'S OR EMPLOYEE'S PERSONAL CONSUMPTION OR FOR CLASSROOM-WIDE ACTIVITIES OR CELEBRATIONS; OR (II) CAFFEINATED COFFEE OR TEA FROM BEING SOLD, SERVED OR OFFERED TO SCHOOL EMPLOYEES.

3. A. THE REGENTS AND THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO ESTABLISH NUTRITIONAL AND DIETARY STANDARDS BASED UPON THE RECOMMENDATIONS DEVELOPED PURSUANT TO SUBDIVISION TWO OF SECTION TWENTY-FIVE HUNDRED NINETY-NINE-C OF THE PUBLIC HEALTH LAW.

(I) THE NUTRITIONAL AND DIETARY STANDARDS MAY BE UPDATED AS DEEMED NECESSARY BY THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, BUT NOT LESS THAN EVERY FIVE YEARS AND SHALL BE MADE AVAILABLE FOR PUBLIC COMMENT AND REVIEW PURSUANT TO THE STATE ADMINISTRATIVE PROCEDURE ACT.

(II) THE NUTRITIONAL AND DIETARY STANDARDS FOR HEALTHY SCHOOL MEALS, ENTREES, SNACKS AND BEVERAGES SHALL BE DEVELOPED TO PROMOTE A HEALTHFUL DIET AND SHALL BE BASED ON THE PREPONDERANCE OF THE NUTRITIONAL, SCIENTIFIC AND MEDICAL KNOWLEDGE WHICH IS CURRENT AT THE TIME THE REGULATIONS ARE BEING PROMULGATED.

(III) WHEN PROMULGATING SUCH REGULATIONS, THE REGENTS AND COMMISSIONER SHALL TAKE INTO ACCOUNT THE LOCAL AND REGIONAL CONCERNS OF ANY SCHOOL OR SCHOOL DISTRICT REQUIRED TO COMPLY WITH THE NUTRITIONAL AND DIETARY STANDARDS.

(IV) UNDER NO CIRCUMSTANCE SHALL THE NUTRITIONAL AND DIETARY STANDARDS INTERFERE WITH THE SPECIAL DIETARY NEEDS OF STUDENTS IN RELATION TO HEALTH CONDITIONS, FOOD ALLERGIES, DIETARY INTOLERANCES AND RELIGIOUS MANDATES.

(V) THE NUTRITIONAL AND DIETARY STANDARDS SHALL REFLECT THE NEEDS OF STUDENTS AT DIFFERING AGES AND GRADE LEVELS.

(VI) NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, STANDARDS FOR SCHOOL MEALS SHALL COMPLY WITH ALL FEDERAL LAWS AND REGULATIONS APPLICABLE TO SUCH MEALS.

B. THE NUTRITIONAL AND DIETARY STANDARDS SHALL INCLUDE APPROPRIATE NUTRITIONAL STANDARDS AND CONSUMPTION AMOUNTS RELATED, BUT NOT LIMITED TO: (I) DIETARY CHOLESTEROL; (II) SODIUM; (III) CALORIES DERIVED FROM FAT AND SATURATED FAT; (IV) CALORIES DERIVED FROM SUGAR; (V) TOTAL CALORIE AMOUNTS; (VI) TOTAL FAT CONTENT OF MILK AND OTHER DAIRY PRODUCTS; AND (VII) SERVING SIZES, AND SUCH STANDARDS SHALL FURTHER PROHIBIT ARTIFICIAL TRANS FATTY ACIDS.

C. THE REGULATIONS DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION SHALL BE PROMULGATED NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND NINE AND SHALL BE EFFECTIVE UPON SUCH DATE OR DATES AS DETERMINED BY THE COMMISSIONER; PROVIDED, HOWEVER, THAT SUCH REGULATIONS SHALL BE EFFECTIVE NO EARLIER THAN SEPTEMBER FIRST, TWO THOUSAND TEN, AND SHALL APPLY ONLY TO FOOD OR BEVERAGE CONTRACTS BETWEEN SCHOOL DISTRICTS AND VENDORS THAT WERE ISSUED, RENEWED, MODIFIED, ALTERED OR AMENDED AFTER SUCH EFFECTIVE DATE OR DATES.

D. THE DEPARTMENT, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH AND IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE AND MARKETS SHALL: (I) PERIODICALLY GATHER DATA RELATED TO THE IMPACT OF THE NUTRITION STANDARDS ON THE HEALTH OF NEW YORK STATE'S STUDENTS; (II) MAKE PERIODIC REPORTS, NO LESS THAN ONCE A YEAR, TO THE LEGISLATURE AND GOVERNOR REGARDING THEIR FINDINGS, WITH THE FIRST SUCH REPORT BEING MADE NO LATER

THAN DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE; AND (III) MODIFY NUTRITIONAL STANDARDS AS NEEDED, BASED UPON CRITERIA WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, DATA COLLECTED BY THE DEPARTMENT AND SCIENCE-BASED BEST PRACTICES FOR CREATING HEALTHY NUTRITIONAL CHOICES.

4. THE REGULATIONS PROMULGATED PURSUANT TO PARAGRAPH A OF SUBDIVISION THREE OF THIS SECTION SHALL PROVIDE THAT WHEN SELLING, OFFERING OR SERVING SCHOOL MEALS, SCHOOLS SHALL:

A. OFFER DURING EACH LUNCH PERIOD AT LEAST ONE PLANT-BASED MEAT ALTERNATIVE WHICH COMPLIES WITH THE STANDARDS OF THE FEDERAL DEPARTMENT OF AGRICULTURE;

B. OFFER DURING EACH BREAKFAST AND LUNCH PERIOD FRUIT WITH NO ADDED SWEETENERS;

C. OFFER DURING EACH LUNCH PERIOD VEGETABLES WHICH ARE NOT FRIED;

D. ENSURE THAT AT LEAST FIFTY PERCENT OF GRAIN PRODUCTS OFFERED, OVER A SCHOOL WEEK, ARE WHOLE GRAIN PRODUCTS; AND

E. ENSURE THAT ENTREES SOLD, SERVED OR OFFERED INDIVIDUALLY ARE THE SAME AS THE ENTREES THAT ARE SOLD, SERVED OR OFFERED AS PART OF SCHOOL MEALS, OR ARE COMPARABLE IN PORTION SIZE, CALORIES AND NUTRITIONAL VALUE TO THE ENTREES THAT ARE SOLD, SERVED OR OFFERED AS PART OF SUCH SCHOOL MEALS.

5. NO sweetened soda water, no chewing gum, no candy including hard candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn, and no water ices except those which contain ONE HUNDRED PERCENT fruit or fruit juices, shall be sold in any [public] school [within the state] DISTRICT EXCEPT AS PERMITTED UNDER PARAGRAPH C OF SUBDIVISION TWO OF THIS SECTION.

6. THE REGULATIONS PROMULGATED PURSUANT TO PARAGRAPH A OF SUBDIVISION THREE OF THIS SECTION SHALL INCLUDE EXEMPTIONS OR OTHER ACCOMMODATIONS AS NECESSARY TO ACCOMMODATE THE DIETARY NEEDS OF STUDENTS IN RELATION TO HEALTH CONDITIONS, FOOD ALLERGIES, DIETARY INTOLERANCES AND RELIGIOUS MANDATES.

7. A. WITH RESPECT TO SNACKS AND BEVERAGES THAT MAY BE SOLD, SERVED OR OFFERED ONLY AT PARTICULAR TIMES OF THE DAY, SCHOOLS THAT UTILIZE VENDING MACHINES FOR THE PROVISION OF SUCH FOOD ITEMS OR BEVERAGES SHALL EQUIP ANY SUCH VENDING MACHINE WITH A TIMING DEVICE OR PERFORM AN ALTERNATIVE ACTION TO ENSURE THAT THE FOOD ITEMS OR BEVERAGES ARE SOLD, SERVED OR OFFERED ONLY AT THE TIMES ALLOWED.

B. COMMERCIAL PRODUCTS OR LOGOS ON VENDING MACHINE PROHIBITED. SCHOOLS SHALL PROHIBIT VENDING MACHINES WHICH DEPICT COMMERCIAL PRODUCTS OR LOGOS OR SUGGEST THAT CONSUMPTION OF VENDED ITEMS CONVEYS A HEALTH OR SOCIAL BENEFIT, OR THAT PRODUCTS PURCHASED FROM SUCH VENDING MACHINE SUPPORT SPECIFIC SCHOOL ACTIVITIES OR GROUPS.

8. SCHOOLS SHALL MAKE AVAILABLE TO THE DEPARTMENT, UPON REQUEST, DOCUMENTATION SETTING FORTH THE INGREDIENTS AND NUTRIENTS OF ANY FOOD ITEM SOLD, SERVED OR OFFERED BY OR ON BEHALF OF SUCH ENTITIES, WHETHER SUCH ITEM IS SOLD, SERVED OR OFFERED IN THE FORM PURCHASED BY OR ON BEHALF OF SUCH ENTITIES OR IS USED AS AN INGREDIENT IN AN ITEM SOLD, SERVED OR OFFERED BY OR ON BEHALF OF SUCH ENTITIES.

S 7. The education law is amended by adding a new section 918-a to read as follows:

S 918-A. LOCAL SCHOOL WELLNESS POLICIES. 1. EACH SCHOOL DISTRICT, NON-PUBLIC SCHOOL THAT PARTICIPATES IN ANY PROGRAM AUTHORIZED BY THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT OR THE CHILD NUTRITION ACT OF 1966, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CHARTER SCHOOL, AND SCHOOL OPERATING PURSUANT TO ARTICLES EIGHTY-THREE, EIGHTY-FIVE, EIGHTY-SEVEN AND EIGHTY-EIGHT OF THIS CHAPTER, COLLECTIVELY REFERRED TO IN

THIS SECTION AS "SCHOOL DISTRICTS", SHALL ESTABLISH A LOCAL SCHOOL WELLNESS POLICY. SUCH POLICY SHALL BE IN ADDITION TO OR A PART OF A WELLNESS POLICY THAT MAY BE REQUIRED PURSUANT TO FEDERAL LAW AND RELATED IMPLEMENTING REGULATIONS. IN DEVELOPING THE POLICY, THE GOVERNING BODY OR OFFICER OF THE SCHOOL DISTRICTS SHALL:

A. INVOLVE, AT A MINIMUM, PARENTS AND GUARDIANS, STUDENTS, REPRESENTATIVES OF THE SCHOOL FOOD AUTHORITY, SCHOOL ADMINISTRATORS, SCHOOL NURSES OR OTHER HEALTH STAFF, A CERTIFIED DIETITIAN/NUTRITIONIST IF AVAILABLE, PHYSICAL EDUCATION STAFF, AND TEACHERS; AND

B. CONSIDER ANY RECOMMENDATIONS MADE BY A SCHOOL DISTRICT NUTRITION ADVISORY COMMITTEE ESTABLISHED IN SECTION NINE HUNDRED EIGHTEEN OF THIS ARTICLE, IF SUCH COMMITTEE HAS BEEN FORMED BY THE SCHOOL DISTRICT.

2. LOCAL SCHOOL WELLNESS POLICIES SHALL:

A. INCORPORATE A PLAN FOR MEASURING IMPLEMENTATION OF THE LOCAL SCHOOL WELLNESS POLICY;

B. RECOMMEND TO SCHOOLS IDEAS FOR HEALTHY FUNDRAISING ACTIVITIES AND CLASSROOM EVENTS AND CELEBRATIONS;

C. DETERMINE: (I) WHETHER AND TO WHAT EXTENT EACH SCHOOL SHOULD CONTAIN NUTRITIONAL EDUCATION AS PART OF ITS CURRICULUM TO PROVIDE KNOWLEDGE AND TEACH SKILLS TO HELP STUDENTS ADOPT AND MAINTAIN LIFELONG, HEALTHY EATING PATTERNS IN BALANCE WITH PHYSICAL ACTIVITY AND INCORPORATE MEDIA LITERACY;

(II) WHETHER AND TO WHAT EXTENT ADMINISTRATORS, TEACHERS, SCHOOL FOOD SERVICE STAFF, AND OTHER STAFF SHOULD BE TRAINED IN NUTRITION AND NUTRITION EDUCATION;

(III) WHETHER AND TO WHAT EXTENT ADMINISTRATORS, TEACHERS, SCHOOL FOOD SERVICE STAFF, AND OTHER STAFF SHOULD BE TRAINED IN HOW TO RECOGNIZE AND RESPOND TO EATING DISORDERS, AND WHETHER AND TO WHAT EXTENT EACH SCHOOL'S CURRICULUM SHOULD ADDRESS EATING DISORDERS;

(IV) WHETHER STUDENTS ARE PROVIDED WITH SUFFICIENT TIME TO EAT BREAKFAST AND LUNCH AND WHETHER TO REQUIRE SCHOOLS TO PROVIDE STUDENTS WITH A MINIMUM AMOUNT OF TIME FOR SUCH PURPOSES;

(V) HOW TO INCREASE OPPORTUNITIES FOR PHYSICAL ACTIVITY DURING THE DAY BY REQUIRING RECESS, IMPROVING COMPLIANCE WITH PHYSICAL EDUCATION REQUIREMENTS, OR BOTH; AND

(VI) HOW TO INCREASE AND ENCOURAGE THE PURCHASE OF FRESH FRUITS, VEGETABLES AND DAIRY PRODUCTS WHICH ARE PRODUCED BY LOCAL OR REGIONAL FARMS, CONSISTENT WITH APPLICABLE FEDERAL PROCUREMENT STANDARDS;

D. REVIEW COMPLIANCE WITH EXISTING LAW, REGULATION AND POLICIES REGARDING NUTRITION EDUCATION AND PHYSICAL EDUCATION; AND

E. ESTABLISH RECOMMENDATIONS TO THE GOVERNING BODY OR OFFICER, AS APPROPRIATE, TO ADDRESS THE FINDINGS AND DETERMINATIONS MADE PURSUANT TO PARAGRAPHS C AND D OF THIS SUBDIVISION.

3. EACH SCHOOL DISTRICT SHALL, ON AN ANNUAL BASIS BEGINNING THE FIRST OF JULY, TWO THOUSAND TEN, FILE THE LOCAL SCHOOL WELLNESS POLICY WITH THE DEPARTMENT AND VERIFY THE STATUS OF THE IMPLEMENTATION OF THE LOCAL SCHOOL WELLNESS POLICY. THE LOCAL SCHOOL WELLNESS POLICIES SHALL BE MADE AVAILABLE BY SCHOOLS TO THE DEPARTMENT OF HEALTH UPON ITS REQUEST.

S 8. Subdivision 1 of section 2854 of the education law is amended by adding a new paragraph (f) to read as follows:

(F) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS NINE HUNDRED FIFTEEN AND NINE HUNDRED EIGHTEEN-A OF THIS CHAPTER.

S 9. The agriculture and markets law is amended by adding a new section 28 to read as follows:

S 28. SCHOOL NUTRITIONAL AND DIETARY STANDARDS. 1. THE COMMISSIONER SHALL PROVIDE CONSULTATION TO THE COMMISSIONERS OF EDUCATION AND HEALTH

IN ESTABLISHING AND REVISING NUTRITIONAL AND DIETARY STANDARDS FOR HEALTHY SCHOOL MEALS, ENTREES, SNACKS AND BEVERAGES, CONSISTENT WITH SECTION NINE HUNDRED FIFTEEN OF THE EDUCATION LAW AND SUBDIVISION TWO OF SECTION TWENTY-FIVE HUNDRED NINETY-NINE-C OF THE PUBLIC HEALTH LAW.

2. THE COMMISSIONER SHALL PROVIDE CONSULTATION TO THE COMMISSIONERS OF EDUCATION AND HEALTH IN GATHERING DATA AND MAKING REPORTS PURSUANT TO PARAGRAPH D OF SUBDIVISION THREE OF SECTION NINE HUNDRED FIFTEEN OF THE EDUCATION LAW.

S 10. Severability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 11. This act shall take effect immediately.