

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 248

H.P. 194

House of Representatives, January 27, 2009

### **An Act To Transfer Authority for School Food Service Programs to the Department of Agriculture, Food and Rural Resources**

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PERCY of Phippsburg.

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

2 **Sec. 1. 7 MRSA §219** is enacted to read:

3 **§219. School food service programs**

4 The commissioner shall administer school food service programs in accordance with  
5 Title 20-A, chapter 223, subchapter 7.

6 **Sec. 2. 20-A MRSA §6601-A** is enacted to read:

7 **§6601-A. Administration by the Department of Agriculture, Food and Rural**  
8 **Resources**

9 The Commissioner of Agriculture, Food and Rural Resources shall administer school  
10 food service programs. For the purposes of this subchapter, "commissioner" means the  
11 Commissioner of Agriculture, Food and Rural Resources and "department" means the  
12 Department of Agriculture, Food and Rural Resources.

13 **Sec. 3. 20-A MRSA §6602, sub-§3**, as enacted by PL 1981, c. 693, §§5 and 8, is  
14 amended to read:

15 **3. Administration.** ~~The school board shall administer and operate the food service~~  
16 ~~programs. The school board~~ upon approval of the commissioner:

17 A. Shall make all contracts to provide material, personnel and equipment necessary  
18 to carry out section 6601; and

19 B. Shall hire the necessary employees to manage and operate their school food  
20 service programs.

21 **Sec. 4. 20-A MRSA §6602, sub-§5**, as enacted by PL 1981, c. 693, §§5 and 8, is  
22 amended to read:

23 **5. Rules.** ~~The commissioner shall adopt or amend, with the state board's approval,~~  
24 ~~rules under this subchapter, including except that~~ rules about the qualifications of food  
25 service programs' personnel are adopted by the Commissioner of Education. Rules  
26 adopted under this subsection are routine technical rules as defined in Title 5, chapter  
27 375, subchapter 2-A.

28 **Sec. 5. 20-A MRSA §6602, sub-§12**, as enacted by PL 2001, c. 447, §1, is  
29 amended to read:

30 **12. Local Produce Fund.** ~~The Local Produce Fund is established within the~~  
31 ~~Department of Education~~ department. The fund is authorized to receive revenue from  
32 public and private sources. The fund must be held separate and apart from all other  
33 money, funds and accounts. Any balance remaining in the fund at the end of the fiscal  
34 year must be carried forward to the next fiscal year. The fund must be used to match \$1  
35 for every \$3 a school administrative unit pays for produce or minimally processed foods  
36 purchased directly from a farmer or farmers' cooperative in the State, to a maximum state

1 contribution of \$1,000. At the end of the fiscal year, the school administrative unit may  
2 provide the department with receipts documenting purchases pursuant to this subsection  
3 during that year. For purposes of this subsection, "minimally processed" means only the  
4 washing, cleaning, trimming, drying, sorting and packaging of food items or a  
5 combination of those activities. Reimbursement or partial reimbursement to school  
6 administrative units may only be made up to the amount available in the fund. Failure to  
7 reimburse does not constitute an obligation on behalf of the State to a school  
8 administrative unit.

9 **Sec. 6. Waiver.**— The Commissioner of Education and the Commissioner of  
10 Agriculture, Food and Rural Resources shall make a formal request to the United States  
11 Department of Agriculture for a waiver of the requirement that the state educational  
12 agency administer the National School Lunch Program, 7 Code of Federal Regulations,  
13 Part 210.3(b), the School Breakfast Program, 7 Code of Federal Regulations, Part  
14 220.3(b) and the Special Milk Program for Children, 7 Code of Federal Regulations, Part  
15 215.3(b).

16 **Sec. 7. Transition provisions.** All rules and procedures adopted by the  
17 Department of Education for administering school food service programs and in effect on  
18 the effective date of this Act continue in effect until the Commissioner of Agriculture,  
19 Food and Rural Resources has adopted rules and established procedures to implement  
20 administration of school food service programs. The commissioners shall work  
21 cooperatively to expedite the transfer of responsibilities.

22 **Sec. 8. Contingent effective date.** Those sections of this Act that enact the  
23 Maine Revised Statutes, Title 7, section 219 and Title 20-A, section 6601-A and amend  
24 Title 20-A, section 6602, subsections 3, 5 and 12 do not take effect unless:

25 1. The United States Department of Agriculture grants the State a waiver from the  
26 requirement that the state educational agency administer the National School Lunch  
27 Program, the School Breakfast Program and the Special Milk Program and approves the  
28 transfer of the administration for these programs from the Department of Education to the  
29 Department of Agriculture, Food and Rural Resources; and

30 2. The Commissioner of Agriculture, Food and Rural Resources notifies the  
31 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives  
32 and the Revisor of Statutes that written approval for the transfer has been received.

33 In no event may this Act take effect until 90 days after adjournment of the  
34 Legislature.

### 35 SUMMARY

36 This bill transfers responsibilities for administering school food service programs  
37 from the Department of Education to the Department of Agriculture, Food and Rural  
38 Resources upon approval of the United States Department of Agriculture. It provides for  
39 a transition period until the department has the necessary rules and procedures in place to  
40 implement the transfer.