

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 1768

INTRODUCER: Agriculture Committee and Senator Rouson

SUBJECT: Agriculture and Nutrition

DATE:

REVISED:

March 17, 2021

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Argote	Becker	AG	Fav/CS
2.			FT	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1768 provides several provisions to improve the overall condition of agriculture and nutrition in the state. Specifically, the bill:

- Requires state agencies, universities, and colleges to give preference to food commodities grown or produce in the state in certain purchasing agreements and provides conditions for such a preference;
- Requires certain schools to implement a program for special assistance certification and reimbursement alternatives to provide universal free school breakfast and lunch meals and provides an exception to this requirement;
- Establishes the Agricultural Surplus Purchase Program within the Department of Agriculture and Consumer Services (department) to purchase agricultural commodities from farmers in the state who are unable to sell their agricultural commodities for specified reasons;
- Establishes the Local Food Pantry Infrastructure Assistance Grant within the department to build food pantry capacity to manage donated food, increase availability of perishable food items, and minimize the loss of perishable food items before distribution; and
- Establishes the Healthy Food Access Pilot Program within the department to increase access to healthy and affordable food via grants to specified entities who implement transit system projects that connect low income and low access communities to specified food sources.

For the 2021-2022 fiscal year, recurring funds from the General Revenue Fund in the following amounts will be appropriated to the department for the following purposes:

- \$2,756,801 for the purpose of providing sponsor reimbursements for breakfast meals;
- \$1 million for the purpose of implementing the Agricultural Surplus Purchase Program;
- \$500,000 for the purpose of implementing the Local Food Pantry Infrastructure Assistance Grant Program; and
- \$350,000 for the purpose of implementing the Healthy Food Access Pilot Program.

This bill takes effect July 1, 2021.

## II. Present Situation:

### **Increased Demand for Locally Grown Foods**

In recent years, there has been increasing demand for locally grown food as consumers, policymakers, and advocacy groups recognize the health, environmental, and economic benefits of purchasing food from local farmers.<sup>1</sup> Many states have noted the potential for public institutions to serve as leading purchasers of locally grown food and have enacted legislation instructing state institutions to apply a purchasing preference for food grown within the state.<sup>2</sup>

#### ***Preference to Florida Businesses; Generally***

Under s. 287.084, F.S., when an agency, university, college, school district, or other political subdivision of the state is required to make purchases of personal property through competitive solicitation, the state is encouraged to give preference to the lowest responsible and responsive vendor having a principal place of business within this state so long as the bid is not more than 5 percent greater than the price given for out of state personal property.<sup>3</sup>

### **Florida School Nutrition**

#### ***School Nutrition Program Requirements***

Under s. 595.405, F.S., district school boards must adopt policies to provide for an appropriate food and nutrition program for students consistent with federal law and department rules.<sup>4</sup> Each district school board is required to implement school breakfast programs that make breakfast meals available to all students in each school that serves any combination of grades kindergarten through 5.

District school boards are required to annually set prices for breakfast meals at rates that, combined with federal reimbursements and state allocations, are sufficient to defray costs of school breakfast programs without requiring allocations from the district's operating funds.<sup>5</sup>

District school boards are encouraged to provide universal, free school breakfast meals to all students in each elementary, middle, and high school. A universal school breakfast program must

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<sup>1</sup> UFIFAS, *Talking Local: Florida Consumers' Reasons for Purchasing Local Food*, <https://edis.ifas.ufl.edu/wc176> (last visited March 15, 2021).

<sup>2</sup> DACS, *Senate Bill 1768 Analysis* (March 8, 2021) (on file with the Senate Committee on Agriculture).

<sup>3</sup> Section 287.084, F.S.

<sup>4</sup> Section 595.405, F.S.

<sup>5</sup> Except if the district school board approves lower rates. See s. 595.405(3), F.S.

be implemented in each school in which 80 percent or more of the students are eligible for free or reduced-price meals, unless the district school board, after considering public testimony at two or more regularly scheduled board meetings, decides not to implement such a program in such schools.<sup>6</sup>

To increase school breakfast and universal school breakfast program participation, each district school board must, to the maximum extent practicable, make breakfast meals available to students through alternative service models as described in publications of the Food and Nutrition Service of the U.S. Department of Agriculture (USDA) for the federal School Breakfast Program.<sup>7</sup>

### ***Florida Free and Reduced Priced School Meal Participation***

Currently, roughly 51 percent of all students enrolled in a Florida school that provides access to breakfast meals consume school breakfast.<sup>8</sup> Children from families with incomes between 130 percent (\$33,475 for a family of four) and 185 percent (\$47,638 for a family of four) of the poverty level are eligible for reduced-price meals, where a student pays 30 cents for breakfast and 40 cents for lunch.<sup>9</sup>

School districts across the country report that students have difficulty affording co-payments for school meals, participation is lower for students who qualify for reduced-price meals when compared to those who qualify for free meals, and participation drops off toward the end of the month when family budgets may be particularly tight.<sup>10</sup>

The federal rate of reimbursement has not kept pace with the cost to produce a breakfast meal. A recent USDA study showed that the full cost of producing school meals exceeds reported costs by an average of 19 percent.<sup>11</sup> According to the School Nutrition Association's estimates, U.S. schools will incur a loss of about \$5 million to \$8 million each school day in order to feed 30 million children.<sup>12</sup> Without sufficient federal resources, many states and school districts often have to rely on the sales of popular but less nutritious foods, like pizza, french fries, and sodas to help generate the revenue needed to subsidize healthier meal options.

In some cases, higher food prices are forcing programs to question whether they can continue participating in the federal nutrition program altogether, meaning that fewer children may have access to healthy meals.

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<sup>6</sup> Section 595.405(5), F.S.

<sup>7</sup> Section 595.405(6), F.S.

<sup>8</sup> Food Research and Action Center, *School Breakfast Scorecard*, <https://frac.org/wp-content/uploads/school-breakfast-scorecard-sy-2016-2017.pdf> (last visited March 15, 2021).

<sup>9</sup> Food Research and Action Center, *School Meal Eligibility and Reimbursements*, <https://frac.org/school-meal-eligibility-reimbursements> (last visited March 15, 2021).

<sup>10</sup> DACS, *Senate Bill 1768 Analysis* (March 8, 2021) (on file with the Senate Committee on Agriculture).

<sup>11</sup> U.S. House of Representatives, *Hearing before the Committee on Education and Labor*, available at <https://www.govinfo.gov/content/pkg/CHRG-110hrg43312/pdf/CHRG-110hrg43312.pdf> (last visited March 15, 2021).

<sup>12</sup> School Nutrition Association, *Impact of COVID-19 on School Nutrition Programs*, available at [https://schoolnutrition.org/uploadedFiles/6\\_News\\_Publications\\_and\\_Research/8\\_SNA\\_Research/Impact-of-Covid-19-on-School-Nutrition-Programs-Back-to-School-2020.pdf](https://schoolnutrition.org/uploadedFiles/6_News_Publications_and_Research/8_SNA_Research/Impact-of-Covid-19-on-School-Nutrition-Programs-Back-to-School-2020.pdf) (last visited March 15, 2021).

### ***Special Assistance Certification and Reimbursement Alternatives***

In an effort to reduce paperwork at the local level, Congress incorporated into Section 11(a)(1) of the National School Lunch Act<sup>13</sup> three alternative provisions to the normal requirements for annual determinations of eligibility for free and reduced-price school meals and daily meal counts by eligibility category at the point of service of the meal.<sup>14</sup> Under 7 C.F.R. s. 245(2), Special Assistance Certification and Reimbursement Alternatives are defined as the three optional alternatives for free and reduced price meal application and claiming procedures in the National School Lunch Program and School Breakfast Program.<sup>15</sup> Such certification and reimbursement alternatives are available to those School Food Authorities with schools in which at least 80 percent of the enrolled children are eligible for free or reduced price meals, or schools which are currently, or who will be serving all children free meals.<sup>16</sup>

These provisions reduce application burdens to school nutrition departments and simplify meal counting and claiming procedures. Subsequently, it allows schools to establish claiming percentages and to serve all meals to all participating children at no charge for a 2 or 4 year period. Schools electing one of these alternatives must pay the difference between federal reimbursement and the cost of providing all meals at no charge, and the funds to account for this difference must be from sources other than Federal funds.<sup>17</sup>

### ***The Community Eligibility Provision***

The Community Eligibility Provision (CEP) is a non-pricing meal service option for schools and school districts in low-income areas.<sup>18</sup> The CEP allows the nation's highest poverty schools and districts to serve breakfast and lunch at no cost to all enrolled students without collecting household applications. Instead, schools that adopt the CEP are reimbursed using a formula based on the percentage of students categorically eligible for free meals based on their participation in other specific means-tested programs, such as the Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families.<sup>19</sup>

### **Food Waste and Recovery Initiatives**

Wasted food is a growing problem in modern society and an untapped opportunity. In 2017 alone, the Environmental Protection Agency (EPA) estimated that almost 41 million tons of food waste was generated, while only 6.3 percent was diverted from landfills and incinerators for composting.<sup>20</sup> The EPA also estimates that more food reaches landfills and incinerators than any

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<sup>13</sup> SEC. 11. [42 U.S.C. 1759a] (a)(1)(A); National School Lunch Act, available at <https://fns-prod.azureedge.net/sites/default/files/resource-files/COMPS-10333.pdf> (last visited March 15, 2021).

<sup>14</sup> DACS, *Senate Bill 1768 Analysis* (March 8, 2021) (on file with the Senate Committee on Agriculture).

<sup>15</sup> See 7 C.F.R. s. 245(2).

<sup>16</sup> *Id.*

<sup>17</sup> DACS, *Senate Bill 1768 Analysis* (March 8, 2021) (on file with the Senate Committee on Agriculture).

<sup>18</sup> DACS, *Community Eligibility Provision*, <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/National-School-Lunch-Program/Community-Eligibility-Provision> (last visited March 15, 2021).

<sup>19</sup> *Id.*

<sup>20</sup> US Environmental Protection Agency, Food: Material-Specific Data, <https://www.epa.gov/facts-and-figures-about-materials-waste-and-recycling/food-material-specific-data> (last visited March 15, 2021).

other single material in our everyday trash, constituting 22 percent of discarded municipal solid waste.<sup>21</sup>

Additionally, the USDA estimated that in 2010, of the 430 billion pounds of food produced, 133 billion pounds were not available for human consumption at the retail and consumer levels.<sup>22</sup> This condition was exacerbated by COVID-19 conditions as Florida's foodservice industry demand for fresh produce and dairy plummeted, with growers reporting total crop losses across the state through mid-April 2020 in excess of \$522.5 million.<sup>23</sup>

### ***Food Pantries***

Food pantries play a critical role in meeting the short-term or emergency assistance needs of those struggling with food insecurity. The size and client-base of food pantries vary drastically, from a room in a place of worship that may be open to serve clients once or twice per month to food bank-like warehouses that are open to serve clients every day.<sup>24</sup> Regardless of size or client-base, the success of most food pantries depends on their infrastructure, staffing, and operational resources.

Feeding America estimates that food insecurity will continue to increase for many households as more children are not attending childcare facilities and school in-person, which are sources of nutritious meals for many students.<sup>25</sup> Additionally, changes in employment status during the COVID-19 pandemic will effect this growing number as well.

### ***Florida Farm to You Commodities List***

With restaurants and foodservice businesses closed due to COVID-19, agricultural producers across the country have struggled to sell perishable products like fruits and vegetables. In an effort to support farmers, ranchers, and producers, as well as consumers, during the pandemic, Agriculture Commissioner Nikki Fried and the department created the Florida Farm to You Commodities List to connect potential buyers with farmers and producers of Florida-grown commodities like fresh produce, seafood, poultry and more. Buyers, food banks, and consumers can directly connect with growers selling these products using contact information on the list updated daily.<sup>26</sup>

### ***Feeding Florida's Food Recovery Initiative***

Farmers Feeding Florida is Feeding Florida's produce recovery initiative that works in partnership with farmers and packers throughout the state to rescue and distribute wholesome and cosmetically blemished produce that can help to ease this burden. The initiative offsets out-

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<sup>21</sup> *Id.*

<sup>22</sup> The US Department of Agriculture, *The Estimated Amount, Value, and Calories of Postharvest Food Losses at the Retail and Consumer Levels in the US*, [https://www.ers.usda.gov/webdocs/publications/43833/43680\\_eib121.pdf?v=41817](https://www.ers.usda.gov/webdocs/publications/43833/43680_eib121.pdf?v=41817) (last visited March 15, 2021).

<sup>23</sup> DACS, *Senate Bill 1768 Analysis* (March 8, 2021) (on file with the Senate Committee on Agriculture).

<sup>24</sup> *Id.*

<sup>25</sup> Feeding America, *The Impact of the Coronavirus on Food Insecurity* (2020), available at <https://www.feedingamerica.org/sites/default/files/2020-04/Brief.pdf> (last visited March 15, 2021).

<sup>26</sup> DACS, *Florida Farm to You*, <https://www.fdacs.gov/Agriculture-Industry/Florida-Farm-To-You> (last visited March 15, 2021).

of-pocket costs for packing materials to enable them to scale up donations to multiple truckload quantities. Farmers Feeding Florida is endorsed by Florida's major commodity groups and is supported by the department, the Florida Legislature, and grants from private foundations.<sup>27</sup>

### ***The Department of Agriculture and Consumer Services' Food Recovery Program***

The department's Food Recovery Program works to recover food in two ways:

- By working with farmers. Volunteers visit the farms and collect surplus produce in a process known as gleaning.
- By working with schools. The department provides Florida schools with guidance on food waste audits, share tables, food donations, and composting.<sup>28</sup>

### ***The Mobile Food Pantry***

Feeding Florida's Mobile Pantry Program directly serves clients in areas of high need in an effort to supplement other hunger-relief agencies in that area. Through a Mobile Pantry, a truckload of food is distributed to clients in pre-packed boxes or through a farmer's market-style distribution where clients choose to take what they need. The Feeding Florida network of 12-member food banks has expanded its mobile pantry program and mobile grocery stores in order to fill gaps in their network of partner agencies. The expansion of this program allows the food banks to ensure more of their clients have proper access to food sources.<sup>29</sup>

### **Access to Healthy and Affordable Food**

The USDA's Economic Research Service (ERS) finds that whether a vehicle is available to a household for private use is an important indicator of access to healthy and affordable food.<sup>30</sup> For households living far from a supermarket or large grocery store, access to a private vehicle may make accessing these retailers easier than relying on public or alternative means of transportation. In 2017, ERS data showed that 9.2 percent of all housing units in the United States did not have a vehicle and 4.2 percent of all housing units were at least half a mile from a store and without a vehicle. This accounts for more than 3.1 million residents in over 1.2 million housing units in Florida.<sup>31</sup>

### **Food Security Programs and the Social Determinants of Health**

Social determinants of health are conditions in the environment in which people are born, live, learn, work, play, and age that effect a wide range of health, functioning, and quality-of-life outcomes and risks.<sup>32</sup> Access to food – nutritious food, specifically – is regarded as a key social

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<sup>27</sup> Feeding Florida, *Farmers Feeding Florida*, <https://www.feedingflorida.org/food-access/farmers-feeding-florida> (last visited March 15, 2021).

<sup>28</sup> DACS, *Food Recovery Program*, <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Food-Recovery-Program> (last visited March 15, 2021).

<sup>29</sup> Feeding Florida, *Mobile Food Pantry*, <https://www.feedingflorida.org/food-access/mobile-pantries> (last visited March 15, 2021).

<sup>30</sup> USDA, *Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and their Consequences* (2009), available at [https://www.ers.usda.gov/webdocs/publications/42711/12716\\_ap036.pdf](https://www.ers.usda.gov/webdocs/publications/42711/12716_ap036.pdf) (last visited March 15, 2021).

<sup>31</sup> DACS, *Senate Bill 1768 Analysis* (March 8, 2021) (on file with the Senate Committee on Agriculture).

<sup>32</sup> Office of Disease Prevention and Health Promotion, *Social Determinants of Health*, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health> (last visited March 15, 2021).

determinant of health that has a direct impact on an individual's wellbeing. Individuals who cannot afford or obtain quality food rich in vitamins run the risk of developing chronic illnesses or exacerbating illnesses they may already have.<sup>33</sup>

Limited access to food can also have a domino effect on other social determinants or medical issues. Children who are food insecure may experience more difficulty focusing in school, stunting their educational attainment and ultimately harming their chances of success.<sup>34</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 287.082, F.S., to make conforming provisions to changes made by the act.

**Section 2** creates s. 287.0823, F.S., to declare it a state goal that by 2030, 15 percent of food commodities purchased by state agencies, universities, and colleges will be grown or produced in the state. The bill requires that, when purchasing food commodities, state agencies, universities, and colleges give preference to those grown or produced within the state.

The bill provides that a qualified vendor who can fulfill a purchase agreement, state term contract, or contract for the purchase of food commodities with the use of food commodities grown or produced in the state may be given preference over other vendors so long as the price included in the bid, proposal, or reply is not more than 10 percent greater than the price given for out of state food commodities.

The bill requires certain state agencies, universities, and colleges to cooperate with the Department of Management Services in establishing a reporting system for identifying the percentage of purchased food commodities grown or produced within the state. Such entities are given specific reporting requirements and are required to report compliance to the Governor, Cabinet, and Legislature on or before November 1 of each year.

**Section 3** adds subsections (9) and (10) to s. 595.405, F.S., to eliminate the reduced-price copayment for school breakfast meals via department reimbursement to sponsors for each breakfast meal that meets certain requirements.

Certain schools are required to implement a program for special assistance certification and reimbursement alternatives to provide universal free school breakfast and lunch meals. A sponsor, under certain circumstances, may decide not to implement the program. If deciding not to implement the program, the sponsor, its school nutrition director, or designee must attend at least one training session by the department regarding reimbursement alternatives before making a final decision.

The bill directs the department of Education to use specified data and methodologies to establish income levels for schools implementing the program. The bill also requires that a specified multiplier be applied when using certain data.

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<sup>33</sup> Heath, S., *How Food Security Programs Target Social Determinants of Health*, Patient Care Access News, available at <https://patientengagementhit.com/news/how-food-security-programs-target-social-determinants-of-health> (last visited March 15, 2021).

<sup>34</sup> *Id.*

**Section 4** creates s. 595.421, F.S., to establish the Agricultural Surplus Purchase Program within the department to purchase agricultural commodities from farmers in the state who are unable to sell their agricultural commodities due to unusually large yields or disruptions in the market or food supply chain. The department is authorized to consult with specified entities surrounding the implementation of this provision.

The bill requires that the department pay fair market value for any agricultural commodities it purchases from a farmer under the program.

The bill directs the department to purchase, donate, and distribute certain agricultural commodities to specified organizations and communities.

The department is given rulemaking authority to adopt an application process for specified entities to participate in the program. The bill provides minimum requirements for the application process.

The bill encourages the department to seek funding from private entities and other governmental entities to fund the program.

**Section 5** creates s. 595.422, F.S., to establish the Local Food Pantry Infrastructure Assistance Grant within the department to build food pantry capacity to manage donated food, increase availability of perishable food items, and minimize the loss of perishable food items before distribution.

The bill defines the term “food pantry” and grants the department rulemaking authority to establish grant requirements. The department is also required to promote and market the program.

**Section 6** creates s. 595.802, F.S., to establish the Healthy Food Access Pilot Program within the department to increase access to healthy and affordable food via grants to specified entities who implement transit system projects that connect low income and low access communities to specified food sources.

The department is given rulemaking authority to implement this section and is authorized to enter into an agreement with a third-party vendor to administer the pilot program. The department is also required to submit specified annual reports to the Governor and Legislature by November 1, 2021, and each November 1 thereafter.

This section is repealed July 1, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

**Section 7** provides appropriations for the bill. For the 2021-2022 fiscal year, recurring funds from the General Revenue Fund in the following amounts will be appropriated to the department for the following purposes:

- \$2,756,801 for the purpose of providing sponsor reimbursements for breakfast meals;



- \$1 million for the purpose of implementing the Agricultural Surplus Purchase Program. The department may use up to 5 percent of the funds for administrative costs associated with the program;
- \$500,000 for the purpose of implementing the Local Food Pantry Infrastructure Assistance Grant Program; and
- \$350,000 for the purpose of implementing the Healthy Food Access Pilot Program  
Unexpended balances of appropriations provided for this pilot program shall be retained in the Food and Nutrition Services Trust Fund and be carried forward to fund the pilot program in the 2022-2023 fiscal year. Unexpended balances for the pilot program that remain unexpended on July 1, 2024, shall revert to the General Revenue Fund.

**Section 8** provides that this bill takes effect July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of s. 18, Art. VII of the State Constitution do not apply.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

The bill does not create or raise state taxes or fees. Therefore, the requirements of s. 19, Art. VII of the State Constitution do not apply.

##### **E. Other Constitutional Issues:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The Revenue Estimating Conference determined SB 1768 will reduce General Revenue Fund receipts by \$200,000 beginning in Fiscal Year 2021-2022 and by \$300,000 each fiscal year thereafter. CS/SB 1768 has not been reviewed by the Revenue Estimating Conference, but staff estimates that the changes significantly affect the fiscal impact.

**B. Private Sector Impact:**

Farmers will likely see an increase in revenue through the Florida Agricultural Surplus Purchase Program as food products that would otherwise be wasted will be donated to communities in need while reimbursing farmers for the costs involved in harvesting, processing, packaging, and transporting these foods.

Farmers will also likely see an increase in revenue via the purchase preference given to agricultural commodities grown or produced within the state.

Overall, food programs that increase access to healthy and nutritious foods, be it monetarily, physically, or through improved access to transportation, will benefit communities and decrease food insecurity immensely.

**C. Government Sector Impact:**

The bill requires a \$4,606,801 appropriation in recurring funds from the General Revenue Fund in Fiscal Year 2021-2022 to implement the provisions set forth within the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 287.082 and 595.405 of the Florida Statutes. This bill creates the following sections of the Florida Statutes: 287.0823, 595.421, 595.422, and 595.802.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/SB by Agriculture on March 17, 2021:**

The committee substitute deletes the Agricultural commodity donation tax credit, the Produce Prescription Pilot Program, and the requirement that the Department of Agriculture and Consumer Services conduct a study on geographical areas with limited access to affordable and nutritious food.

The committee substitute also reduces the funds appropriated to certain provisions as follows: The Agricultural Surplus Purchase Program is reduced from \$7 million to \$1 million, the Local Food Pantry Infrastructure Assistance Grant Program is reduced from \$1,250,000 to \$500,000, and the Healthy Food Access Pilot Program is reduced from \$700,000 to \$350,000.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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