



DCF Legislative Testimony

February 10, 2026

TESTIMONY OF: Dr. Carla Whiteside-Hicks, Director of Economic Employment Services
Department for Children and Families

TESTIMONY ON: Oral | Neutral | HB2738: Directing the secretary for children and families to request or update a pending waiver application from the supplemental nutrition assistance program that would allow the state to prohibit the purchase of food commonly marketed, advertised or recognized as candy and soft drinks.

DCF | HB 2738 | FOOD RESTRICTION CANDY DEFINITION

Chair Averkamp and members of the committee, thank you for the opportunity to submit testimony on HB2738.

This bill as written directs the secretary for the department for children and families (DCF) to request or update a Food Restriction Waiver to the USDA's Food and Nutrition Service with a modified definition of candy as any solid, semi-solid, or molded preparation of sugar, natural or artificial sweeteners, or chocolate that may include added ingredients such as flavorings, fruits, nuts, or flour and is commonly marketed, advertised, or recognized as candy, chocolate bar, chewing gum, or similar confectionery. This includes chocolate bars, hard candies, gummies, caramels, taffy, licorice, mints, and chewing gum. The definition specifically excludes baked goods such as cakes, cookies, muffins, brownies, pastries, bread, and similar bakery products regardless of their sweetener content. The definition for soda would not change in the waiver request. Additionally, if no such waiver is granted, the bill states the secretary must continue to submit an application annually until the waiver is approved.

The Kansas waiver process is made more complex by how candy and soft drinks are defined in state statute. The current state law and waiver request define candy as *“a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces. Candy does not include any preparation containing flour and shall require no refrigeration.”*

This definition of candy has created complex logistical considerations for the agency and grocers as, per statute, any foods with flour will not count as candy. For example, while Twix bars are not considered candy, some granola clusters and protein bars would be. This topic has been discussed in conversations with federal partners while working through the current waiver request, where concerns have been levied by both federal and state staff. We have also received concerns from varied grocers and SNAP EBT retailers regarding the implementation of such a waiver.

However, under the current waiver request, the agency is confident that once the four requested plans (Retailer Communications Plan, Client/SNAP Participant Communications Plan, Evaluation Plan, and Monitoring/Compliance Plan) are submitted on Feb. 13, 2026, the state will receive approval on the current Food Restriction Waiver. We are concerned that resubmitting or modifying the waiver now to include new definitions would hinder, and ultimately further delay, approval.