

SESSION OF 2026

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 390**

As Amended by Senate Committee on  
Agriculture and Natural Resources

**Brief\***

SB 390, as amended, would ban certain food additives in schools that participate in a food service program, school lunch program, or school breakfast program that serves food as part of a reimbursable meal or a free or reduced-price meal, beginning in school year 2027-2028. The bill would be a part of and supplemental to the Kansas Food, Drug and Cosmetic Act.

***Food Additives Prohibition***

The bill would require, beginning in school year 2027-2028 and each school year after, schools that participates in a food service program, school lunch program, or school breakfast program that is part of a reimbursable meal or a free or reduced-price meal to not serve any food that contains the following food additives:

- Brominated vegetable oil (BVO);
- Potassium bromate;
- Propylparaben;
- Azordicarbonamide;
- Titanium dioxide;
- FD&C Red 3;
- FD&C Red 40;
- FD&C Yellow 5;
- FD&C Yellow 6;

---

\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

- FD&C Blue 1;
- FD&C Blue 2; and
- FD&C Green 3.

### ***School Facility Inspection and Certification***

The bill would require that during the school facility inspection required by continuing law, the school would certify that the facility does not serve food that contains any food additives that would be prohibited by the bill as part of a reimbursable meal or a free or reduced-price meal.

Beginning in school year 2028-2029, the bill would require a school that cannot certify the facility meets the requirements of the bill to:

- Submit a corrective action plan (plan) to the Secretary of Agriculture (Secretary) within 30 days of the inspection; and
- Post the official notice of the violation and plan on the school's website for one year from the date of the inspection or an order from the Secretary, whichever is later.

The bill would require a school that incorrectly certifies a school facility meets the requirements of the bill to submit a plan to the Secretary within 30 days of the inspection, post the official notice and plan on the school's website for one year from the date of the inspection or an order from the Secretary, whichever is later, and notify the parent or guardian of each student enrolled in and attending the school of the violation.

## ***Definitions***

The bill would define “food service program,” “school breakfast program,” and “school lunch program” as defined in continuing law. The bill would also define “school” as each school district and non-public school in the state that offers any of the grades K-12.

## **Background**

The bill was introduced by the Senate Committee on Agriculture and Natural Resources at the request of Senator Shane on behalf of Senator Titus.

On January 28, 2026, the bill was initially referred to the Senate Committee on Government Efficiency; however, it was withdrawn from that committee and on the same day referred to the Senate Committee on Agriculture and Natural Resources.

## ***Senate Committee on Agriculture and Natural Resources***

In the Senate Committee hearing, **proponent** testimony was provided by Senator Titus, Representative Schwertfeger, and a private citizen. The proponents stated the bill would feed kids healthy foods and remove synthetic chemicals from school meals. The proponents also stated eight other states have passed bans on similar artificial food additives.

Written-only proponent testimony was provided by representatives of America First Works, End Chronic Disease, FGA Action, and five private citizens.

**Neutral** testimony was provided by a representative of the Kansas Association of School Boards, who asked for some flexibility for food sourcing and clarifying amendments, and a representative of the Kansas Grain and Feed

Association, who requested an amendment to remove butylated hydroxyanisole (BHA) from the bill.

Written-only neutral testimony was provided by a representative of the Kansas Cooperative Council.

**Opponent** testimony was provided by a representative of the Kansas Pork Association, who stated that BHA is widely used in pork products to delay oxidation, prevent rancidity, and extend shelf life and the quality of products, including bacon, sausage, ham, ground pork, pepperoni, and Canadian bacon, among others.

Written-only opponent testimony was provided by the President of the Kansas PTA.

No other testimony was provided.

The Senate Committee amended the bill to:

- Add clarifying language regarding reimbursable meals or free or reduced-price meals;
- Specify that the requirement for schools to provide a corrective report if the school cannot certify it meets the provisions of the bill would not be in effect until the beginning of school year 2028-2029;
- Remove BHA from the list of food additives prohibited by the bill; and
- Add “FD&C” to the food dyes prohibited by the bill.

### **Fiscal Information**

According to the revised fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Agriculture states enactment of the bill would have a negligible fiscal effect on operations, and school

districts would be responsible for compliance with the bill's provisions. The State Department of Education notes the bill would require school districts to incur additional costs in procuring food without the additives outlined in the bill; however, the agency cannot estimate a fiscal effect for school districts.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2027 Governor's Budget Report*.

The Kansas Association of School Boards (KASB) indicates the enactment of the bill would require school districts to spend funds for training and potentially hiring new staff to implement provisions of the bill. KASB also indicates that school districts would incur higher food costs, as buying food without the additives would be more expensive than current food options with the additives. Because school districts likely will be granted the same amount of federal funding for these high-cost meals, school districts would likely need to increase fees for full-priced meals in order to recover higher food costs; however, a fiscal effect was not estimated.

Kansas Food, Drug and Cosmetic Act; Kansas Department of Agriculture; food additives; school lunch program; school breakfast program