

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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September 8, 2009  
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HELD AT: Council Chambers  
City Hall

B E F O R E:  
JAMES F. GENNARO  
Chairperson

COUNCIL MEMBERS:  
Peter F. Vallone, Jr.  
Domenic M. Recchia, Jr.  
Elizabeth Crowley  
Eric Ulrich  
Mathieu Eugene

## A P P E A R A N C E S (CONTINUED)

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Mayor's Office of Long Term Planning and  
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1  
2 CHAIRPERSON GENNARO: Just a  
3 moment, we're going to get started. [Pause] Good  
4 afternoon, welcome, I'm Councilman Jim Gennaro.  
5 Are we ready to go? Are we ready to go with the  
6 tape? We're ready, Sergeant?

7 [Off mic]

8 CHAIRPERSON GENNARO: Chair of the  
9 Council's Committee on Environmental Protection.  
10 Today we're holding a hearing on Intro 622-A,  
11 which deals with retrofitting and retirements of  
12 diesel fuel-powered school buses used by special  
13 ed students.

14 Our children are our most precious  
15 resource and one of the most important job that  
16 the Department of Education performs is  
17 transporting our children safely to and from  
18 school, but currently air pollution in school  
19 buses presents a threat to the health of some of  
20 our children who ride school buses. Children are  
21 more susceptible to air pollution than adults  
22 'cause they take in more air per unit body weight  
23 than adults, children spend more time outdoors  
24 than adults, and children do not respond to air  
25 pollution the same way as adults do. As children,

1  
2 they are least able to mitigate the impacts of air  
3 pollution.

4           Studies of pollutant exposures show  
5 high levels of exposures inside of school buses  
6 from fugitive diesel exhaust that travels through  
7 cracks in the chassis and that finds its way into  
8 the school bus cabin. And by using tracer gas  
9 measurements that measure air quality in empty  
10 school buses and on routes, researchers were able  
11 to establish that children riding in school buses  
12 inhale at least seven times more exhaust than non-  
13 riding residents inhale from all school bus  
14 emissions in the study area.

15           New York City acted to address  
16 school bus so-called self-pollution in general  
17 education buses by enacting Local Law 42 of 2005  
18 to require that diesel fuel-powered school buses,  
19 excluding any vehicle utilized primarily to  
20 transport children with special ed needs who do  
21 travel to and from school in vehicles used to  
22 transport general education students, utilize the  
23 best available retrofit technology. And I think  
24 that sentence gets the run-on sentence award of  
25 all my opening statements in 7 1/2 years as Chair

1  
2 of this Committee, you just witnessed that  
3 sentence--history in the making.

4 Local Law 42 covered 2,322 of the  
5 Department of Ed's 6,770 public diesel school  
6 buses. However, the legislation enacted in 2005  
7 did not cover children who exclusively use special  
8 education buses to ride to and from school.

9 Today's legislation is designed to  
10 close that loophole. Proposed Intro number 622-A  
11 requires that 100% of diesel fuel-powered school  
12 buses used to fulfill each school bus contract be  
13 equipped with such a closed crankcase ventilation  
14 system by September 1st, 2011, and further  
15 prohibits diesel fuel-powered school buses from  
16 being used to fulfill any school bus contract  
17 beyond the end of the 16th year from the date of  
18 manufacture, thereby getting rid of the oldest and  
19 most polluting school buses.

20 We'll hear from the Office of Long  
21 Term Planning and Sustainability, but first a  
22 little welcome housekeeping. I want to  
23 acknowledge the Council Members who are here  
24 today. Council Member Vallone is here, Council  
25 Member Recchia, Council Member Crowley, and

1  
2 Council Member Ulrich is also here--happy to have  
3 everyone here today.

4           And without further ado, I'd like  
5 to hear from the panel from the administration.  
6 We have Rohit T. Aggarwala and Kizzy Charles-  
7 Guzman, welcome to you, pleasure to have you here  
8 today. And this is something we've worked on  
9 together, we're starting it a little late, we're  
10 not going to swear in the panel. Happy to have  
11 you here today. We thank you for your efforts,  
12 this is we worked closely with the Bloomberg  
13 Administration to do the Local Law in 2005 that  
14 worked on the school buses, we're kind of closing  
15 the loop today. We thank you for your good work  
16 and we're grateful to have you here and look  
17 forward to hearing your good testimony. Welcome.

18           ROHIT T. AGGARWALA: Thank you, Mr.  
19 Chairman, and thank you to the other members of  
20 the Committee.

21           My name is Rohit T. Aggarwala and  
22 I'm the Director of the Mayor's Office of Long  
23 Term Planning and Sustainability. I'm joined by,  
24 as you said, Kizzy Charles-Guzman, who's the  
25 Policy Advisor for Air Quality in my office and

1  
2 who has been working, along with your staff,  
3 tirelessly on this issue for the last year since  
4 she--more than a year since she joined my team  
5 from the world of advocacy and has had a  
6 tremendous amount of impact.

7 I want to thank you for inviting us  
8 here today to testify on proposed Intro 622-A, and  
9 I also convey apologies from the entire Department  
10 of Education, which is a little bit busy preparing  
11 for the first day of school tomorrow, so we're  
12 here.

13 Intro 622-A is an important bill  
14 and it would achieve one of our key PlaNYC  
15 initiatives by cleaning up, in the smartest, most  
16 cost-effective, most impactful way that we've been  
17 able to determine over more than a year of really  
18 intensive analysis and research, the New York City  
19 school bus fleet.

20 Our school bus fleet is composed of  
21 approximately 8,000 vehicles privately owned, not  
22 owned by the Department of Education, operated and  
23 owned by 52 different bus vendors under contract  
24 with the Department of Education.

25 Before we talk about the bill, we

1  
2 need to understand the different categories of  
3 buses and so bear with me, I ask your patience on  
4 that.

5           The school bus fleet is divided  
6 between large buses, full size buses, and the  
7 smaller school buses. Type C and D are the large  
8 ones, which weigh more than 10,000 pounds and  
9 usually seat more than 20 people; Types A and B  
10 are the small buses, the minivan style buses, and  
11 we have a different cross-cutting category as  
12 well, which is the general education and the  
13 special education pre-K fleets, two fleets as you  
14 pointed out. The majority of the vehicles are  
15 diesel-powered, 2,655 vehicles are gasoline  
16 powered. Of the diesel buses, 2,300 roughly  
17 transport general education students and 3,800  
18 roughly transport special ed and pre-K students.  
19 Together, the school bus fleet services 140,000  
20 students a day. And the breakdown is in my  
21 testimony in table form.

22           I'm not going to talk about  
23 gasoline-powered buses because, generally  
24 speaking, they adhere to fairly clean standards  
25 and those primarily related to the auto fleet, so



1  
2 it's really diesel buses that we're worried about.  
3 And the main pollutants that result from diesel  
4 emissions are, of course, particulate matter,  
5 particularly the fine particulate matter, PM 2.5,  
6 and nitrogen oxides, NOx, and so I'm going to talk  
7 more about the fleet and what we've done thus far  
8 in part in compliance with Local Law 42 to address  
9 these two pollutants.

10 [Pause]

11 Important to note that most of the  
12 fleet is actually relatively new--over half of it  
13 is less than 10 years old. There is variation in  
14 the fleet, the average age is nine years and about  
15 11% of the fleet, 677 buses, date from prior to  
16 1994. And that's a really important date to bear  
17 in mind because it is the buses that come from  
18 before '94 that disproportionately contribute to  
19 the air pollution, particularly the external air  
20 pollution, but this is true both inside and  
21 outside the bus, and that's because there were two  
22 sets of improvements in the particulate matter  
23 standards, one that came in 1994 and made them  
24 much cleaner, and then the current ones we have  
25 that came into place in 2007. So if we want to

1  
2 think about the really bad apples in this class,  
3 they are the buses that come from before 1994.

4           Roughly 10%, an equivalent number,  
5 actually come from 2007's model year and more  
6 recently, and so those are actually kind of the  
7 star performers in the class, they're really quite  
8 clean. And the bulk, the 79%, are somewhere in  
9 between in that '94 to 2007 category and it's  
10 important to note that between '94 and 2007 as  
11 respects PM 2.5, there isn't that big a change  
12 from year to year 'cause they were all built to  
13 the same standards.

14           Pre-1994 buses emit 60 times more  
15 particulate matter, 9.3 times more hydrocarbons,  
16 and 53 times more nitrogen oxides than 2007 model  
17 year buses, so getting just one of those off the  
18 road, right, is a really big deal compared with  
19 getting the newest buses expanded and we have to  
20 remember what's the most important thing here.

21           There are similar changes in the  
22 federal regulations that took place on nitrogen  
23 oxides, which is, of course, important because  
24 it's a precursor to ozone and those rules were  
25 strengthened in 1998 and then in 2004.

1  
2 In addition to just the emission  
3 standards, we also have to consider the other non-  
4 emissions control kinds of improvements that have  
5 taken place and can take place. As with all  
6 diesels, there are three independent or  
7 interdependent components: Improved engines that  
8 meet these new emission standards, filters and  
9 emission control devices on the exhaust system, so  
10 kind of the band-aid, and then fuel with a lower  
11 sulfur content that of course cleans up the  
12 exhaust because there's less garbage going in.

13 Since 2005, of course, as per your  
14 Local Law, New York City school buses have been  
15 required to use ultra-low sulfur diesel fuel and  
16 in 2007, the EPA essentially began to remove non-  
17 ultra-low sulfur diesel from the supply of  
18 transportation fuel in the United States, so  
19 essentially that lever has been fully pulled.

20 In terms of tailpipe emissions  
21 filters, the band-aid so to speak, there are  
22 really two kinds, and it's important to keep a  
23 distinction between the two because they have very  
24 different profiles in terms of efficacy and in  
25 terms of cost. The one are diesel oxidization

1  
2 catalysts, DOCs, D-O-Cs, and the other is diesel  
3 particulate filters, DPFs. DOCs are devices that  
4 break down pollutants in the exhaust into less  
5 harmful components. They reduce PM 2.5 emissions  
6 by about 20 or 25%, they range in cost from 2 to  
7 \$4,000, and they can basically be installed on any  
8 diesel engine, requires minimal maintenance, and  
9 it has a lifespan of 7 to 15 years.

10 Diesel particulate filters, DPFs,  
11 are a more robust, but also, therefore, more  
12 expensive technology. They collect the exhaust  
13 soot and using the high exhaust temperature to  
14 heat the ceramic structure, they break down or  
15 oxidize that PM. Passive DPFs can be installed on  
16 new or used buses that meet a high temperature  
17 profile, and this is important because not all the  
18 buses in New York City's fleet, in fact on many  
19 routes, the buses don't stay on the road long  
20 enough to achieve that temperature and so we  
21 couldn't use the existing DPF technology, and they  
22 also have to be used with ultra-low sulfur fuel,  
23 but that's a non-issue at this point.

24 Active DPFs which is a fairly new  
25 kind of DPF, do not require the same high

1  
2 temperature profile because they actually do the  
3 heating of the exhaust themselves. A combination  
4 of DPFs and ULSD can reduce emissions of PM by at  
5 least 85%. The problem of course is that DPFs  
6 range in price from \$7,500 for these passive DPFs  
7 that require the bus to run a lot, up to \$18,000  
8 for an active DPF, which can be installed on any  
9 bus. They do require maintenance with every oil  
10 change and they do also have a lifespan of about  
11 15 years.

12           Though they are highly effective at  
13 reducing PM omissions, DPFs are essentially a  
14 maintenance intensive technology--they require  
15 data logging, they require custom engineering for  
16 installation, and, of course, they perform best in  
17 post-1994 buses where the quantity of PM is  
18 already lower to begin with. And as I said,  
19 passive DPFs don't work in most of the school bus  
20 fleet because we can't rely on the buses being on  
21 the road long enough to really achieve the  
22 temperatures that are necessary to make them work.

23           There's one additional system  
24 that's really important and is represented in this  
25 introduction, which is, we think, critical, which

1  
2 doesn't capture all the emissions from a school  
3 bus, doesn't capture the tailpipe emissions, but  
4 it captures the emissions from the crankcase, part  
5 of the engine train, that gets into the interior  
6 of the school bus, these are called crankcase  
7 filters or more technically, a closed crankcase  
8 ventilation system, a CCVF.

9           The real challenge, and I'm going  
10 to depart from my written text in order to be a  
11 little more conversational, but the real challenge  
12 here is that if you think about where the biggest  
13 health risks are, it's for the kids in this  
14 enclosed space where there are fumes leaking into  
15 the enclosed space from the engine itself, right.  
16 That's the biggest single threat that air  
17 pollution poses to our children and what's nice  
18 about a crankcase filter is that it solves that  
19 problem. It doesn't address the exterior air, but  
20 it solves that problem inside the bus and, in  
21 fact, therefore, removes the biggest single health  
22 threat to the children.

23           Roughly speaking, a bus emits about  
24 a quarter of its emissions to the interior and 75%  
25 of its emissions to the outside world, and if you

1  
2 think about the difference in space between just  
3 the air around any given school bus, even if it's  
4 standing in traffic idling, right, the air volume  
5 around it, maybe three feet away from the bus, is  
6 going to be far greater and, therefore, the  
7 intensity of that pollution is going to be far  
8 less than in that enclosed space, that you can see  
9 why addressing the interior is so much more  
10 important and a place that's really worth spending  
11 our limited resources.

12 I'll skip over to talk a little bit  
13 about what Local Law 42 did, how the City's  
14 responded to that, and where we see this Intro is  
15 building on it. As you mentioned, Mr. Chairman,  
16 Local Law 42 of 2005 focused only on C and D buses  
17 and it only focused on a piece of it. It required  
18 the installation of best available retrofit  
19 technology and, of course, the use of ULSD. It  
20 did not apply to the special education and the  
21 pre-K fleet, which is, of course, the majority of  
22 the buses, so this was a good bill, a good law  
23 that nonetheless left a good chunk of it, as you  
24 said, untouched.

25 To comply with Local Law 42, the

1  
2 Department of Education coordinated the  
3 installation of DOCs, of this lower level  
4 technology, but what didn't require the high  
5 temperatures, in much of the fleet. At the time  
6 that the law was passed, DOCs were the only  
7 available technology because these active DPFs  
8 weren't available and so they were the best  
9 available retrofit technology and, therefore, we  
10 didn't do DPFs.

11 To date, all of the school buses  
12 covered by Local Law 42 have been equipped with  
13 both DOCs and with crankcase ventilation systems,  
14 which, therefore, eliminate 100% of the fumes  
15 inside the cabin and significantly reduce by at  
16 least 20 or 25% the emissions outside. Seven  
17 school buses covered by Local Law 42 were equipped  
18 with DPFs and bus vendors report that 353 buses  
19 that are model 2007 or newer have factory  
20 installed tailpipe and crankcase filters.

21 In addition, the Department of  
22 Education already, at this point more than two  
23 years ago, began an effort voluntarily to retrofit  
24 the large special education buses and began a  
25 pilot project to test the operation of active DPFs



1  
2 on five buses. I'll address the expansion of this  
3 pilot program later, but I'd like to emphasize  
4 that, as a result of these voluntary pollution  
5 reduction measures, our goal was to install a  
6 tailpipe retrofit either a DOC or an active DPS on  
7 over 60% of the non-covered, the special ed or  
8 pre-K fleet independently of Local Law 42. We've  
9 already achieved that goal on 20% of the non-  
10 covered fleet. Still, of course, there's a lot  
11 more that we can do and we believe that Intro 622-  
12 A really begins to address that.

13           The current Department of Education  
14 contract with school bus vendors allows the  
15 provision of buses with model years 1987 and  
16 later. There are also vintage requirements for  
17 each bus vendor to meet as a percentage of their  
18 contracted fleet, but replacement buses themselves  
19 are allowed to be up to five years old, which puts  
20 them before the 2007 improvements. This contract  
21 is set to expire in 2010, just next year.

22           And that was actually one of the  
23 key things--and, again, I'm departing, but in  
24 plaNYC in our school bus initiative, we were  
25 already beginning to look at this new contract as

1  
2 an opportunity to significantly improve the  
3 requirements because it allows the bidders to  
4 incorporate the costs to comply with the law into  
5 their bids, which means that the city may not have  
6 to essentially pay at the least a dollar for  
7 dollar in the installation. Some of this, the  
8 ease of compliance, will affect the competitive--  
9 the way that the contracts are awarded.

10 We took a long look at the fleet  
11 itself and showed that the years preceding the  
12 tightening of the heavy-duty engine standards, so  
13 1990, for example, or 2006 are associated with a  
14 concentration of buses in that model year because  
15 the buses, prior to a new standard coming into  
16 effect, are cheaper and they buy more of them in  
17 those years. Thus, under the language in the  
18 current DOE contract and given the lack of pre-  
19 existing citywide legislation to regulate the age  
20 of school buses, school bus vendors do not have an  
21 incentive to purchase the newest buses to service  
22 New York City. Further, the most basic retrofit  
23 technologies, the DOCs, are the ones that really  
24 work on--I'm sorry the best technologies work best  
25 on buses manufactured after 1994 and, therefore,

1  
2 the biggest single imperative we face is to get  
3 rid of the oldest, dirtier buses in the fleet  
4 first to those that come before 1994, and  
5 continually ongoing improvements that we have on  
6 the buses manufactured between '98 and 2006.

7           Given this context, the city  
8 strongly supports Intro 622-A which would  
9 institute a mandatory 16-year retirement age and a  
10 mandatory requirement that bus vendors install  
11 closed crankcase ventilation systems on all diesel  
12 buses that contract with NYC DOE. The  
13 requirements in the bill are effective on July  
14 1st, 2010, and replacement buses must comply with  
15 the latest US EPA diesel emissions standards,  
16 which is important 'cause that'll make sure that  
17 these buses are replaced with the highest and best  
18 technology.

19           We support Intro 622-A's  
20 requirement for a uniform school bus retirement  
21 age of 16 years to meet this goal as quickly as  
22 possible. Unlike previous proposals suggesting  
23 varying retirement ages depending on the type of  
24 retrofit installed, a uniform retirement age for  
25 all diesel fuel buses makes it easier to inspect,

1  
2 account, and report.

3 US EPA did not change the lower  
4 particulate matter standards between '94 and 2007  
5 and that means that a bus from 1997 emits just as  
6 much soot as a 2005 bus. A retirement age more  
7 aggressive than 16 years, of 12 or 14 years, would  
8 not yield significant enough PM 2.5 reduction  
9 benefits to justify the increased costs, we  
10 believe, and, more importantly, it would create  
11 tremendous compliance challenges in the early  
12 years. For example, enacting a 12 year retirement  
13 age would mean the immediate retirement of 2,085  
14 buses, 34% of the fleet. We simply believe it  
15 would be impossible to procure, inspect, and  
16 deploy that many buses in one year. So, while  
17 obviously the newer buses are always better,  
18 fundamentally, we believe that a 16 year school  
19 bus retirement age is operationally feasible,  
20 economically prudent, and environmentally sound.

21 The requirement in 622-A will  
22 immediately result in a 90% cleanup of the 11% of  
23 the fleet that produces the disproportionate share  
24 of emissions. This is because all buses with the  
25 model year 2007 or later are already compliant

1  
2 essentially with the DPF requirement and they have  
3 the crankcase controls. So essentially, we're  
4 taking the back of the class and immediately  
5 replacing it with the front of the class and  
6 thereby cutting off that tail.

7 Furthermore, we support the  
8 requirement in this bill for the crankcase filters  
9 on all buses because this is, we think, the most  
10 cost effective way to protect the health of the  
11 children and the bus drivers riding to and from  
12 our schools.

13 I'll also spend just one more  
14 minute talking a little bit about what the city  
15 has already done on a voluntary basis to go beyond  
16 even what 622-A would require. Earlier this year,  
17 we were awarded a congestion mitigation air  
18 quality grant from the federal government and we  
19 will therefore begin managing the installation of  
20 515 of these active DPFs, the ones that are more  
21 expensive but work at all temperatures. This  
22 grant will target buses with model years between  
23 '98 and 2006 and, therefore, focus on buses that  
24 will not be retired in the next three years  
25 because we don't want to invest \$18,000 in a bus

1  
2 that only has one or two more years on the road.  
3 And that's, of course, for example, a 1995 bus  
4 under this law, under this bill, would be retired  
5 relatively quickly. This will result in a 42%  
6 reduction in total emissions from the fleet when  
7 this one project is done.

8 We are committed to continue to  
9 fundraise to ensure that all buses receive active  
10 DPFs over time and we will continue the work to  
11 test all new technology that emerges that could  
12 either be of lower cost or greater efficacy.

13 Because federal policy prohibits  
14 the US EPA from funding diesel emission reduction  
15 projects that are required by local mandates, a  
16 mandatory retrofit requirement for all buses as  
17 required by Local Law 42, if it were extended to  
18 the entire fleet, would actually render us  
19 ineligible for this money that we'll get these 515  
20 DPFs. And it's an important point because what we  
21 do here could wind up making us ineligible for  
22 future monies that we hope to get to expand that  
23 program. As I say, we'll continue to apply for  
24 money whenever it's available.

25 In conclusion, Intro 622-A reflects

1  
2 what we believe to be the optimal strategy: it'll  
3 get the dirtiest buses out of the fleet as soon as  
4 possible, it will require the comprehensive  
5 installation of crankcase filters that will  
6 achieve the most important task of protecting  
7 children from pollution in the closed confines of  
8 the bus itself, and, as written, it avoids the two  
9 downfalls of forcing retirement schedule that  
10 would be impractical or closing off our  
11 eligibility to use federal funding for the  
12 installation of DPFs. This is an approach that  
13 prudently invests public funds to achieve the  
14 maximum health and environmental benefit possible  
15 and is therefore precisely consistent with PlaNYC.

16 We urge you to pass Intro 622-A as  
17 soon as possible. We look forward to working with  
18 you and your staff on this legislation and, of  
19 course, we're happy to answer any questions you  
20 have. Thank you.

21 CHAIRPERSON GENNARO: Thank you,  
22 Rohit, thank you for your comprehensive statement,  
23 it was very informative.

24 I'd like to recognize Council  
25 Member Eugene who has joined us, thank you, thank

1  
2 you, Councilman, for being here.

3           As I just go through your  
4 statement, just a question or two or three. And  
5 with regard to the crankcase emissions leading to  
6 a seepage of 25% of the total emissions of the  
7 bus, that's like a phenomenal number, I was not  
8 aware of that, it's hard to envision that that's  
9 actually the case, but that is what has happened,  
10 and so very important that we proceed and try to  
11 do something. Now is this something that other  
12 cities have spoken to and done something about or  
13 are we way out in front on this or what's like the  
14 sort of like the Local Law landscape out there  
15 with regard to what other folks are doing?

16           MR. AGGARWALA: Actually, let me  
17 partially answer that and I'll ask Kizzy to follow  
18 on. Crankcase filters are not a novel technology.  
19 They've been tested in many places and used in  
20 many places, and, of course, as I mentioned, the  
21 2007 EPA requirements, in fact, required them.

22           In terms of the retrofits, Kizzy,  
23 do you know whether...?

24           KIZZY CHARLES-GUZMAN: Yes, excuse  
25 me--hi.



CHAIRPERSON GENNARO: Sure, and we just need you to state your name for the record, Kizzy.

MS. CHARLES-GUZMAN: Sure, it's Kizzy Charles-Guzman from the Office of Long Term Planning and Sustainability.

So the state of New Jersey, for example, has a requirement that school buses must have a tailpipe retrofit and also a crankcase filter. Similarly, most of the grants that the US EPA awards are for tailpipe retrofits and also the crankcase filter. There are numerous studies from various universities--Yale, University of Michigan Ann Arbor, UCLA, Purdue--that have demonstrated the efficacy and effectiveness of the crankcase filters for reducing pollution. Therefore, most of the time, since they are part of the carb and the EPA verified technologies list, whenever an entity, be a school district or a city, apply for funds from the federal or state government to install retrofit technologies on school buses, they normally include a crankcase filter. So the crankcase filters are deployed across the United States and, again, they are part of the New York

1  
2 City DOE fleet for general education buses.

3 CHAIRPERSON GENNARO: Thank you,  
4 thank you. And with regard to enforcement, what  
5 is your vision of how that would work to make sure  
6 that all the buses are duly installed with these  
7 items? I guess that's part of, certainly it'll be  
8 written into the contract and all that, but how do  
9 we follow, how do we track that, how do we make  
10 sure that that's the case?

11 MS. CHARLES-GUZMAN: So one really  
12 great provision in Intro 622-A is actually a  
13 reporting requirement by the City DOE and what is  
14 going to happen is that the City DOE will collect  
15 the information from the bus vendors, they are  
16 required to report on the age of each bus on the  
17 fleet and also the status of the crankcase filters  
18 on every school bus pursuant to the school bus  
19 contract.

20 The DOE will also perform a yearly  
21 review on a sample of school buses randomized from  
22 at least 10 different vendors to verify the  
23 accuracy of the data that is reported.

24 And the last thing I want to  
25 mention is that the Department of Environmental

1  
2 Protection is responsible for enforcement of the  
3 penalty provisions stipulated under the air  
4 [phonetic] code of the City Admin Code. So you  
5 have multiple agencies working together to ensure  
6 that the provisions of the law are in compliance.

7 CHAIRPERSON GENNARO: Thank you. I  
8 know that Eric has a question, I recognize Council  
9 Member Ulrich for questions.

10 COUNCIL MEMBER ULRICH: Thank you,  
11 Mr. Chairman. I have a question that's going to  
12 lead into another question, sort of like Pandora's  
13 Box, so just bear with me. First of all, I read  
14 the bill summary, I've read the bill on the way on  
15 the train ride here this afternoon and I did see  
16 that some of this language in the legislation was  
17 born out of a lawsuit that was in San Francisco, I  
18 believe, right? Could you speak to that? I'd  
19 seen that in the....

20 CHAIRPERSON GENNARO: Oh, I'm not  
21 aware of that, but--

22 MALE VOICE: This, there was a  
23 lawsuit.

24 [Off mic]

25 CHAIRPERSON GENNARO: I would ask

1  
2 the Counsel to speak on the record so that the--

3 MALE VOICE: Right.

4 CHAIRPERSON GENNARO: --so that the  
5 record will show the response. Just state your  
6 name for the record.

7 SAMARA SWANSTON: Samara Swanston.  
8 Yes, in San Francisco there was a lawsuit against  
9 the bus transportation companies for failure to  
10 address this and that lawsuit settled very  
11 favorably with them being required to retrofit the  
12 buses. Laidlaw Transit was sued by Environmental  
13 Law Foundation in San Francisco.

14 COUNCIL MEMBER ULRICH: Thank you.  
15 So in San Francisco there was a lawsuit and they  
16 were forced to comply with retrofitting  
17 regulations or laws that were passed locally in  
18 California. And here in New York City, we have,  
19 obviously, a very good intention to expand some of  
20 those same standards to buses that were not  
21 covered under the law that was passed in 2005.  
22 How much will this cost in total to retrofit the  
23 buses? How much is it going to cost in New York  
24 City? The ones that are non-covered.

25 MS. CHARLES-GUZMAN: It will cost

\$2.1 million approximately.

COUNCIL MEMBER ULRICH: And that's going to come from public funds.

MS. CHARLES-GUZMAN: Yes.

COUNCIL MEMBER ULRICH: In its entirety, so the local bus companies are not going to be required to put any money up front for the installation of crankcase technology or anything of that sort.

MS. CHARLES-GUZMAN: Well the expectation is that because the school bus contract is expiring in 2010 and this law, hopefully, or bill will hopefully pass soon, we are expecting that the costs that will be borne by the bus companies will be passed on to the city via the next bid for the next contract.

COUNCIL MEMBER ULRICH: Do we have any idea what those costs might be? Like how much they might be, you know, on average or has anybody looked at what it would cost one of the 55 vendors to comply with this?

MR. AGGARWALA: Well if I could, I think a couple of things to be clear on, the required crankcase filter installation

1  
2 contemplated in this bill is what, as Kizzy  
3 referred to, being a total cost of \$2.1 million--

4 COUNCIL MEMBER ULRICH: Right.

5 MR. AGGARWALA: --we've estimated  
6 the cost of the retirement provision in this bill  
7 as being a total of roughly \$21 million. Now it  
8 is impossible to know what percentage of that  
9 could be passed on to the city in the  
10 renegotiation or the renewal of the existing set  
11 of contracts. My understanding and,  
12 unfortunately, there is a question of where it  
13 would--the OPT would have been helpful here, but  
14 they are getting ready for school tomorrow, but my  
15 understanding is that under the terms of the  
16 existing contract, if we impose requirements  
17 during the current contract, those do get passed  
18 on to the city, right.

19 As this is going to be renewed,  
20 there is some hope that the city won't have to  
21 bear dollar for dollar costs, but at the end of  
22 the day we should not kid ourselves that it is a  
23 perfectly competitive market for the provision of  
24 school bus services. If we increase the standards  
25 for what we want, we need to recognize the fact

1  
2 that, more than likely than not, we're going to  
3 wind up paying for it in terms of higher contract  
4 costs.

5 COUNCIL MEMBER ULRICH: I  
6 understand that this is going to be part of doing  
7 business, obviously, it's going to be a new part,  
8 just another cost that'll have to be borne by the  
9 industry to comply with the law that I hope will  
10 be passed, but at the same time, I just was  
11 wondering if we had any idea or any estimate as to  
12 what those costs might be. Certainly if we're  
13 going to ask these companies to submit bids or to  
14 comply with something in a year's time, financial  
15 planning takes a very heavy toll on businesses,  
16 especially small and midsize businesses in the  
17 city. Some of these bus companies are not very  
18 large conglomerates, they're ones that have been  
19 around for very long time, as I'm sure you know  
20 better than I do, and certainly I think that they  
21 would like to know up front what they will be  
22 required to pay in order to comply with the law,  
23 with a good amount of time to do that.

24 MS. CHARLES-GUZMAN: Right.

25 COUNCIL MEMBER ULRICH: That's my

1  
2 only concern. The other concern that I have is,  
3 obviously if there are no estimates or we have no  
4 ideas, that certainly when the contract goes out  
5 next year, that we are able to monitor the bidding  
6 process to make sure that there is no price  
7 gouging, and I'm not accusing any one particular  
8 company or any one in the industry of engaging in  
9 that type of activity, but certainly we don't want  
10 them to overcharge for something that could be  
11 done relatively cheaply.

12 MR. AGGARWALA: Obviously, neither  
13 one of us is qualified to speak about the process  
14 by which the contract is re-bid and I'm sure the  
15 Council will conduct its oversight as it sees fit  
16 on that score. But I think the urgency that we  
17 feel after the year's worth of work we've put into  
18 this bill to getting it enacted as soon as  
19 possible stems from exactly your concern, because  
20 if, for example we were to wait a year, then this  
21 would be a change in the contract terms and have a  
22 totally different profile than if we do it now.

23 COUNCIL MEMBER ULRICH:

24 [Interposing] And the city would have to assume  
25 financial costs because it would be in the middle



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of--

[Crosstalk]

MR. AGGARWALA: Presumably, if similar terms to what are enforced now would be there, but, again--

COUNCIL MEMBER ULRICH:

[Interposing] The city is going to pay either way, though. I mean they're going to pay--

MR. AGGARWALA: Yes.

COUNCIL MEMBER ULRICH: --up front or they're going to pay in the middle. I mean if you do it--I'm not arguing that we wait any longer of this, but if you were to do it up front, obviously, they're going to build that into their bid, they're going to put that to make sure that they're not eating all the costs here.

MR. AGGARWALA: And that's what we would like them to do, but, for example, it is possible, right, that there are bus contractors, 'cause while some of them are small, some of them do have operations well beyond New York City and they may be able to reallocate buses, they may make decisions about their own strategic fleet purchasing, things like that. There are ways that

1  
2 businesses can respond to changing contract  
3 requirements if we get this enacted.

4 CHAIRPERSON GENNARO: And also, if  
5 I could, Council Member, we have the finance  
6 division that's obligated to do some kind of  
7 analysis of fiscal impact of the bill that'll be  
8 presented to the members before a vote and I would  
9 ask the Counsel to the committee--we don't have  
10 the finance person for the committee here, but  
11 certainly we can get the finance folks in contact  
12 with you and your office to give you a better feel  
13 for what they're looking at. Because, presumably,  
14 they are seeking to make their best guess as to  
15 what kind of decisions companies might be making  
16 on what kind of fleets they purchase, 'cause  
17 obviously if you have a fleet, if you're a company  
18 that has a cleaner fleet, then you're going to  
19 have the ability to have a much more competitive  
20 bid in this process because you've already made  
21 the investment. And so these are the issues that  
22 our finance people are dealing with now as they do  
23 their impact analysis and it's their job to come  
24 up with those numbers and we can make those  
25 available to you as soon as the finance division

has those prepared.

COUNCIL MEMBER ULRICH: Thank you, Mr. Chairman. Finally, my last concern, with regards to noncompliance, who would be responsible for reporting the actual data? Would that fall under the responsibilities by the individual bus companies?

MS. CHARLES-GUZMAN: According to the current draft of Intro 622-A, yes, the bus vendors have to report to the Department of Education, I assume that--

COUNCIL MEMBER ULRICH:  
[Interposing] And then Department of Education turns that--randomly would select 10 of the vendors and report that to the Department of Environmental Protection to see that that is in fact accurate information.

MS. CHARLES-GUZMAN: There are two separate processes: One, the Department of Education will process all of the data collected from the bus vendors, put it together in report form, and the report is due to the DEP and also to the Council. On a separate track, you also do have this specific audit of sorts, a review of the

10 randomized vendors just to make sure that the data is in fact accurate, yes.

COUNCIL MEMBER ULRICH: Right.

Thank you very much. Thank you, Mr. Chairman.

CHAIRPERSON GENNARO: Thank you.

Thank you, Council Member. I recognize Council Member Crowley.

COUNCIL MEMBER CROWLEY: Thank you

[pause]. I think I'm on now. It seems to me we're talking about funding the costs, is there federal dollars through the stimulus that would go towards greening New York City's school bus fleet? Is there like the way it trickles down to companies, is there ways they can tap into that?

MS. CHARLES-GUZMAN: There was,

there was, the DERA, the Diesel Emissions Reduction Act component of the stimulus allocated a certain amount of funding for the northeast region. The city applied for a variety of projects, diesel reduction projects, the school bus project was not one of the projects that was selected for stimulus grant. The project that was awarded was the Department of Transportation's retrofit of the ferries and promptly after the

1  
2 award was made, it was taken back by the EPA  
3 because we do have a Local Law covering the  
4 ferries. So, again, it's the perfect example that  
5 we continue to legislate retrofit requirements on  
6 the city-owned vehicles and fleets and that makes  
7 sense from an environmental perspective, but it  
8 often exempts us from being able to qualify for  
9 federal and state funds.

10 COUNCIL MEMBER CROWLEY: Right.

11 MR. AGGARWALA: But, Council  
12 Member, perhaps more directly to answer your  
13 question, I think the example that we've already  
14 won this one grant of CMAC [phonetic] money,  
15 right, indicates that there is federal money for  
16 voluntary improvements, but, as Kizzy points out,  
17 you, generally speaking, cannot get federal money  
18 to comply with a local mandate.

19 COUNCIL MEMBER CROWLEY: 'Cause  
20 when I looked at the way the stimulus dollars was  
21 trickling down to small businesses if they  
22 upgraded machinery, whether it was in an office or  
23 whether it was vehicles or fleet, that if they  
24 brought more modern, that it would be a tax, sort  
25 of like tax credit in the form of money saved. I

wonder if they could still, it would make sense to possibly look at that way for a company to take advantage of what could be available to them.

My next question has to do with the filters, the diesel particulate filters. That cleans the air that's going outside, basically, it doesn't have to do with the interior air, is that correct?

MS. CHARLES-GUZMAN: Correct.

COUNCIL MEMBER CROWLEY: And it was only it's only school buses that you know of that have these particular guidelines?

MS. CHARLES-GUZMAN: A temperature requirement you mean?

COUNCIL MEMBER CROWLEY: With the diesel particulate filters.

MS. CHARLES-GUZMAN: No, in fact, the diesel particulate filters have been, as per Local Law in New York City, been deployed in, for example, construction equipment, non-road equipment, and--

COUNCIL MEMBER CROWLEY: Right.

MS. CHARLES-GUZMAN: --this has been very similar controversy of sorts where the

1  
2 basic premise of a passive DPF is that it requires  
3 whatever machineries that it's installed in, it  
4 doesn't have to be a school bus, to meet a certain  
5 temperature profile.

6 COUNCIL MEMBER CROWLEY: Is there a  
7 way of measuring the air in and around those that  
8 don't have these particular filters? Let's say,  
9 for instance, an ice cream truck, ice cream trucks  
10 are by schools all the time, they're by parks,  
11 they're often backdated 20 or so years old, and  
12 they're running nonstop, they're idling and  
13 they're causing an environmental hazard and most  
14 of the time they don't have these types of  
15 filters. So there's nothing that would mandate,  
16 that you know of, that is the city thinking about  
17 that, do you know? The long-term planning?

18 MR. AGGARWALA: So couple of  
19 thoughts on that, in terms of the ice cream  
20 trucks, one of the issues is actually about the  
21 fact that they do have to idle and the older ones,  
22 because they don't have the batteries to keep the  
23 refrigerators running, they have to run the engine  
24 in order to keep the refrigerator, so they were  
25 excepted from the idling law. We have been

1 exploring, and I have no news to report or any  
2 clear strategy, but we've certainly been exploring  
3 this question of what could potentially be done in  
4 terms of ice cream trucks or some of these other  
5 trucks that are exempt from the idling law, but  
6 spend a large amount of their time either around  
7 children or around our parks. So we are  
8 definitely looking into it, I don't have anything  
9 to tell you just yet, but it's on our radar  
10 screen.

11  
12 COUNCIL MEMBER CROWLEY: [Off mic]

13 Thank you.

14 [Pause]

15 CHAIRPERSON GENNARO: Thank you,  
16 Council Member, I appreciate all of your  
17 questions, and I don't have any further questions  
18 for the panel. I thank you for--Council Member  
19 Eugene, did you have a question? Oh, okay, okay.  
20 Great.

21 So I thank you for your service to  
22 the school children of the city of New York on  
23 your good work on this bill. I thank the prime  
24 sponsor of the bill, Council Member Gonzalez from  
25 Brooklyn. I probably will be adding my name as a



2 sponsor of this bill and we all know what that  
3 means. And so very grateful to have you with us  
4 here today and thanks for all of your great  
5 efforts on moving this bill forward. Appreciate  
6 it very much.

7 MS. CHARLES-GUZMAN: Thank you.

8 MR. AGGARWALA: Thank you, Mr.  
9 Chairman, and thank you, members.

10 CHAIRPERSON GENNARO: And I'd like  
11 to state for the record that we did get statements  
12 from other entities, right? Let me put that on  
13 the record, we got lots of--

14 [Off mic]

15 CHAIRPERSON GENNARO: Okay, hang  
16 on, let me just so we've got a supportive  
17 statement from the federal EPA, a supporter  
18 statement from the school's Chancellor, supportive  
19 statement from the American Lung Association--

20 MS. SWANSTON: And we also got one  
21 from--

22 [Off mic]

23 CHAIRPERSON GERSON: We have  
24 supportive statements from two environmental  
25 groups, the Environmental Defense Fund, the

1  
2 Natural Resources Defense Council West Harlem  
3 Environmental Action--

4 MS. SWANSTON: And sustainable--  
5 [Off mic]

6 CHAIRPERSON GENNARO: --and  
7 Sustainable South Bronx, and we also received--

8 [Off mic]

9 MS. SWANSTON: The school bus--  
10 [Off mic]

11 [Pause]

12 CHAIRPERSON GENNARO: Oh, okay, do  
13 we--

14 [Pause]

15 MS. SWANSTON: ...testify.

16 CHAIRPERSON GERSON: Does anyone  
17 else wish to be heard? Okay, okay then, in that  
18 case, we'll also mention that we did get comments  
19 from Silverman Sclar Shin & Byrne, the law firm  
20 that represents some school bus folks, they do  
21 have some concerns about the bill, we'll be  
22 reaching out to them to get a better vetting of  
23 what their concerns may be before we proceed.

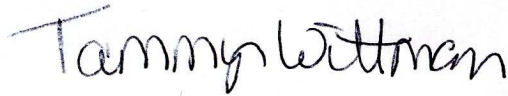
24 I'd like to thank the staff that  
25 helped make this meeting possible: Counsel to the

1  
2 Committee Samara Swanston, Policy Analyst Siobhan  
3 Watson, everyone else on staff, my own  
4 environmental analyst, Bill Murray.

5 And, with that being said, and no  
6 one else wishing to be heard, I wish everyone a  
7 good day. Thank you for being present, and this  
8 meeting is adjourned.

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in black ink that reads "Tammy Wittman". The signature is written in a cursive, slightly slanted style.

Signature\_\_\_\_\_

Date October 2, 2009