

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SAC 11-01 School Nutrition Programs

SPONSOR(S): State Affairs Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Affairs Committee		Kaiser	Hamby

SUMMARY ANALYSIS

The National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Summer Food Service Program (SFSP), the Commodity Food Distribution Program, and the Emergency Food Assistance Program (TEFAP) are all federal programs administered by the U.S. Department of Agriculture (USDA) at the national level. At the state level in Florida, the NSLP, SBP, and SFSP are administered by the Department of Education (DOE), while the Commodity Food Distribution Program and TEFAP are administered by the Department of Agriculture and Consumer Services (DACS).

The bill implements a type two transfer of the school food and nutrition program from the DOE to the DACS and names the act as the "Healthy Schools for Healthy Lives Act". The transfer includes all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs. The bill also transfers the Food and Nutrition Services Trust Fund¹ in the DOE to the DACS.²

The bill authorizes the DACS to conduct, supervise, and administer all school food and nutrition programs that are carried out using federal or state funds or funds from other sources. The bill authorizes the DACS to coordinate with the federal government to take advantage of any federal financial allotments and assistance that would benefit the school food and nutrition programs. The DACS may act as an agent of, or contract with, the federal government, another state agency, or any county or municipal government regarding the administration of the school food and nutrition program, including the distribution of funds provided by the federal government in support of the school food and nutrition program.

The bill requires each school district to submit an updated copy of its wellness policy and physical education policy to the DOE and the DACS when a change or revision is made. The DACS, as well as the DOE, shall provide website links to information regarding the nutritional content of foods and beverages and to healthful food choices in accordance with the dietary guidelines of the USDA.

And lastly, the bill transfers statutory language regarding the administration of the school food and nutrition program from Chapter 1006, F.S., which falls under the jurisdiction of the DOE, to Chapter 570, F.S., which falls under the jurisdiction of the DACS.

For the 2010-11 FY, Florida's matching funds included \$8.9 million for the school lunch program; \$7.6 million for the school breakfast program, and \$344,433 for cafeteria inspection fees.³ The federal reimbursement for the same fiscal period totaled \$804 million.

¹ FLAIR number 48-2-2315, in DOE, is transferred to DACS, FLAIR number 42-2-2315.

² Federal law requires that state education agencies administer the school food and nutrition program. However, two states, Texas and New Jersey, have sought and received federal approval to administer their school food and nutrition programs through their agricultural agency. Therefore, Florida would have to apply for, and receive, a waiver before the DACS could take over the administration of the school food and nutrition program.

³ All monies are from General Revenue.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb01.SAC

DATE: 3/29/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Summer Food Service Program (SFSP), the Commodity Food Distribution Program, and the Emergency Food Assistance Program (TEFAP) are all federal programs administered by the U.S. Department of Agriculture (USDA) at the national level. At the state level in Florida, the NSLP, SBP, and SFSP are administered by the Department of Education (DOE), while the Commodity Food Distribution Program and TEFAP are administered by the Department of Agriculture and Consumer Services (DACS).

School Lunch Program (SLP)

The national SLP is a federally assisted meal program that provides nutritionally balanced, low-cost or free lunches to more than 31 million children each school day.⁴

School districts and independent schools that choose to take part in the SLP get cash subsidies and donated commodities from the USDA for each meal they serve. In return, they must serve lunches that meet federal requirements, and they must offer free or reduced-price lunches to eligible children. School lunches must meet the applicable recommendations of the Dietary Guidelines for Americans, which recommend that no more than 30 percent of an individual's calories come from fat, and less than 10 percent from saturated fat. Regulations also require for school lunches to provide one-third of the Recommended Dietary Allowances of protein, Vitamin A, Vitamin C, iron, calcium, and calories. While the SLP must meet federal nutrition requirements, the decision regarding the specific foods to serve and how they are prepared are made by local school food authorities.

Any child at a participating school may purchase a meal through the SLP. Children from families with incomes at or below 130 percent of the poverty level⁵ are eligible for free meals. Children from families with incomes between 130 percent and 185 percent of the poverty level are eligible for reduced-price meals.⁶ Children from families with incomes over 185 percent of poverty pay a full price, though their meals are still subsidized to some extent. Local school food authorities set their own prices for full-price (paid) meals, but must operate their meal services as non-profit programs.

To participate in the school lunch program in Florida, schools must apply through the DOE and complete the necessary requirements for participation. The requirements include:

- Completion of the application process.
- Attend "Child Nutrition" training.
- Maintain documentation and verification of children's eligibility category and count meals by eligibility category (free, reduced price, and paid meals).
- Maintain meal production records and inventory records that document the amount and types of food served.
- Utilize one of the four menu planning options.
- Maintain records of On-site Accountability Reviews.
- Maintain records of all program income and expenditures.

Once approved, the schools receive funding from the DOE for each lunch and breakfast meal served as long as they meet established state and federal regulations.⁷ The DOE conducts periodic reviews of the school lunch and breakfast programs to ensure that state and federal regulations are being met.

⁴ Based on information from fiscal year 2009.

⁵ For the period July 1, 2010 through June 30, 2011, 130 percent of the poverty level is \$28,665 for a family of four; 185 percent is \$40,793.

⁶ Reduced-price meals may not cost more than 40 cents.

⁷ The state must adhere to a matching funds requirement in the National School Lunch Act. For 2010-11, the state's matching requirement was \$8.9 million, which came from General Revenue.

The DOE has rule-making authority for the administration and operation of the school food service programs.

School Breakfast Program (SBP)

Florida law requires the SBP to be offered in all elementary public and charter schools. The SBP must be offered in schools in which 80 percent or more of the students are eligible for free or reduced-price meals. District school boards are encouraged to provide universal-free school breakfast meals to all students in each elementary, middle, and high school. The schools can choose to make the breakfast meals available at alternate areas on the school campus, such as kiosks near bus ramps.

School districts set the prices for the breakfast meals annually. Unless the district school board approves lower rates, the cost of the breakfast meals may not exceed the combined federal reimbursements and state allocations.

District school boards may approve or disapprove a policy, after taking public testimony, making universal-free school breakfast meals available to all students in each middle and high school in which 80 percent or more of the students are eligible for free or reduced-price meals. The breakfast meal must be available for students arriving at school on the school bus less than 15 minutes before the first bell rings, in which case the student will be allowed at least 15 minutes to eat the breakfast.

School districts are responsible for disseminating information annually to students regarding the district's school breakfast program. This must be done through school announcements and written notice provided to all parents.

School districts may operate the SBP providing for food preparation at the school site or in central locations with distributions to designated satellite schools or any combination thereof.

The Commissioner of Education must make every reasonable effort to ensure that schools designated as "severe need" schools receive the highest rate of reimbursement for which they are entitled for each breakfast meal served.⁸ The DOE is responsible for allocating the monies appropriated by the Legislature each year to the school districts based on each district's total number of free and reduced-price breakfast meals served.

Children's Summer Nutrition Program (SNP)

The SNP, also known as the "Ms. Willie Ann Glenn Act," operates through the NSLP or SBP as a way of feeding children, 18 years and under, from low-income areas during the summer months.

Florida law directs school districts to develop a plan to sponsor a SNP with operational sites within 5 miles of at least one elementary school with 50 percent or more of the students eligible for free or reduced-price school meals and for a duration of 35 consecutive days. Secondary sites must be within 10 miles of each elementary school with 50 percent or more of the students eligible for free or reduced-price school meals.

A district school board may opt out of sponsoring a SNP. To qualify for the exemption, the district must include the issue on an agenda at a regular or special district school board meeting that is publicly noticed, provide residents an opportunity to participate in the discussion and vote on whether to be exempt from sponsoring a SNP. After deciding to become exempt, the district school board must notify the Commissioner of Education within 10 days. The district must revisit the decision to be exempt each year and notify the Commissioner of Education accordingly.

If a district school board chooses to be exempt from the SNP, the board may encourage not-for-profit entities to sponsor the SNP. Neither the district school board, school district nor the Commissioner of

⁸ A "severe needs" school is a school that served 40% or more of its lunches as free and reduced in the 2nd preceding year. Severe need may be applied for at any time during the school year; however, payment is only retroactive for 60 days.

Education may be held responsible for any liability as a result of a not-for-profit entity failing to complete the requirements of the SNP.

The superintendent of schools may cooperate with municipal and county governmental agencies and private, not-for-profit leaders in identifying an entity and location to sponsor the SNP. Current law requires each school district with a SNP to report where the SNP will be located to the DOE by April 15 of each year. By February 15 of each year, the DOE must provide each district school board with a list of local organizations that have filed letters of intent to participate in the SNP in order for a district school board to be able to determine how many sites are needed to serve the children and where to place each site.

Seamless Summer Option (SSO)

School districts participating in the SLP or SBP are eligible to apply for the SSO to serve free meals to low-income children, 18 years old and under. This option reduces paperwork and administrative burdens. The reimbursement rates are the same as with the SLP and the SBP. School districts sponsor this program.

Special Milk Program (SMP)

The SMP provides milk to children in schools, child care institutions and eligible camps that do not participate in other federal child nutrition meal service programs. The program reimburses schools and institutions for the milk they serve. Schools in the SLP or the SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and kindergarten programs where children do not have access to school meal programs.

Fresh Fruit and Vegetable Program (FFVP)

The FFVP provides all children in participating schools with a variety of free fresh fruits and vegetables outside of the breakfast and lunch service. It is an effective and creative way of introducing fresh fruits and vegetables as healthy snack options.

Florida Farm Fresh Schools Program (FFSP)

The FFSP was created to address the need of school children for not only nutritious food for healthy physical and intellectual development, but also to combat diseases related to poor nutrition and obesity. The FFSP requires the DOE to develop policies pertaining to school food services that encourage school districts to buy fresh and high-quality foods grown in the state, when feasible. The program encourages farmers in the state to sell their products to school districts and schools. The school districts and schools are encouraged to select foods based on maximum nutritional content and to buy organic food products when feasible. The DOE is directed to provide outreach, guidance and training to the school districts, schools, and various other organizations⁹ involved in school food services regarding the benefits of fresh food products grown in the state.

Other

The DOE currently requires each school district to submit an updated copy of its wellness policy and physical education policy when a change or revision is made. The DOE is required to provide website links to information regarding the nutritional content of foods and beverages and to healthful food choices in accordance with the dietary guidelines of the USDA.

Commodity Food Distribution Program

Through the Commodity Food Distribution Program, the USDA purchases foods through direct appropriations from Congress, and under surplus-removal and price-support activities. The foods are distributed to state agencies for use by school food authorities participating in the NSLP. In Florida, DACS is the agency responsible for commodity distribution.

The Emergency Food Assistance Program (TEFAP)

TEFAP is a federal program that helps improve the diets of low-income Americans, regardless of age, by providing them with emergency food and nutrition assistance at no cost. Under TEFAP, commodity

⁹ School food service directors, parent and teacher organizations, and students.

foods are made available by the USDA to the states. The states provide the food to eligible recipient agencies that distribute it to the needy through local emergency feeding organizations such as food banks, food pantries, soup kitchens or other feeding sights.

In Florida, the recipient agencies are selected by the DACS, every four years, as a result of a competitive procurement process or bid. TEFAP commodities are provided to each of the contracted recipient agencies according to the counties they serve. Each county's share is determined using a formula that bases the allocation on each county's relative share of the state's total number of persons with incomes below the poverty line and the total number of unemployed persons. This formula, which is similar to the one used by the federal government to allocate resources to the states, is adjusted annually.

DOE Administration of Child Nutrition Programs

The DOE employs 45 staff with an administrative budget of \$6,461,745¹⁰ to administer the school and child nutrition programs for the following sponsors:

- 248 SLP sponsors, including 3,578 breakfast sites, 3,651 lunch sites, and 1,655 snack sites;
- 135 SNP and SSO sponsors;
- 18 SMP sponsors; and
- 133 elementary schools that are participating in the 2010-2011 FFVP.

In addition, the DOE:

- Operates and maintains a web-based computer application to process \$745 million of claims reimbursements, sponsor applications, administrative program reviews, and federal reports.
- Provides sponsor training and technical support in child nutrition, food safety, and administrative services for all sponsors.
- Conducts on-site monitoring and administrative reviews of program administration and meal services for all sponsors.
- Evaluates and provides nutrient analysis of breakfast and lunch menus for all sponsors.
- Provides outreach throughout the state to attract potential sponsors for the SNP and increase participation in the SBP.

To provide these services, the DOE works with the Florida Atlantic University to administer two grants:

- \$700,000 to deliver on-site training in a variety of areas, including producing and maintaining appropriate food service records, food preparation and safety, preparing and serving fresh fruits and vegetables, and the production of training videos; and
- \$900,000 to observe and evaluate the scope of difficulties related to compliance, provide technical assistance to individual sponsors, provide technical assistance to companies that contract to deliver food products and services, assist sponsors with completing paperwork and taking the steps necessary to achieve and maintain regulatory compliance related free and reduced meals, and the maintenance and technical support of DOE's "FUNDamental" financial software, which is used to measure critical indicators of the financial effectiveness of a sponsor's child nutrition program.

Alliances and Initiatives

The DOE established the Farm to School (F2S) Alliance to combat childhood obesity and meet the HealthierUS School Challenge criteria, a statewide training initiative for school food service professionals on how to prepare and serve meals that comply with the 2005 Dietary Guidelines for Americans. The DOE coordinates F2S training, serves as the lead on the National F2S Network Regional Steering Committee, and commits staff time to the HealthierUS School Challenge and First Lady Michelle Obama's Let's Move Campaign. In January of 2011, an F2S Alliance meeting was held to "Build a Framework" for Florida F2S Programs. The Florida-Grown School Lunch Week is being planned for October 2011, to highlight products grown in Florida.

¹⁰ Based on the 2010-11 fiscal year.

The F2S Alliance meetings have been attended by representatives from the United States Department of Agriculture, Farm Bureau, University of Florida Extension Offices, Florida Agriculture in the Classroom, Florida Fruit and Vegetable Association, Florida School Nutrition Association, R.C. Hatton Farms, U.S. Foodservice Food Distribution, Florida Action for Healthy Kids, Florida Dairy Council, Sustainable Agriculture Research and Education, Whole Foods, and organic growers.

The DOE provides outreach, guidance, and information to approximately 800 small farmers, their families, and the communities they serve about how to become involved and form business relationships with schools. DOE has garnered support from R.C. Hatton Farms, one of Florida's larger farmers, to assist with bringing smaller farmers into the discussion regarding food safety and distribution of their products.

For the past three years, FNM has conducted presentations at the Florida School Nutrition Association Conference on procurement, distribution, and applications of food safety principles associated with local farm-grown produce.

The DOE actively supports interagency participation and coordination with the USDA, Florida Department of Health, Florida Department of Children and Families, Florida Coordinated School Health Partnership, Coordinated School Health Initiatives, the Florida Food and Nutrition Advisory Council, and various other entities.

Integration into the Curriculum and Classroom

Nutrition education is provided through collaboration with the Office of Healthy Schools (OHS) within the DOE. The DOE's school food and nutrition programs partner with the OHS to assess and respond to the nutrition education and resource needs of school districts across the state. The OHS is partially funded with DOE school food and child nutrition administrative expense funds and employs a program director and nutrition coordinator. Through this partnership, the DOE is able to integrate nutrition education into core subject areas like language arts and science. Examples of initiatives from this collaboration include:

- Participation in Celebrate Literacy Week - OHS works in partnership with the Just Read, Florida! Office to promote literacy throughout the state by raising awareness of the nutrition-related programs and projects offered by the DOE, including the importance of school breakfast and school gardens. In January 2011, volunteers across 28 school districts and 1,100 classrooms read "Our Super Garden: Learning the Power of Healthy Eating by Eating What We Grow" by Anne Nagro.
- In February 2011, OHS, in partnership with the DOE's Language Arts Coordinator, Just Read, Florida!, and the Florida Department of Health's Comprehensive Cancer Control Program, provided Seed Folks kits, containing lesson plans and activities challenging language arts benchmarks, to middle school students.
- Gardening for Grades Regional Trainings - Through a partnership with DOE's Science Coordinator, OHS has collaborated with Florida Agriculture in the Classroom to serve science teachers through nine regional Gardening for Grades training sessions in the spring of 2011. Note: Gardening for Grades is a program funded by specialty crop grants, awarded by the DACS.
- Foods of the Month Kits - In March 2011, OHS provided approximately 550 nutrition education resources specifically designed for the school cafeteria through the Foods of the Month (FoM) kits. FoM kits help schools enhance the nutrition education programming and improve dietary offerings in school meals by using the cafeteria as a learning laboratory.
- Healthy School District Trainings - Five regional Healthy School District Trainings will be conducted in March 2011, using the Coordinated School Health approach to provide district teams with the tools necessary to improve the health and wellness of their district's students and staff through Wellness Policy Committees and School Health Advisory Committees (SHACs).

Department of Agriculture and Consumer Services (DACS)

The DACS administers the Commodity Program portion of the SLP and the SNP. The Richard B. Russell National School Lunch Act requires that no less than 12% of the federal support received by schools pursuant to the SLP each year must be in the form of USDA food (commodities).

Each year, the DACS receives an allocation from the USDA based on the number of meals served the previous year. As the state agency responsible for ordering the commodities for the schools, the DACS provides information to the schools on which foods the USDA intends to acquire, determines from the schools how much, if any, of each of the commodities available they would like to requisition and orders the foods. The USDA is responsible for procuring and purchasing these commodities.

During school year 2010, the DACS provided over 69 million pounds of USDA food valued at approximately \$55,516,427 to about 193 participating schools (public school districts, private schools, residential child care institutions, etc.) throughout the state. An additional \$4,442,500 in fresh fruits and vegetables was also provided.

In 2011, the DACS will provide over 75 million pounds of USDA food, valued at over \$66 million, in addition to another \$3,077,000 in fresh fruits and vegetables to participating Florida schools.

The DACS developed and maintains the Florida Farm to School Program website to bring schools and farmers together to assess each other's needs and determine how best to meet those needs. As a founding member of the Farm to School Alliance, the DACS participates and provides input at Alliance meetings. For the last three years, the DACS has participated in various panel presentations and exhibitions promoting the consumption of fresh produce at the Florida Small Farms and Alternative Enterprises Conference.

For years, the DACS has been an active participant in the Florida School Nutrition Association annual conference. In addition to conducting workshops on the administration of the USDA foods, the DACS, in conjunction with the Department of Defense, is an exhibitor at the conference, promoting the consumption of fresh produce, in particular Florida fresh fruits and vegetables, in schools. At the 2011 conference, the DACS' chef will be demonstrating ways to entice students to consume more Florida fruits and vegetables.

In keeping with the DACS' mission of providing healthy nutrition from the time children are young, the DACS has developed the Fresh From Florida Kids. The program is designed to help parents instill healthy eating habits in their children who are just beginning to eat solid food. Research suggests that taste preferences and eating habits are fully developed by the time a child is three years old, so starting early is essential.

As children get older, the DACS introduces them to good nutrition through Xtreme Cuisine. Xtreme Cuisine Cooking School teaches children about nutrition and introduces them to an array of fresh, nutritious foods available in Florida. The program can be used by teachers, extension agents, health and family services professionals, and many others who work with Florida youth to teach children the nutritional attributes and other pertinent information about Florida agricultural commodities while providing basic cooking skills.

Office of Program Policy and Government Accountability (OPPAGA), Report No. 09-02

In January 2009, the OPPAGA reviewed the practices of school districts for ways to reduce their food service program costs. In the report, *Best Practices Could Help School Districts Reduce Their Food Service Program Costs*, the OPPAGA found:

- Districts should maximize the use of USDA commodities.
- Districts should ensure that program employees have access to policies and procedures.
- Districts should ensure that the food service staff receives appropriate training.
- Districts should promote their food service program.
- Districts should identify and reduce participation barriers.

The OPPAGA reviewed Florida's school nutrition programs in January 2009. In the report, *No Changes Are Necessary to the State's Organization of School Nutrition Programs*, the OPPAGA found:

- The current structure aligns key program activities with the core missions of state agencies.
- There is no compelling reason to change the current structure of Florida's school nutrition programs.
- Changing the structure would not produce identifiable cost savings or other substantial benefits.
- Transferring programs and functions from one agency to another would likely result in short-term disruptions in services to school districts.

In the same report, the OPPAGA outlines advantages of consolidating the school nutrition and commodity programs in Florida, including:

- Potential efficiencies;
- Improved coordination;
- Increased program visibility and administrative support; and
- Programs could take advantage of the DACS' food and nutrition mission and expertise.

Waiver Request Requirements

Section 12 of the Richard B. Russell National School Lunch Act (NSLA) ¹¹ requires "state educational agencies" have an agreement with the USDA, which affirms the administrative responsibilities for these programs. It is not allowable for a state to transfer the NSLP to a non-educational state agency, such as the DACS, unless the state officially requests a waiver of the law and applicable program regulations and the USDA approves this waiver request.

A waiver request submitted by a state must include specific details in order to be considered. The requirements for a waiver are set forth in section 12(1) of the NSLA. At a minimum the request must include:

- Identification of the state agency for which the waiver is being sought, including a description of the size and scope of its program.
- A description of the specific statutory or regulatory requirements for which the waiver is being sought.
- A description of the impediments to the efficient operation and administration of the program that caused the waiver to be sought.
- A description of the actions the state has undertaken to remove any state-level barriers, either statutory or regulatory, to achieve the result sought under the waiver (if applicable).
- A description of the state's expectation as to how the waiver will improve services and the expected outcomes if the waiver is granted.
- A description of the process used by the state to provide notice and information to the public regarding the proposed waiver.

In addition, the waiver must provide information and assurance that there will be no increase in the federal cost of the program.

Effect of Proposed Changes

The bill implements a type two transfer of the school food and nutrition program from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACCS) and refers to the act as the "Healthy Schools for Healthy Lives Act". The transfer includes all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition programs. The bill also transfers the Food and Nutrition Services Trust Fund¹² in the DOE to the DACCS.¹³

¹¹ [42 U.S.C. 1760]

¹² FLAIR number 48-2-2315, in DOE, is transferred to DACCS, FLAIR number 42-2-2315.

¹³ Federal law requires that state education agencies administer the school food and nutrition program. However, two states, Texas and New Jersey, have sought and received federal approval to administer their school food and nutrition

The bill authorizes the DACS to conduct, supervise and administer all school food and nutrition programs that are carried out using federal or state funds or funds from other sources. The bill authorizes the DACS to coordinate with the federal government to benefit from any federal financial allotments and assistance that would benefit the school food and nutrition programs. The DACS may act as an agent of, or contract with, the federal government, another state agency, or any county or municipal government regarding the administration of the school food and nutrition program, including the distribution of funds provided by the federal government in support of the school food and nutrition program.

The bill requires each school district to submit an updated copy of its wellness policy and physical education policy to the DOE and the DACS when a change or revision is made. The DACS, as well as the DOE, shall provide website links to information regarding the nutritional content of foods and beverages and to healthful food choices in accordance with the dietary guidelines of the USDA.

And lastly, the bill transfers statutory language regarding the administration of the school food and nutrition program from Chapter 1006, F.S., which falls under the jurisdiction of the DOE, to Chapter 570, F.S., which falls under the jurisdiction of the DACS.

B. SECTION DIRECTORY:

Section 1: Designates the act as the "Healthy Schools for Healthy Lives Act."

Section 2: Transfers the Food and Nutrition Services Trust Fund from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS).

Section 3: Transfers all powers, duties, functions, records, personnel, property, pending issues and existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the administration of the school food and nutrition program by a type two transfer from the DOE to the DACS.

Section 4: Creates s. 570.98, F.S.; directs the DACS to conduct, supervise and administer all school food and nutrition programs carried out using federal or state funds, or funds from any other source; and, directs the DACS to cooperate with the federal government and its agencies and instrumentalities to receive benefit of all federal financial allotments and assistance possible to carry out the school food and nutrition program.

Section 5: Transfers and renumbers s. 1006.06, F.S., to s. 570.981, F.S.; changes jurisdiction from the DOE to the DACS; and, removes obsolete dates.

Section 6: Transfers and renumbers s. 1006.0606, F.S., to s. 570.982, F.S.; removes obsolete dates; and, changes jurisdiction from the DOE to the DACS.

Section 7: Transfers and renumbers s. 1010.77, F.S., to s. 570.983, F.S.; changes jurisdiction from the DOE to the DACS.

Section 8: Amends s. 1003.453, F.S.; removes obsolete dates; requires school districts to submit a copy of its school wellness policy to the DACS when a change or revision is made; and, requiring the DACS to provide website access to information regarding nutritional content of foods and beverages as well as healthful food choices in accordance with the dietary guidelines of the United States Department of Agriculture.

Section 9: Provides an effective date of July 1, 2011.

programs through their agricultural agency. Therefore, Florida would have to apply for, and receive, a waiver before the DACS could take over the administration of the school food and nutrition program.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments section
2. Expenditures:
See Fiscal Comments section

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None
2. Expenditures:
None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

Program	FY 2010-11	FY 2011-12
National School Lunch Program State Match General Revenue	\$8.9 million	\$8.9 million
School Breakfast Program State Match General Revenue	\$7.6 million	\$5.6 million
Cafeteria Inspection Fees General Revenue*	\$344,433	\$344,433
USDA Food and Nutrition Services Trust Fund	\$804.3 million	\$942.3 million

*Available remaining balance used to offset a small portion of participating schools' health inspection costs.

In FY 2009-10, FDOE received \$631,410 in indirect earnings as a result participation in the National School Lunch Program. These earnings are used to support management activities that are department-wide in nature and include activities such as purchasing, accounting, human resources, grants management and legal services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

Rule-making authority regarding the school food and nutrition program is granted to the Department of Agriculture and Consumer Services through the type two transfer.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Currently, the bill has an effective date of July 1, 2011. It may be beneficial to add a provision stating that the transfer does not become effective until a waiver¹⁴ from the U.S. Department of Agriculture is granted.

And lastly, an amendment to repeal s. 1010.77, F.S., may be necessary to remove the obsolete reference to the Food and Nutrition Services Trust Fund.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁴ Federal law requires that state education agencies administer the school food and nutrition program. However, two states, Texas and New Jersey, have sought and received federal approval to administer their school food and nutrition programs through their agricultural agency. Therefore, Florida would have to apply for, and receive, a waiver before the DACS could take over the administration of the school food and nutrition program.