



# SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

## STATEMENT OF ESTIMATED FISCAL IMPACT

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| <b>Bill Number:</b>    | H. 4339                                 | Amended by House Education and Public Works on April 30, 2025 |
| <b>Subject:</b>        | South Carolina Healthy School Meals Act |   |
| <b>Requestor:</b>      | House Education and Public Works        |   |
| <b>RFA Analyst(s):</b> | Bryant                                  |   |
| <b>Impact Date:</b>    | May 5, 2025                             |   |

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### Fiscal Impact Summary

This bill, as amended, prohibits any public school, excluding charter schools, participating in a federally funded or assisted meal program from serving or allowing a third party to sell ultraprocessed food to students on school premises during the regular instructional day beginning July 1, 2027. The bill specifies that the S.C. Department of Education (SCDE) must oversee implementation and ensure compliance with the provisions of the bill. SCDE must also issue a model policy and promulgate regulations as necessary. Additionally, SCDE must consult with the Department of Agriculture every five years to review scientific evidence and international regulations to determine if additional additives should be prohibited. The bill also establishes compliance procedures and enforcement mechanisms.

SCDE indicates that this bill, as amended, will increase expenses by an amount up to \$93,750 per year beginning in FY 2025-26. Of this amount, \$78,750 is for 1.0 FTE (registered dietitian) including annual salary and fringe benefits, and \$15,000 is for training and travel. SCDE will request a General Fund appropriation increase to cover the cost of the new FTE and training and travel expenses.

The expenditure impact of this bill, as amended, on the Department of Agriculture is undetermined at this time. The Department of Agriculture indicates that depending upon the workload and what SCDE requests their consultation on, the department may need to hire scientists or legal consultants who specialize in food additive ingredients to assist in reviewing scientific evidence and international regulations and providing guidance.

The overall expenditure impact of this bill, as amended, on state agency schools will vary. The Governor's School for Agriculture at John de la Howe indicates that the agency will have to work with its food vendor to ensure the products purchased do not have additives. The agency anticipates this will make purchasing food more costly but reports the cost is currently undetermined. The Governor's School for the Arts and Humanities (GSAH) does not anticipate any fiscal impact. However, GSAH indicates that prohibiting the use of food additives in school meals will require a state contract change with its food vendor, which does not expire for three more years, as well as an addendum to the contract. The Governor's School for Science and Mathematics (GSSM) reports that compliance with the proposed legislation will require a custom contract modification to eliminate foods with the prohibited additives. GSSM further reports that

based on a preliminary estimate, ingredient costs will increase by approximately 15 percent, which will directly affect the overall cost of the school's meal plan and increase expenses by an amount up to \$1,199,535. The School for the Deaf and the Blind (SDB) previously indicated on similar legislation that it anticipates significant costs associated with ensuring its meal program does not include prohibited food additives, as well requiring food suppliers and manufacturers to provide a list of ingredients, but reports that the overall cost is currently undetermined. The Wil Lou Gray Opportunity School (WLGOS) reports it may take time to find substitute food items and notes that ordering new or different products may affect delivery times as well as the range of products offered by vendors. WLGOS also notes its agency contract will need to be amended and agreed to by the awarded vendors.

SCDE surveyed the seventy-two regular school districts and three charter school districts on the introduced version of the bill and received responses from thirty-four districts. Nine of the responding districts indicated that the bill would have no expenditure impact. Nine districts indicated that the bill would increase expenses by an amount ranging from \$6,000 to \$10,080,000, while another ten districts anticipated that implementing the provisions of the bill would impact the district's food service budget by an amount ranging from 25 percent to 50 percent. Six districts indicated that the bill would increase expenses by an undetermined amount. Of the twenty-five districts that anticipated an expenditure impact, most expected expenses to increase due to food, labor, menu revision, training, and equipment costs. Several districts also noted concerns regarding the timing of the implementation of the bill, as they would need to renegotiate contracts and potentially find new food vendors. Please note that these responses are for the introduced version of the bill. The expenditure impact of the amended bill on the local school districts is pending, contingent upon responses.

The overall revenue impact of this bill, as amended, on the local school districts is undetermined and will vary. The bill imposes a fine of up to \$5,000 per supplier for a second violation of the provisions of the bill. The fine must be paid to the school and used for the purpose of improving or establishing a vegetable garden on school grounds. However, the number of violations that may occur is currently unknown.

Additionally, seven districts indicated that the bill, as introduced, would decrease revenue by an amount ranging from \$10,000 to \$2,000,000, while another ten districts anticipated that implementing the provisions of the bill would negatively impact the district's food sales by an amount ranging from 25 percent to 50 percent. Three districts indicated that the bill may decrease revenue by an undetermined amount. The twenty districts that anticipated a revenue impact expected to see a decrease in à la carte menu item sales and reduced student participation in the school breakfast and lunch programs. Please note that these responses are for the introduced version of the bill. The revenue impact of the amended bill on the local school districts is pending, contingent upon responses.

## Explanation of Fiscal Impact

**Amended by House Education and Public Works on April 30, 2025**

### **State Expenditure**

This bill, as amended, prohibits any public school, excluding charter schools, participating in a federally funded or assisted meal program from serving or allowing a third party to sell ultraprocessed food to students on school premises during the regular instructional day beginning July 1, 2027. The bill requires each public school to annually submit a standardized certification form to SCDE's Office of School Nutrition attesting its compliance with the provisions of the bill. SCDE must post the certification form and a list of compliant schools on its website and conduct random audits of school meal samples every two years to verify compliance, using third-party laboratory testing if necessary.

If a prohibited additive is found, the school and supplier will receive a warning from SCDE and will have sixty calendar days to correct the violation. The school or district personnel responsible for procuring food served to students for school breakfast and lunch during the instructional day must undergo training from SCDE regarding the purchase and procurement of food allowed under the provisions of the bill. A second violation incurs a fine of up to \$5,000 per supplier. The fine must be paid to the school and used for the purpose of improving or establishing a vegetable garden on school grounds. A third violation may disqualify the supplier from providing school meals for one fiscal year. Each violation must be reported by the school to its respective school district immediately upon notice of a violation.

Every five years, SCDE, in consultation with the Department of Agriculture, must review scientific evidence and international regulations to determine if additional additives should be prohibited. SCDE must oversee implementation and ensure compliance with the provisions of the bill, as amended, as well as issue a model policy and promulgate regulations as necessary.

**S.C. Department of Education.** SCDE indicates that this bill, as amended, will increase expenses by an amount up to \$93,750 per year beginning in FY 2025-26. Of this amount, \$78,750 is for 1.0 FTE (registered dietitian) including annual salary and fringe benefits, and \$15,000 is for training and travel. SCDE will request a General Fund appropriation increase to cover the cost of the new FTE and training and travel expenses.

**Department of Agriculture.** The expenditure impact of this bill, as amended, on the Department of Agriculture is undetermined at this time. The Department of Agriculture indicates that depending upon the workload and what SCDE requests their consultation on, the department may need to hire scientists or legal consultants who specialize in food additive ingredients to assist in reviewing scientific evidence and international regulations and providing guidance.

**State Agency Schools.** The overall expenditure impact of this bill, as amended, on state agency schools will vary. The Governor's School for Agriculture at John de la Howe indicates that the agency will have to work with its food vendor to ensure the products purchased do not have additives. The agency anticipates this will make purchasing food more costly but reports the cost is currently undetermined. GSAH does not anticipate any fiscal impact. However, GSAH

indicates that prohibiting the use of food additives in school meals will require a state contract change with its food vendor, which does not expire for three more years, as well as an addendum to the contract. GSSM reports that compliance with the proposed legislation will require a custom contract modification to eliminate foods with the prohibited additives. GSSM further reports that based on a preliminary estimate, ingredient costs will increase by approximately 15 percent, which will directly affect the overall cost of the school's meal plan and increase expenses by an amount up to \$1,199,535. SDB previously indicated on similar legislation that it anticipates significant costs associated with ensuring its meal program does not include prohibited food additives, as well requiring food suppliers and manufacturers to provide a list of ingredients, but reports that the overall cost is currently undetermined. WLGOS reports it may take time to find substitute food items and notes that ordering new or different products may affect delivery times as well as the range of products offered by vendors. WLGOS also notes its agency contract will need to be amended and agreed to by the awarded vendors.

### **State Revenue**

N/A

### **Local Expenditure**

This bill, as amended, prohibits any public school, excluding charter schools, participating in a federally funded or assisted meal program from serving or allowing a third party to sell ultraprocessed food to students on school premises during the regular instructional day beginning July 1, 2027. The bill requires each public school to annually submit a standardized certification form to SCDE's Office of School Nutrition attesting its compliance with the provisions of the bill. If a prohibited additive is found, the school and supplier will receive a warning from SCDE and will have sixty calendar days to correct the violation. The school or district personnel responsible for procuring food served to students for school breakfast and lunch during the instructional day must undergo training from SCDE regarding the purchase and procurement of food allowed under the provisions of the bill. A second violation incurs a fine of up to \$5,000 per supplier. The fine must be paid to the school and used for the purpose of improving or establishing a vegetable garden on school grounds. A third violation may disqualify the supplier from providing school meals for one fiscal year. Each violation must be reported by the school to its respective school district immediately upon notice of a violation.

SCDE surveyed the seventy-two regular school districts and three charter school districts on the introduced version of the bill and received responses from thirty-four districts. Nine of the responding districts indicated that the bill would have no expenditure impact. Nine districts indicated that the bill would increase expenses by an amount ranging from \$6,000 to \$10,080,000, while another ten districts anticipated that implementing the provisions of the bill would impact the district's food service budget by an amount ranging from 25 percent to 50 percent. Six districts indicated that the bill would increase expenses by an undetermined amount. Of the twenty-five districts that anticipated an expenditure impact, most expected expenses to increase due to food, labor, menu revision, training, and equipment costs. Several districts also noted concerns regarding the timing of the implementation of the bill, as they would need to renegotiate contracts and potentially find new food vendors. Please note that these responses are

for the introduced version of the bill. The expenditure impact of the amended bill on the local school districts is pending, contingent upon responses.

### **Local Revenue**

This bill, as amended, prohibits any public school, excluding charter schools, participating in a federally funded or assisted meal program from serving or allowing a third party to sell ultraprocessed food to students on school premises during the regular instructional day beginning July 1, 2027. The bill requires each public school to annually submit a standardized certification form to SCDE's Office of School Nutrition attesting its compliance with the provisions of the bill. If a prohibited additive is found, the school and supplier will receive a warning from SCDE and will have sixty calendar days to correct the violation. The school or district personnel responsible for procuring food served to students for school breakfast and lunch during the instructional day must undergo training from SCDE regarding the purchase and procurement of food allowed under the provisions of the bill. A second violation incurs a fine of up to \$5,000 per supplier. The fine must be paid to the school and used for the purpose of improving or establishing a vegetable garden on school grounds. A third violation may disqualify the supplier from providing school meals for one fiscal year. Each violation must be reported by the school to its respective school district immediately upon notice of a violation.

The overall revenue impact of this bill, as amended, on the local school districts will be undetermined and will vary. The bill imposes a fine of up to \$5,000 per supplier for a second violation of the provisions of the bill. The fine must be paid to the school and used for the purpose of improving or establishing a vegetable garden on school grounds. However, the number of violations that may occur is currently unknown.

Additionally, SCDE surveyed the seventy-two regular school districts and three charter school districts on the introduced version of the bill and received responses from thirty-four districts. Fourteen of the responding districts indicated that the bill would have no revenue impact. Seven districts indicated that the bill would decrease the district's revenue by an amount ranging from \$10,000 to \$2,000,000, while another ten districts anticipated that implementing the provisions of the bill would negatively impact the district's food sales by an amount ranging from 25 percent to 50 percent. Three districts indicated that the bill may decrease revenue by an undetermined amount. The twenty districts that anticipated a revenue impact expected to see a decrease in à la carte menu item sales and reduced student participation in the school breakfast and lunch programs. Please note that these responses are for the introduced version of the bill. The revenue impact of the amended bill on the local school districts is pending, contingent upon responses.



Frank A. Rainwater, Executive Director