Amendment to
LD 1431, An Act To Support School Nutrition and Expand the Local Foods Economy
Proposed by Senator Christopher Johnson

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in order to take advantage of locally grown food supplies in school food service programs, this legislation should take effect immediately in order to take maximum advantage of this year's growing season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 7 MRSA §305-A is enacted to read:

§305-A. Definitions

As used in this chapter unless the context otherwise indicates, the following terms have the following meanings.

1. Local food. "Local food" means food produced or harvested by a Maine food producer as defined by section 212, subsection 2.

Sec. A-2. 7 MRSA §306-A, sub-§2, as enacted by PL 1999, c. 72, §5, is amended to read:

2. Fund operation. The commissioner shall utilize the agricultural development fund to:

A. Provide grants to individuals, firms or organizations to conduct market research or to undertake market promotion activities for the purpose of expanding existing markets and developing new markets for state agricultural products; ~~and~~

B. Test and demonstrate new technologies related to the production, storage and processing of state agricultural commodities~~.~~;

C. Provide phase-1 local foods grants to Maine-based individuals, firms or organizations under section 310, subsection 1 to conduct market feasibility studies, in diverse geographic areas of the State if possible, to identify the demand for, pricing, logistical parameters, and availability

of fresh, and minimally processed fresh foods grown in Maine, and of seafood grown or harvested in Maine for the school food service, institutional and aggregated markets. Grant applicants must demonstrate expertise related to the subject of the study and the capacity to create a Maine-based food hub plan and to implement such a plan if selected for a phase-2 local food hub grant; and

D. Provide phase-2 local food hub grants or low interest loans under section 310 for the purpose of establishing Maine-based food hubs.

Sec. A-3. 7 MRSA §306-A, sub-§3, as amended by PL 2013, c. 64, §1, is further amended to read:

3. Rulemaking. The commissioner shall establish, by rule, in a manner consistent with Title 5, chapter 375, subchapter 2-A criteria for the allocation of grant money, application requirements consistent with the provisions of this section and section 310, a schedule for accepting and reviewing applications, reporting requirements on grant expenditures and project results and any other administrative requirements necessary for the efficient implementation of this program. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner is guided by the following criteria:

A. Applications may be submitted by individuals, firms or organizations in response to a request for proposals for competitive grants. The commissioner may also contract directly with individuals, firms or organizations for a special project under section 307;

B. A percentage of the total cost of any project must be funded by the applicant or applicants and a percentage of the total cost must be funded from nonpublic sources. These percentages must be established by rule. A single grant may not exceed 50% of the total funds available to be granted in a given year;

C. Information relative to market research or development activities provided to the commissioner prior to formal application, included in grant applications or provided to the commissioner to fulfill reporting requirements is confidential information and may not be publicly disclosed by the commissioner as long as:

(1) The person to whom the information belongs or pertains has requested that certain information be designated as confidential; and

(2) The commissioner has determined that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to the information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; ~~and~~

D. When possible, the commissioner shall award grants to applicants representing diverse agricultural enterprises and geographic areas of the State; and~~.~~

E. Administrative requirements necessary for the efficient implementation of the local food hub program established under section 310, including a definition of minimally processed foods, the allocation of grant or loan funds, application requirements consistent with the provisions of section 310, a schedule for accepting and reviewing applications, and reporting requirements on grant expenditures and project results.

Sec. A-4. 7 MRSA §306-A, sub-§4, is enacted to read:

4. Guidance criteria. The commissioner is guided by the criteria established in section 310.

Sec. A-5. 7 MRSA §310 is enacted to read:

§310. Local food hub grants and loans

The commissioner shall issue grants for the purpose of market feasibility studies for food hubs in Maine to connect and enhance relationships between fresh food producers in the State and institutional, school food service, and aggregated market. The commissioner shall issue grants and/or low interest loans for the development and operation of food hubs in Maine based on how well their business plans, as reflected in competitive applications, serve to connect and enhance relationships between fresh food producers in the State and public school food service programs.

1. Phase-1 local foods grants. The commissioner shall award up to 12 grants of between $20,000 and $30,000 to Maine-based applicants who demonstrate the capacity to conduct market feasibility studies in different regions of the State to research demand for, pricing, logistical parameters, and availability of the farm to school, boat to school, institutional or aggregated market for fresh and minimally processed Maine-produced foods. Applicants must demonstrate expertise related to the subject of the study and the capacity to create and implement plans to serve as food hubs located in Maine if selected for a phase-2 local food hub grant. Applicants must demonstrate a commitment to recognition of the requirements of the federal Department of Agriculture with regard to meals provided in schools.

2. Phase-2 local food hub grants and loans. The commissioner shall award up to 10 phase-2 local food hub grants or loans under Title 10, section 1023-J to applicants in diverse geographic areas of the State for the purpose of establishing local food hubs located in Maine. Proposals for grants and loans under this subsection must include plans based on the market studies completed under subsection 1 or equivalent market knowledge. A proposal must demonstrate:

A. That the proposal is based on sound business and financial principles;

B. That the state funds awarded under a grant will be matched by funds from non-state sources, including donations of money, equipment, supplies, materials, labor and services, in an amount equal to at least the amount of the grant award under this subsection;

C. That the applicant has the capacity to perform the functions of locating and obtaining food from Maine-based growers and, where feasible, Maine fisheries, and the capacity to handle the logistics of supplying and delivering those foods as ordered by Maine schools;

D. That the applicant has the capacity to provide Maine-sourced fresh food, or Maine-sourced fresh food in its freshest processed form, including washing, preparing for storage and storage of food, including cold storage and freezer storage;

E. That the applicant has knowledge of health-oriented food production methods to maintain nutritional value and minimize food contaminants;

F. That the applicant will exercise sustainable waste management practices, including composting of food waste and minimal use of disposable nonreusable packaging materials;

G. That the applicant has the ability to plan and engage food producers to plant or otherwise scale capacity to meet anticipated food service demand;

H. A willingness to work cooperatively with other food hubs in the state to meet statewide fresh Maine food demand in a cost effective manner; and

I. That the applicant has an ownership or governance structure that inherently holds in high regard the value provided to the producer. Examples include an entity that is a cooperative of Maine fresh food producers, or an entity whose bylaws require a majority of the board of directors to be Maine fresh food producers.

3. Consultation and Advisory Committee. The commissioner shall establish the Maine Food Hub Advisory Committee, referred to in this section as "the advisory committee." The commissioner shall include representatives of statewide and regional organizations involved in supporting agriculture, public health, the environment and the state economy as part of the advisory committee. The advisory committee shall:

A. Advise the department on definitions, Phase-1 and Phase-2 implementation, and evaluation of applications for Phase-1 and Phase-2 grants and loans, under this section, and review project results; and

B. Advise the Department of Education on design and evaluation of the local foods training program under Title 20-A, section 6602, subsection 13.

The commissioner shall consult with the Department of Marine Resources and the Department of Education regarding the awarding of grants and loans under this section.

4. Exception. Grants awarded under this section are not subject to the requirements of section 306-A, subsection 3, paragraph B.

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Sec. A-6. 20-A MRSA §6602, sub-§12, as enacted by PL 2001, c. 447, §1, is amended to read:

12. Local Produce Fund. The Local Produce Fund is established within the Department of Education. The fund is authorized to receive revenue from public and private sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of the fiscal year must be carried forward to the next fiscal year. The fund must be used to match $1 for every $3 a school administrative unit pays for produce or minimally processed foods purchased directly from a farmer, farmers' cooperative, local food hub or fishery in the State, to a maximum state contribution of $1,000, or $2,000 if the school administrative unit sends a food service employee to local foods training administered by the department under subsection 13. At the end of the fiscal year, the school administrative unit may provide the department with receipts documenting purchases pursuant to this subsection during that year. For purposes of this subsection, "minimally processed" means only the washing, cleaning, trimming, drying, sorting and packaging of food items or a combination of those activities. Reimbursement or partial reimbursement to school administrative units may only be made up to the amount available in the fund. Failure to reimburse does not constitute an obligation on behalf of the State to a school administrative unit.

Sec. A-7. 20-A MRSA §6602, sub-§13 is enacted to read:

13. Local foods training. The department shall administer a program to encourage and expand the use of local foods in school food service programs. The program must:

A. Provide competitive grants for up to 6 regional training programs to provide training throughout the State without cost for local school food service program providers to encourage and expand the use of local foods in school food service programs. The training programs must emphasize practical training for food preparers, including creative and effective cooking skills using local fresh and minimally processed foods and local food procurement skills. The training programs must also emphasize the establishment of ongoing networks within and across each region of the State that sustain the collaborative initiatives that encourage the use of local foods in school food service programs;

B. Foster collaboration between school food service personnel throughout the State;

C. Facilitate and encourage the use of local food hubs developed by the Department of Agriculture under Title 7, section 310; and

D. Provide guidance to schools in the use of local food products and the nutritional attributes of local foods and provide strategies for encouraging maximum knowledge and acceptance of the nutritional value of locally produced food by students and communities~~; and~~.

The Maine Food Hub Advisory Committee, established under Title 7, section 310, subsection 3, shall advise the department on design and evaluation of the program under this subsection.

Sec. A-8. 20-A MRSA §6602, sub-§14 is enacted to read:

14. Food service program personnel; position description. The department shall develop and post a position description for school food service program personnel on its publicly accessible website. The position description must meet the federal guidelines established under the Nutrition Education and Training Program and Team Nutrition initiative of the National School Lunch Program.

Sec. A-9. 20-A MRSA §6602, sub-§15 is enacted to read:

15. Food service "local foods worker of the year" recognition. The department shall provide for the development of an annual competitive skill-oriented food service recognition based on criteria developed by the department emphasizing creative and effective use of local food products, attracting students to eat healthier meals and snacks, promoting community interest in good nutrition and other factors determined by the department.

Sec. A-10. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Division of Agricultural Resource Development 0833

Initiative: Provides one-time funding for awards to up to 12 applicants to conduct market feasibility studies related to availability of locally produced and minimally processed food.

GENERAL FUND	**2013-14**	**2014-15**
All Other	$250,000	$0
GENERAL FUND TOTAL	$250,000	$0

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF DEPARTMENT TOTALS	**2013-14**	**2014-15**
GENERAL FUND	**$250,000**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$250,000**	**$0**

EDUCATION, DEPARTMENT OF

Local Produce Fund N148

Initiative: Provides ongoing funds to increase the cap on the amount that the State matches for the acquisition of local foods by a school administrative district if the district sends a food service employee for training in the acquisition and use of local foods.

GENERAL FUND	**2013-14**	**2014-15**
All Other	$120,000	$120,000
GENERAL FUND TOTAL	$120,000	$120,000

EDUCATION, DEPARTMENT OF

Local Foods Training Fund N149

Initiative: Provides one-time funding to support competitive training grants for regional training programs for local food service program providers to encourage and expand the use of local foods in school food service programs.

GENERAL FUND	***2013-14***	***2014-15***
All Other	*$ 30,000*	*$ 30,000*
GENERAL FUND TOTAL	*$ 30,000*	*$ 30,000*

DEPARTMENT TOTALS	**2013-14**	**2014-15**
GENERAL FUND	***$150,000***	***$150,000***
DEPARTMENT TOTAL - ALL FUNDS	***$150,000***	***$150,000***

SECTION TOTALS	2013-14	2014-15
GENERAL FUND	*$400,000*	*$150,000*
SECTION TOTAL - ALL FUNDS	*$400,000*	*$150,000*

Sec. A-11. 7 MRSA §436 is amended to read:

§436. Grants for technical assistance and research

The commissioner may use all or a portion of the accrued interest in the cash balance of the Agricultural Marketing Loan Fund and all or a portion of loan repayments for the Maine Local Food Hub Program in chapter 10, grants for technical assistance and the agricultural development grant program in chapter 10. The commissioner may expend grant dollars designated to an applicant in one fiscal year during any of the 3 fiscal years following designation.

Sec. A-12. 10 MRSA §1023-J is amended to read:

§1023-J. Agricultural Marketing Loan Fund

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Conservation and Forestry in accordance with Title 7, chapter 101, subchapter 1-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; for the purchase, construction or renovation of buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise; for the purchase of land in connection with development of new cranberry acreage; for the purchase of land for irrigation reservoirs or to provide direct access to water for irrigation; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the expansion of an existing agricultural enterprise when the land acquisition is necessary to comply with land use regulations; for the development of a business plan in accordance with the provisions of Title 7, section 436-A and section 310; for improvements to pastureland, including seeding and actions to promote rotational grazing; or, if the commissioner so approves at the time of loan insurance commitment, to pledge money in the fund as security for, and to apply money in the fund to, payment of principal, interest and other amounts due on any term loans insured by the Finance Authority of

Maine to an eligible dairy farmer. Repayment of these loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section or Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made from the fund since the inception of the agricultural marketing loan program, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4.

A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property.
In order to provide monetary support for Maine milk producers, the Commissioner of Agriculture, Conservation and Forestry may take actions and direct the Finance Authority of Maine to take actions to provide support including entering into agreements as may be necessary to sell, assign or otherwise pledge amounts in the aggregate principal amount of loans and undivided interests in a pool of loans, and assign or pledge any cash balances in the fund, mortgages or other security to provide assurance that amounts provided as monetary support by the commissioner to milk producers are returned to their original source.

Sec. A-13. 7 MRSA §434, §1 is amended to read:

§434. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agricultural enterprise. "Agricultural enterprise" means a person or business located in this State and engaged in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or further processing, storing, packaging or marketing a raw product derived from plants, animals, plant or animal by-products or aquaculture, as defined in Title 12, section 6001, subsection 1, with the intent that the product be sold or otherwise disposed of to generate income. "Agricultural enterprise" includes a business or activity that attracts visitors to a farm for the purpose of supplementing income from the primary crop or livestock operation <u>or that is considered a "food hub" as defined by rule in chapter 10</u>. "Agricultural enterprise" does not include a business engaged primarily in the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process.

Sec. A-14. Advisory Committee; pilot program. The Maine Food Hub Advisory Committee established in accordance with Title 7, section 310, subsection 3 shall include, but is not limited to representatives of the member entities of the Farm to School Working Group established by Resolve 2009, chapter 106. If a pilot program was established due to insufficient funding available for the Local Food Hub Program, then the Maine Food Hub Advisory Committee shall prepare and submit an

evaluation of the overall effectiveness of the pilot program to the Department of Agriculture, Conservation and Forestry, the Department of Education and the Department of Marine Resources within 90 days following the completion of the pilot program.

The commissioner shall include representatives of statewide and regional organizations involved in supporting agriculture, public health, the environment and the state economy as part of the Maine Food Hub Advisory Committee.

PART B

Sec. B-1. Authorization of bonds. The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding $6,000,000 for the purposes described in section 5 of this Part. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

Sec. B-2. Records of bonds issued; Treasurer of State. The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

Sec. B-3. Sale; how negotiated; proceeds appropriated. The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Part. Any unencumbered balances remaining at the completion of the project in this Part lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

Sec. B-4. Interest and debt retirement. The Treasurer of State shall pay interest due or accruing on any bonds issued under this Part and all sums coming due for payment of bonds at maturity.

Sec. B-5. Disbursement of bond proceeds from General Fund bond issue. The proceeds of the sale of the bonds authorized under this Part must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Agricultural Development Fund

Provides funds to establish and support local food hub programs to connect local food producers with school food service providers and encourage the use of local farm products in the public schools.

Total	$ 6,000,000

Sec. B-6. Contingent upon ratification of bond issue. Sections 1 to 5 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Part.

Sec. B-7. Appropriation balances at year-end. At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

Sec. B-8. Bonds authorized but not issued. Any bonds authorized but not issued within 5 years of ratification of this Part are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

Sec. B-9. Referendum for ratification; submission at election; form of question; effective date. This Part must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Part by voting on the following question:

> "Do you favor a $6,000,000 bond issue to provide funding to the Agricultural Development Fund to establish and support Maine-based food hub programs to connect Maine food producers with school food service providers and encourage the use of Maine farm products in the public schools?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Part, the Governor shall proclaim the result without delay and this Part becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Part necessary to carry out the purposes of this referendum.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

SUMMARY

This amendment requires the Department of Agriculture, Conservation and Forestry and the Department of Education to administer programs to support the expansion and coordination of the use of fresh Maine foods in public school food service programs. The Department of Agriculture,

Conservation and Forestry is directed to provide grants and loans in 2 phases for the identification of local food suppliers and the establishment of local food hubs to help local food producers reach the public school food service market and facilitate the operation of local food programs in schools.

The amendment also directs the Department of Education to develop and support local food training programs for public school food service personnel and facilitate the use of local food hubs to expand the use of local foods in schools. The amendment also establishes a Maine Food Hub Advisory Committee that includes representatives of statewide and regional organizations involved in supporting agriculture, public health, the environment and the state economy, including representatives of the member entities of the Farm to School Working Group established by Resolve 2009, chapter 106.

The amendment also provides a bond issue in the amount of $6,000,000 to be used to develop up to 10 local food hubs.