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**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE**

**SENATE**

**132ND LEGISLATURE**

**FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 472, L.D. 1141, “An Act to Increase the Procurement of Maine Foods by State-funded Institutions”

Amend the bill by striking out the title and substituting the following:

**'An Act to Increase the Procurement of Maine Foods by Certain State Institutions'**

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

**'Sec. 1. 7 MRSA §211**, as amended by PL 2019, c. 677, §1, is repealed and the following enacted in its place:

**§211. Statement of policy**

It is the policy of the State to encourage food self-sufficiency for the State. All state institutions must purchase Maine food and food products in accordance with this subchapter to increase the viability of Maine farms and food businesses, enhance rural economic development and increase the environmental and social wealth of rural communities.

**Sec. 2. 7 MRSA §212, sub-§4** is enacted to read:

**4. Opportunity buying.** "Opportunity buying" means the purchasing of food and food products from Maine food producers that are only available for a short period of time before the food or food products become unavailable for purchase.

**Sec. 3. 7 MRSA §212, sub-§5** is enacted to read:

**5. State institutions.** "State institutions" means the Department of Corrections; the Dorothea Dix Psychiatric Center and the Riverview Psychiatric Center within the Department of Health and Human Services; and the Maine Veterans' Homes.

**Sec. 4. 7 MRSA §214-A**, as enacted by PL 2019, c. 677, §7, is repealed and the following enacted in its place:

**§214-A. Maine food and food products procurement program**

1        In accordance with this section, the commissioner shall implement and promote a  
2 Maine food and food products procurement program. State institutions may not be  
3 prohibited from procuring food and food products directly from Maine food producers,  
4 taking advantage of opportunity buying, coordinating dietary requirements and establishing  
5 healthy menus consistently throughout state institutions. The program must measurably  
6 improve the quality of food and food products for state institutions with the goal that, no  
7 later than 2030, at least 30% of all food and food products procured by state institutions are  
8 Maine food or food products.

9        **1. Institutional food procurement coordinator.** The commissioner shall designate  
10 an employee of the department as an institutional food procurement coordinator, referred  
11 to in this section as "the coordinator," to assist in the coordination of food procurement for  
12 all state institutions. In order to achieve the procurement goal set forth in this section, the  
13 coordinator shall:

14        A. Implement and oversee a strategy to strengthen connections between Maine food  
15 producers, distributors and state institutions for off-contract purchase agreements  
16 pursuant to subsection 2;

17        B. Assist the Department of Administrative and Financial Services, Bureau of General  
18 Services in the solicitation and review of bids from distributors and Maine food  
19 producers throughout the procurement process;

20        C. Identify Maine food producers throughout the State who can provide food and food  
21 products directly to state institutions for off-contract purchase agreements pursuant to  
22 subsection 2;

23        D. Establish and promote guidelines to assist state institutions in procuring Maine food  
24 and food products directly from Maine food producers, including, but not limited to,  
25 guidelines for opportunity buying and other off-contract purchase agreements pursuant  
26 to subsection 2;

27        E. To the extent practicable and within existing resources, convene an annual meeting  
28 to explore opportunities for cooperation to increase the purchase of Maine food and  
29 food products by state institutions. The coordinator may invite representatives from  
30 appropriate state agencies and quasi-governmental entities, Maine food producers and  
31 food service professionals, for-profit and nonprofit organizations and other relevant  
32 stakeholders outside of State Government to participate in the annual meeting; and

33        F. Perform other duties as determined by the commissioner.

34        **2. Off-contract purchases directly from Maine food producers.** Notwithstanding  
35 any provision of law to the contrary, state institutions may negotiate directly with Maine  
36 food producers and execute agreements for off-contract purchases of food or food products  
37 by commodity type, including, but not limited to, vegetables, fruit, eggs, grain or grain  
38 products, herbs, seasonings or spices, milk or milk products, meat or meat products, poultry  
39 or poultry products, fish or fish products, seafood or seafood products, cider or juice,  
40 canned or frozen foods, honey, maple products and condiments. Food or food products  
41 purchased under this subsection may be priced up to 15% higher than the same food or  
42 food product available under contract.

43        **4. Advisory committee.** The commissioner may establish an advisory committee to  
44 assist the coordinator in advancing strategies for increasing purchases of Maine food and

1 food products by state institutions. The commissioner may invite representatives from  
2 appropriate state agencies and quasi-governmental entities, Maine food producers and food  
3 service professionals, for-profit and nonprofit organizations and other relevant stakeholders  
4 outside of State Government to serve on the advisory committee. To the extent practicable,  
5 the advisory committee membership must reflect the diversity of the State, including, but  
6 not limited to, diversity in geographic location, background and professional experience.

7 **5. Report.** The commissioner shall include a description of the progress toward  
8 reaching the procurement goal under this section in the biennial report submitted to the  
9 Legislature pursuant to section 2, subsection 5.

10 **Sec. 5. 7 MRSA §215-A**, as enacted by PL 2019, c. 677, §9, is repealed and the  
11 following enacted in its place:

12 **§215-A. Rules**

13 The commissioner shall adopt rules necessary to carry out the provisions of this  
14 subchapter.

15 The rules must establish guidelines for off-contract purchase agreements pursuant to  
16 section 214-A, subsection 2. The rules must establish a method and baseline to determine  
17 the percentage of Maine food or food products procured by state institutions based on  
18 dollars spent for different commodity types. The rules must establish reasonable and  
19 measurable benchmarks to achieve the overall procurement goal under this subchapter.

20 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,  
21 chapter 375, subchapter 2-A.'

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
23 number to read consecutively.

24 **SUMMARY**

25 This amendment revises the definition of "opportunity buying" to mean the purchasing  
26 of food and food products from Maine food producers, rather than from vendors at a  
27 significant discount as proposed in the bill, that are only available for a short period of time  
28 before the food or food products become unavailable for purchase. The amendment defines  
29 "state institutions" as the Department of Corrections; the Dorothea Dix Psychiatric Center  
30 and the Riverview Psychiatric Center within the Department of Health and Human  
31 Services; and the Maine Veterans' Homes for the purpose of the Maine foods procurement  
32 program proposed in the bill. The amendment specifies the responsibilities of the  
33 institutional food procurement coordinator within the Department of Agriculture,  
34 Conservation and Forestry.

35 The amendment also provides that state institutions may negotiate directly with Maine  
36 food producers and execute agreements for off-contract purchases of food by commodity  
37 type and provides that food or food products purchased under an off-contract purchase  
38 agreement may be priced up to 15% higher than the same food or food product available  
39 under contract.

40 The amendment removes from the bill the requirement that the coordinator convene an  
41 annual meeting. Instead, the amendment authorizes the coordinator to convene an annual  
42 meeting to the extent practicable and within existing resources.

1       The amendment authorizes, rather than requires as proposed in the bill, the  
2 Commissioner of Agriculture, Conservation and Forestry to establish an advisory  
3 committee. The amendment revises the makeup of the advisory committee charged with  
4 assisting the coordinator in advancing strategies for increasing purchases of Maine food  
5 and food products by state institutions. The amendment provides that rules adopted under  
6 the Maine Revised Statutes, Title 7, chapter 8-A, subchapter 1 are routine technical rules  
7 rather than major substantive rules as proposed in the bill.

8                                   **FISCAL NOTE REQUIRED**

9                                   **(See attached)**