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1
2 An act relating to school nutrition programs;
3 providing a short title; transferring the Food and
4 Nutrition Services Trust Fund in the Department of
5 Education to the Department of Agriculture and
6 Consumer Services; transferring and reassigning
7 functions and responsibilities, including records,
8 personnel, property, and unexpended balances of
9 appropriations and other resources for the
10 administration of the school food and nutrition
11 programs from the Department of Education to the
12 Department of Agriculture and Consumer Services;
13 creating s. 570.98, F.S.; requiring the Department of
14 Agriculture and Consumer Services to conduct,
15 supervise, and administer all school food and
16 nutrition programs; requiring the department to
17 cooperate fully with the United States Government;
18 authorizing the department to act as agent of, or
19 contract with, the Federal Government, other state
20 agencies, or any county or municipal government for
21 the administration of the school food and nutrition
22 programs; transferring, renumbering, and amending s.
23 1006.06, F.S., relating to school food service
24 programs; conforming provisions to changes made by the
25 act; deleting obsolete provisions; transferring,
26 renumbering, and amending ss. 1006.0606 and 1010.77,
27 F.S., relating to the children's summer nutrition
28 program and the Food and Nutrition Services Trust
29 Fund, respectively; conforming provisions to changes

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30 made by the act; deleting obsolete provisions;
31 amending s. 1003.453, F.S.; requiring each school
32 district to send an updated copy of its wellness
33 policy and physical education policy to the Department
34 of Education and the Department of Agriculture and
35 Consumer Services; deleting obsolete provisions;
36 requiring certain information to be accessible from
37 the website of the Department of Agriculture and
38 Consumer Services; creating the Healthy Schools for
39 Healthy Lives Council within the Department of
40 Agriculture and Consumer Services; requiring the
41 Commissioner of Agriculture to appoint members of the
42 council; providing duties of the council; providing
43 requirements for the meetings, powers, duties,
44 procedures, and recordkeeping of the council;
45 requiring the Department of Education, in consultation
46 with the Department of Agriculture and Consumer
47 Services, to develop and submit a request for a waiver
48 to the United States Department of Agriculture to
49 transfer administration of the school food service and
50 nutrition programs; requiring the Department of
51 Education to notify the Governor and the Legislature
52 regarding the decision of the United States Department
53 of Agriculture; providing for contingent effect based
54 upon federal approval of a request for a waiver;
55 providing effective dates.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. This act may be cited as the "Healthy Schools
60 for Healthy Lives Act."

61 Section 2. The Food and Nutrition Services Trust Fund,
62 FLAIR number 48-2-2315, in the Department of Education is
63 transferred to the Department of Agriculture and Consumer
64 Services, FLAIR number 42-2-2315.

65 Section 3. All powers, duties, functions, records,
66 personnel, property, pending issues and existing contracts,
67 administrative authority, administrative rules, and unexpended
68 balances of appropriations, allocations, and other funds for the
69 administration of the school food and nutrition programs are
70 transferred by a type two transfer, as defined in s. 20.06(2),
71 Florida Statutes, from the Department of Education to the
72 Department of Agriculture and Consumer Services.

73 Section 4. Section 570.98, Florida Statutes, is created to
74 read:

75 570.98 School food and nutrition programs.-

76 (1) The department shall conduct, supervise, and administer
77 all school food and nutrition programs that will be carried out
78 using federal or state funds, or funds from any other source.

79 (2) The department shall cooperate fully with the United
80 States Government and its agencies and instrumentalities so that
81 the department may receive the benefit of all federal financial
82 allotments and assistance possible to carry out the purposes of
83 this chapter.

84 (3) The department may act as agent of, or contract with,
85 the Federal Government, another state agency, or any county or
86 municipal government for the administration of the school food
87 and nutrition programs, including the distribution of funds

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88 provided by the Federal Government to support the school food
89 and nutrition programs.

90 Section 5. Section 1006.06, Florida Statutes, is
91 transferred, renumbered as section 570.981, Florida Statutes,
92 and amended to read:

93 570.981 ~~1006.06~~ School food service programs.—

94 (1) In recognition of the demonstrated relationship between
95 good nutrition and the capacity of students to develop and
96 learn, it is the policy of the state to provide standards for
97 school food service and to require district school boards to
98 establish and maintain an appropriate private school food
99 service program consistent with the nutritional needs of
100 students.

101 (2) The department ~~State Board of Education~~ shall adopt
102 rules covering the administration and operation of the school
103 food service programs.

104 (3) Each district school board shall consider the
105 recommendations of the district school superintendent and adopt
106 policies to provide for an appropriate food and nutrition
107 program for students consistent with federal law and department
108 ~~State Board of Education~~ rule.

109 (4) The state shall provide the state National School Lunch
110 Act matching requirements. The funds provided shall be
111 distributed in such a manner as to comply with the requirements
112 of the National School Lunch Act.

113 (5) (a) Each district school board shall implement school
114 breakfast programs that make breakfast meals available to all
115 students in each elementary school. ~~By the beginning of the~~
116 ~~2010-2011 school year,~~ Universal school breakfast programs shall

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117 be offered in schools in which 80 percent or more of the
118 students are eligible for free or reduced-price meals. Each
119 school shall, to the maximum extent practicable, make breakfast
120 meals available to students at an alternative site location,
121 which may include, but need not be limited to, alternative
122 breakfast options as described in publications of the Food and
123 Nutrition Service of the United States Department of Agriculture
124 for the federal School Breakfast Program.

125 (b) ~~Beginning with the 2009-2010 school year,~~ Each school
126 district must annually set prices for breakfast meals at rates
127 that, combined with federal reimbursements and state
128 allocations, are sufficient to defray costs of school breakfast
129 programs without requiring allocations from the district's
130 operating funds, except if the district school board approves
131 lower rates.

132 (c) Each district school board is encouraged to provide
133 universal-free school breakfast meals to all students in each
134 elementary, middle, and high school. ~~By the beginning of the~~
135 ~~2010-2011 school year,~~ Each district school board shall approve
136 or disapprove a policy, after receiving public testimony
137 concerning the proposed policy at two or more regular meetings,
138 which makes universal-free school breakfast meals available to
139 all students in each elementary, middle, and high school in
140 which 80 percent or more of the students are eligible for free
141 or reduced-price meals.

142 (d) ~~Beginning with the 2009-2010 school year,~~ Each
143 elementary, middle, and high school shall make a breakfast meal
144 available if a student arrives at school on the school bus less
145 than 15 minutes before the first bell rings and shall allow the

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146 student at least 15 minutes to eat the breakfast.

147 (e) Each school district shall annually provide to all
148 students in each elementary, middle, and high school information
149 prepared by the district's food service administration regarding
150 its school breakfast programs. The information shall be
151 communicated through school announcements and written notice
152 sent to all parents.

153 (f) A district school board may operate a breakfast program
154 providing for food preparation at the school site or in central
155 locations with distribution to designated satellite schools or
156 any combination thereof.

157 (g) The commissioner shall make every reasonable effort to
158 ensure that any school designated as a "severe need school"
159 receives the highest rate of reimbursement to which it is
160 entitled under 42 U.S.C. s. 1773 for each breakfast meal served.

161 (h) The department shall annually allocate among the school
162 districts funds provided from the school breakfast supplement in
163 the General Appropriations Act based on each district's total
164 number of free and reduced-price breakfast meals served.

165 (6) The Legislature, recognizing that school children need
166 nutritious food not only for healthy physical and intellectual
167 development but also to combat diseases related to poor
168 nutrition and obesity, establishes the Florida Farm Fresh
169 Schools Program within the department ~~of Education as the lead~~
170 ~~agency for the program~~. The program shall comply with the
171 regulations of the National School Lunch Program and require:

172 (a) The department ~~of Education to work with the Department~~
173 ~~of Agriculture and Consumer Services~~ to develop policies
174 pertaining to school food services which encourage:

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175 1. School districts to buy fresh and high-quality foods
176 grown in this state when feasible.

177 2. Farmers in this state to sell their products to school
178 districts and schools.

179 3. School districts and schools to demonstrate a preference
180 for competitively priced organic food products.

181 (b) School districts and schools to make reasonable efforts
182 to select foods based on a preference for those that have
183 maximum nutritional content.

184 (c) The department ~~of Education, in collaboration with the~~
185 ~~Department of Agriculture and Consumer Services,~~ to provide
186 outreach, guidance, and training to school districts, schools,
187 school food service directors, parent and teacher organizations,
188 and students about the benefits of fresh food products from
189 farms in this state.

190 Section 6. Section 1006.0606, Florida Statutes, is
191 transferred, renumbered as section 570.982, Florida Statutes,
192 and amended to read:

193 570.982 ~~1006.0606~~ Children's summer nutrition program.—

194 (1) This section may be cited as the "Ms. Willie Ann Glenn
195 Act."

196 (2) Each district school board shall develop a plan ~~by May~~
197 ~~1, 2006,~~ to sponsor a summer nutrition program ~~beginning the~~
198 ~~summer of 2006~~ to operate sites in the school district as
199 follows:

200 (a) Within 5 miles of at least one elementary school at
201 which 50 percent or more of the students are eligible for free
202 or reduced-price school meals and for the duration of 35
203 consecutive days; and

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204 (b) Except as operated pursuant to paragraph (a), within 10
205 miles of each elementary school at which 50 percent or more of
206 the students are eligible for free or reduced-price school
207 meals.

208 (3) (a) A district school board ~~boards~~ may be exempt from
209 sponsoring a summer nutrition program pursuant to this section.
210 A district school board seeking such exemption must include the
211 issue on an agenda at a regular or special district school board
212 meeting that is publicly noticed, provide residents an
213 opportunity to participate in the discussion, and vote on
214 whether to be exempt from this section. The district school
215 board shall notify the commissioner ~~of Education~~ within 10 days
216 after it decides to become exempt from this section.

217 (b) Each year the district school board shall reconsider
218 its decision to be exempt from the provisions of this section
219 and shall vote on whether to continue the exemption from
220 sponsoring a summer nutrition program. The district school board
221 shall notify the commissioner ~~of Education~~ within 10 days after
222 each subsequent year's decision to continue the exemption.

223 (c) If a district school board elects to be exempt from
224 sponsoring a summer nutrition program under this section, the
225 district school board may encourage not-for-profit entities to
226 sponsor the program. If a not-for-profit entity chooses to
227 sponsor the summer nutrition program but fails to perform with
228 regard to the program, the district school board, the school
229 district, and the department ~~of Education~~ are not required to
230 continue the program and shall be held harmless from any
231 liability arising from the discontinuation of the summer
232 nutrition program.

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233 (4) The superintendent of schools may collaborate with
234 municipal and county governmental agencies and private, not-for-
235 profit leaders in implementing the plan. Although schools have
236 proven to be the optimal site for a summer nutrition program,
237 any not-for-profit entity may serve as a site or sponsor. By
238 April 15 of each year, each school district with a summer
239 nutrition program shall report to the department the district's
240 summer nutrition program sites in compliance with this section.

241 (5) The department shall provide to each district school
242 board by February 15 of each year a list of local organizations
243 that have filed letters of intent to participate in the summer
244 nutrition program in order that a district school board is able
245 to determine how many sites are needed to serve the children and
246 where to place each site.

247 Section 7. Section 1010.77, Florida Statutes, is
248 transferred, renumbered as section 570.983, Florida Statutes,
249 and amended to read:

250 570.983 ~~1010.77~~ Food and Nutrition Services Trust Fund.—
251 Chapter 99-37 ~~99-34~~, Laws of Florida, re-created the Food and
252 Nutrition Services Trust Fund to record revenue and
253 disbursements of Federal Food and Nutrition funds received by
254 the department ~~of Education~~ as authorized in s. 570.981 ~~s.~~
255 ~~1006.06~~.

256 Section 8. Section 1003.453, Florida Statutes, is amended
257 to read:

258 1003.453 School wellness and physical education policies;
259 nutrition guidelines.—

260 (1) ~~By September 1, 2006,~~ Each school district shall submit
261 to the Department of Education a copy of its school wellness

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262 policy as required by the Child Nutrition and WIC
263 Reauthorization Act of 2004 and a copy of its physical education
264 policy required under s. 1003.455. Each school district shall
265 annually review its school wellness policy and physical
266 education policy and provide a procedure for public input and
267 revisions. In addition, each school district shall send an
268 updated copy of its wellness policy and physical education
269 policy to the department and to the Department of Agriculture
270 and Consumer Services when a change or revision is made.

271 (2) ~~By December 1, 2006,~~ The department shall post links to
272 each school district's school wellness policy and physical
273 education policy on its website so that the policies can be
274 accessed and reviewed by the public. Each school district shall
275 provide the most current versions of its school wellness policy
276 and physical education policy on the district's website.

277 (3) ~~By December 1, 2006,~~ The department must provide on its
278 website links to resources that include information regarding:

279 (a) Classroom instruction on the benefits of exercise and
280 healthful eating.

281 (b) Classroom instruction on the health hazards of using
282 tobacco and being exposed to tobacco smoke.

283 (c) The eight components of a coordinated school health
284 program, including health education, physical education, health
285 services, and nutrition services.

286 (d) The core measures for school health and wellness, such
287 as the School Health Index.

288 (e) Access for each student to the nutritional content of
289 foods and beverages and to healthful food choices in accordance
290 with the dietary guidelines of the United States Department of

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291 Agriculture. This information shall also be accessible from the
292 website of the Department of Agriculture and Consumer Services.

293 (f) Multiple examples of school wellness policies for
294 school districts.

295 (g) Examples of wellness classes that provide nutrition
296 education for teachers and school support staff, including
297 encouragement to provide classes that are taught by a licensed
298 nutrition professional from the school nutrition department.

299 (4) School districts are encouraged to provide basic
300 training in first aid, including cardiopulmonary resuscitation,
301 for all students, beginning in grade 6 and every 2 years
302 thereafter. Private and public partnerships for providing
303 training or necessary funding are encouraged.

304 Section 9. (1) There is created within the Department of
305 Agriculture and Consumer Services the Healthy Schools for
306 Healthy Lives Council, which shall consist of 11 members
307 appointed by the Commissioner of Agriculture. The council shall
308 advise the department on matters relating to nutritional
309 standards and the prevention of childhood obesity, nutrition
310 education, anaphylaxis, and other needs to further the
311 development of the various school nutrition programs.

312 (2) The meetings, powers, duties, procedures, and
313 recordkeeping of the Healthy Schools for Healthy Lives Council
314 shall be governed by s. 570.0705, Florida Statutes, relating to
315 advisory committees established within the department.

316 Section 10. This section shall take effect upon this act
317 becoming a law and, within 30 days thereafter, the Department of
318 Education, in consultation with the Department of Agriculture
319 and Consumer Services, shall develop and submit to the United

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320 States Department of Agriculture a request for a waiver required
321 to transfer administration of the school food service and
322 nutrition programs from the Department of Education to the
323 Department of Agriculture and Consumer Services. Upon receipt of
324 the United States Department of Agriculture's approval or denial
325 of the request for a waiver, the Department of Education shall
326 immediately notify in writing the Governor, the President of the
327 Senate, and the Speaker of the House of Representatives
328 regarding the decision of the United States Department of
329 Agriculture. The notification shall include a copy of the United
330 States Department of Agriculture's approval or denial of the
331 request for a waiver.

332 Section 11. Except as otherwise expressly provided in this
333 act and except for this section, which shall take effect upon
334 this act becoming a law, this act shall take effect January 1,
335 2012, if the United States Department of Agriculture approves
336 the request for a waiver, pursuant to section 9 of this act, on
337 or before November 1, 2011.