



New England Food Policy: *Building a Sustainable Food System*

March 2014

**American Farmland Trust
Conservation Law Foundation
Northeast Sustainable Agriculture Working Group**

Markets

Increased demand for locally sourced food over the past decade among the region's 14 million consumers has generated new market opportunities for farmers and food entrepreneurs, and had a positive impact on farm profitability. A 2010 action plan put together by the region's six state commissioners and secretaries of agriculture, known as the chief agricultural officers, found that direct-to-consumer sales in New England increased 62 percent from 2002 to 2007. These sales, in turn, helped to increase the total market value of agricultural products sold in the region by 30 percent.¹ New England has some of the highest direct sales in the country; Vermont is the national leader in per-capita direct market sales; New Hampshire ranks first in the percentage of farms reporting direct-to-consumer sales; and Connecticut, Massachusetts and Rhode Island rank first, second and third nationally in average direct sales per farm.²

Capturing these new opportunities has required more business planning, new marketing approaches and, in many cases, new infrastructure, both on- and off-farm. The chief agricultural officers noted that each of the six New England states has developed programs to encourage direct marketing and expand sales to schools and other institutions, making the region a national leader in delivering local food and farm products at the retail and institutional levels. The agricultural officers recognized the need for regional-scale approaches to complement these state actions, including strategies around branding and procurement.³ While the demand curve for locally sourced food continues to rise, price sensitivity remains a significant obstacle in increasing market share for local and regional products. Additional challenges include the seasonality of much of the region's food

Highlights

- Research current levels of local and regional food consumption, and the potential for increased consumption, focusing especially on price points for large retail and institutional markets.
- Strengthen state procurement policies in order to drive additional demand for New England-sourced foods at state universities and community colleges, prisons and government buildings. Creating two-tiered state procurement policies, preferring food sourced from within the state and across New England, would recognize the imbalance in supply and demand in many New England states and the economic value to the region in increasing regional demand.
- Help producers comply with the Food Safety Modernization Act and other food safety standards required by retail and institutional buyers in order to maintain and increase production to meet demand.

supply, the relatively small scale of many of the region's producers, and private and public sector food safety and product liability requirements, which affect how and to whom products can be marketed.

Around the region, consumers also do not have equal access to locally and regionally sourced food. Millions of New Englanders suffer from food insecurity and lack access to healthy food. More than 1.9 million people in the region receive Supplemental Nutrition Assistance Program (SNAP) benefits.⁴ Hundreds of communities in the region, from the largest metropolitan areas to the smallest rural towns, are considered food deserts — areas without ready access to fresh and healthy food. Improving access to healthy food for all of the region's consumers is not only an important public health endeavor; it also can help expand markets for local and regional food. New public programs and public-private partnerships have been important in this regard. Still, work is needed to integrate state and federal policy to reduce food insecurity, improve nutritional health and create economic opportunity for the region's farmers and fishermen.

This section examines policies and programs geared toward market development and promotion. It explores public investments in market promotion, including some aimed at expanding food access. This section looks at what is being done and what more is needed to drive demand and better integrate the array of existing programs in order to achieve multiple public policy objectives.

4.1 BRANDING AND MARKET PROMOTION AND DEVELOPMENT PROGRAMS

Introduction

Data shows that consumers' knowledge about the source of their food will often affect their purchasing decisions. In New Hampshire, for instance, a 2009 survey found that 90 percent of adults were more likely to buy farm products from the state over those produced elsewhere.⁵ A 2007 survey of Connecticut consumers found that 72 percent of respondents said it was very or somewhat important that their food be grown in Connecticut, and 45 percent of

respondents said they would pay more for locally grown or produced foods.⁶

All of the states in the region engage in some type of market promotion of state-grown or -produced products. Some have branding programs that differentiate farm and food products grown within their borders, capitalizing on consumer interest in buying locally grown food. Some states invest in and partner with statewide or sub-state "buy local" organizations and campaigns. States may also have marketing standards for specific products, such as Maine's grading standards for potatoes, or farming practices, such as organic. New Hampshire's partnership with the USDA on the National Organic Program is one example of such a standard. Several federal programs provide valuable funding to support state and local market promotion initiatives.

Discussion

STATE AND LOCAL BRANDING PROGRAMS

Five of the six New England states have statewide product branding programs requiring that farm and food businesses meet certain minimum requirements to use the logo; these requirements differ significantly between the programs.

Connecticut

The Connecticut Grown program includes a state-branding program. Foods and farm products using the "CT Grown" logo must be grown in Connecticut, or, for processed foods, 50 percent of the ingredients must come from Connecticut. The brand is enforced by the Department of Agriculture's Bureau of Regulation and Inspection, which conducts random inspections. The logo is available for public download. Despite having existed since 1986, a 2007 study found that 58 percent of respondents had not seen the logo.⁷

Maine

The "Get Real. Get Maine!" branding program promotes food and agricultural products or products made with ingredients that are primarily grown, raised, harvested or processed in Maine. The "Get Real. Get Maine!" logo may be used on a product package, in a farm stand or in marketing materials. Logos are available for download after

filling out an application describing the use of the logo and, for processors, providing a food license number.¹

Massachusetts

The Commonwealth Quality Program, launched in 2010 by the Massachusetts Department of Agricultural Resources, is different from other state branding programs because it combines identification of state-grown agricultural, seafood and forest products with food safety and environmental standards. Only certified businesses can use the Commonwealth Quality logo. Raw products must be 100 percent Massachusetts-grown; processed products must have at least 75 percent of their weight or volume from Massachusetts. To receive the Commonwealth Quality Program approval, producers must either be certified under the GAP standard, adhere to a third-party audit system, or receive GAP training and comply with state food safety best management practices. Producers must also comply with sector-specific, state-set environmental best management practices.⁸ Offering the option to receive Commonwealth Quality certification by receiving GAP training and adhering to the state's best management practices may help reduce costs for smaller producers, given the expense of GAP certification. While the program is still too new to gauge impact, it appears to be a unique state-level branding program that seeks to capitalize on interest in both local and sustainable agriculture.

New Hampshire

Unlike the other state branding programs, New Hampshire Made is a cooperative public-private partnership, organized as a 501(c)(3) organization. The program includes, but is not limited to, local food. It also includes crafts, retailers, services and local attractions. To use the logo, producers must qualify and pay annual dues, which are levied on a sliding scale.⁹

The New Hampshire Department of Agriculture, Markets & Food offers the voluntary New Hampshire Seal of Quality program, which provides superior quality standards for farm products. Producers who subscribe to the program agree to maintain high quality standards verified by periodic visits by Division of Regulatory Services inspectors. Participating producers are permitted to use the New Hampshire Seal of Quality logo design in advertising and on product packaging. The Division of Regulatory Services has developed standards for producers of maple products, apples, cider, eggs, honey and raspberries. Promotional materials including farm signs and stickers

displaying the Seal of Quality logo design are made available to participants at cost.¹⁰

Rhode Island

Rhode Island's "Get Fresh Buy Local" initiative, administered by Farm Fresh RI, includes a logo that can be used by farmers, retailers and distributors. (The initiative is described more fully below.) Preceding this initiative, Rhode Island had a longstanding program, "Rhode Island Grown Take Some Home." Both programs strive to develop a loyal following to purchase locally grown products.¹¹

Vermont

The Vermont Agency of Agriculture operated a Seal of Quality program from 1982 until 2010. A new Made in Vermont branding program is being developed by the Agency of Agriculture, the Agency of Commerce and Community Development, the Department of Tourism and Marketing, and the chief marketing officer, to promote food products, wood products and crafts. If and when it is launched, the Made in Vermont brand will be a self-certification program that requires facilities to be located in Vermont and meet the Vermont Origin rule and other applicable state requirements.¹² The Farm to Plate Network, made up of several state agencies and 300 organizations working to implement the statewide strategic food system plan, is also launching a consumer campaign in 2014 that aims to have 10 percent of the food consumed by Vermonters by 2020 be locally grown or produced.

While state branding programs may help consumers identify locally grown products, studies and anecdotal evidence suggest that these programs may be less valuable in growing demand for local products and increasing farm profitability than national programs or farm-based or sub-state branding programs. A 2006 comparison of state-grown promotion programs found that, in the absence of strong differentiation possibilities, cooperative, regional or national promotion efforts may prove more effective than state-focused product promotion.¹³ Sustained and substantial funding for state branding programs appears necessary for them to be effective: Research from Arizona State University indicates that an investment of \$1 million or more per year is needed to gain consumer awareness and potential advantage of the brand.¹⁴ Research conducted in both Maine and Connecticut confirms this. In those states, consumer awareness of the state logo was relatively low even after several years of promotion.¹⁵

STATE MARKET DEVELOPMENT AND PROMOTION INITIATIVES AND PARTNERSHIPS

In addition to branding programs, states are devoting resources to a number of strategies promoting state-grown and -processed farm products. Chief among these appear to be partnerships with non-profit organizations focused on specific aspects of marketing, such as online product guides. Examples of state initiatives and partnerships include:

Maine

The Department of Agriculture, Conservation and Forestry manages the “Get Real. Get Maine!” website, which features a searchable database of farm products. The department also produces brochures and wholesale buyers’ guides to promote sales of Maine food and farm products.¹⁶ These efforts reflect findings from a 2008 state analysis of Maine’s agricultural creative economy. That study recommended targeted market development programs for Maine food products that build upon word of mouth, one of the most successful promotion methods in the direct-to-retail agricultural sector. Other recommendations included using newer modes of local advertising, such as Web-based farm locator maps, community “buy-local” coupon programs, and community signage to attract more consumers to farm product outlets.¹⁷ The state’s Agricultural Development Grant Program funds activities that will expand existing markets or develop new markets for Maine agricultural products. Grants can also be used to test and demonstrate new technologies related to the production, storage or processing of state agricultural products. Grants may not exceed \$30,000, and, for market promotion, require a one-to-one match.¹⁸

Massachusetts

The Department of Agricultural Resources supports eight regional “buy-local” organizations across the state. For more information about these programs, see the “Buy-local” Organizations section, below.

New Hampshire

The Department of Agriculture, Markets & Food is a founding partner of the New Hampshire Farm to Restaurant Connection, which certifies restaurants that source from local producers. The department is also a founding partner with the New Hampshire Farmers’ Market Association. For many years, the Department of Agriculture, Markets & Food has partnered with the state’s Division of Travel and Tourism Development to promote local agricultural businesses and products through a Buy Local Agriculture

campaign, which uses a central theme and logo: “New Hampshire’s Own, a Product of Yankee Pride.” The campaign relies on a broad mix of advertising media and activities.

Rhode Island

The Division of Agriculture has an annual competitive grant program funded through the USDA Specialty Crops Block Grant Program that aims, in part, at market promotion. Awards during fiscal year 2013 included a grant to the nonprofit organization Farm Fresh Rhode Island to support expansion of Rhode Island Grown’s Get Fresh, Buy Local initiative. In order for vendors to use Get Fresh, Buy Local, 80 percent of what they sell must be grown on their own farm; 100 percent must be sourced from farms in Rhode Island, Massachusetts or Connecticut; and labels must display the farm and state of origin of all products. Another grant went toward the creation of a pilot television series promoting the state’s specialty products.¹⁹ In 2012, the Rhode Island General Assembly passed a bill to encourage the promotion of farm products grown in the state. The bill directs the Department of Environmental Management to promote connections between producers and grocery stores and institutions, as well as to organize events promoting Rhode Island-grown products.²⁰

Vermont

The Agency of Agriculture participates in many promotional councils, including the Vermont Agriculture and Culinary Tourism Council. The council’s “DigInVT” campaign includes a searchable database of the state’s agriculture and culinary experiences that are open to the public.²¹ In addition, Vermont Fresh Network educates consumers about local foods and encourages farmers, food producers and chefs to work directly with each other to build partnerships.

Several states have also created, through state statute, industry-funded promotion programs for specific sectors. Maine, for instance, has the Maine Lobster Advisory Council — which spends \$200,000 yearly on marketing Maine’s sustainably caught lobster in New England²² — as well as the Potato Board and the Blueberry Council. Most New England states have created industry-funded dairy promotion boards. And the Rhode Island Seafood Marketing Collaborative was established in 2011 to address a perceived lack of resources and information needed to support Rhode Island’s local fishermen and small businesses.²³

Each of the New England states also participates in Food Export USA Northeast, a nonprofit created in 1973 as a cooperative effort between 10 Northeastern state agricultural promotion agencies and the USDA's Foreign Agricultural Service. Food Export Northeast promotes the exportation of Northeast food and agricultural products.²⁴

Driven by an interest to expand opportunities for in-state producers, Massachusetts and Connecticut are investing state resources in developing regional markets in their respective state capitals. In 2011, Massachusetts Gov. Deval Patrick signed an executive order establishing a Public Market Commission to define the mission of a public market in downtown Boston, select an operator of the market and monitor the financial health of the market regularly.²⁵ The market is intended to provide Massachusetts' farmers, fish and seafood producers, as well as producers of agricultural and specialty products, with a year-round venue for direct sales, helping to create jobs both at the public market and for producers. It will also give consumers an opportunity to learn about and purchase healthy, sustainably grown and harvested food.²⁶ While the operator is partially responsible for market design and construction, the state is financing some associated infrastructure.²⁷

Connecticut's Hartford Regional Market is a state-owned, statutorily authorized distribution terminal for agricultural products. It covers 32 acres, houses more than 230,000 square feet of warehouse space, contains 144 farmers' market stalls, and is centrally located near the intersection of interstates 84 and 91, along a busy freight railroad line.²⁸ According to the Governor's Council on Agricultural Development, with some thoughtful investments in facility upgrades and renovations, the market presents tremendous opportunity for the development of a vibrant food and green-goods hub to serve institutions state-wide. The state Department of Agriculture is currently working with the state's Department of Construction Services to develop a master plan for the market.²⁹

"BUY-LOCAL" ORGANIZATIONS

Across the region, a number of nonprofit organizations are helping to educate consumers about the benefits of buying locally grown food and locally produced products. Most of these organizations receive some state and/or federal funding, and so are public-private partnerships. Massachusetts has the most robust network of buy-local organizations in the region. Of the eight sub-regional

buy-local groups, one of the most prominent, Community Involved in Sustaining Agriculture (CISA), operates the Be a Local Hero, Buy Locally Grown™ campaign in three western Massachusetts counties. This successful private branding initiative has increased public awareness about local food sourcing at the county level. CISA has honed its marketing approach through the use of market research and studies. Recent market research shows that more than 82 percent of the region's residents recognize the Be a Local Hero logo, and those who recognize the logo are twice as likely to buy products branded as locally grown.³⁰ Member farms report that the brand gives their products immediate recognition and respect as part of a larger, cohesive local campaign.³¹ The CISA branding initiative has caught on due in large part to intensive and effective advertising, made possible through an investment of more than \$1 million since the brand's inception. CISA is funded by both government grants and foundation support.³²

HARVEST NEW ENGLAND

Harvest New England is a cooperative marketing program created in 1992 by the New England state departments of agriculture to support the sale of New England-grown produce through supermarket channels. The Harvest New England logo can be downloaded and used by New England specialty crop growers. The multistate organization sponsors a regionwide biennial direct-marketing conference.³³

Action

Support for Existing Programs

Federal

- USDA's Rural Business Enterprise Grant program has helped start several important state and local marketing initiatives, including two regional dairy cooperatives marketing directly to consumers: Rhode Island's Rhody Fresh and The Farmers Cow in Connecticut. Funding for this program, and other USDA agricultural business programs helping with market development, should be maintained or increased.
- USDA's Specialty Crop Block Grant Program has been a vital source of funding for buy-local and other market development efforts. Both the Senate and House versions of the 2013 farm bills increase mandatory funding for specialty crop block grants to \$70 million per year. Both bills also set aside new funds for multi-state projects.³⁴ USDA's Federal-State Market Improvement

Program is especially important for market development and promotion of crops that are not considered specialty crops, such as livestock and dairy. The program provides matching funds to state departments of agriculture, state agricultural experiment stations and other appropriate state agencies to help explore new market opportunities for food and agricultural products.³⁵ Program funds must be matched one to one.

State

- Continue state investments in targeted market development programs — as identified in the report on Maine’s agricultural creative economy — that build upon word of mouth, which is proven to be one of the most successful promotion methods in the direct-to-retail agricultural sector. Also invest in other modes of local advertising, such as web-based farm locator maps, community “buy-local” coupon programs and community signage to attract more consumers to farm product outlets.³⁶

Research and Analysis

- Several interviewees saw a need for additional market research to better gauge consumer interest in buying local. Price sensitivity is a significant constraint in institutional and large retail markets. Some interviewees felt that scaling up food production in the region will require better evidence of consumer willingness to pay for local and regional foods.
- Branding and promotion programs often lack information about program efficacy. Baseline market research surveys coupled with periodic updates could help state agencies and nonprofit organizations measure the effectiveness of local and regional branding programs.³⁷
- The Massachusetts Commonwealth Quality Program offers an interesting example of combining state brand identification with environmental and food safety standards. An analysis of how this branding program has affected consumer demand could benefit branding programs in Massachusetts and other areas.
- Market research could help determine the potential benefits of an expanded Harvest New England, or other regional branding programs. The work of the New England Dairy Promotion Board may be instructive in this regard.

Policy Options

State Branding Programs

Standards

State branding programs face a number of challenges that may dilute the strength of their brands and diminish consumer recognition. A brand’s strength, for instance, depends in large part on clearly articulated standards and enforcement. Consider the use of public-private partnerships to create, promote and police brand standards. Model legislation articulating these standards may be helpful.

Scope

Programs that include a broader scope of products get the word out more effectively.³⁸ Existing programs are often narrow in scope and do not cover enough agricultural products to help consumers buy local. For instance, the scope of some existing programs could be expanded to include locally crafted products.³⁹ Scope should be carefully assessed, however, so that a program’s resources are not spread too thinly.⁴⁰

Efficacy

State branding programs should track the effectiveness of their campaigns through market research.

Funding

Two interviewees expressed the need for sustained state and/or federal support for branding programs at multiple levels (e.g., state and local). Grants that only fund branding programs for short periods of time are not ideal, since brand recognition depends on consistent, long-term campaigns. Resources are needed to both reinforce and expand the pool of buy-local consumers.⁴¹ Other interviewees suggested requiring more robust marketing and brand promotion strategies for recipients of federal or state micro-financing programs or business planning assistance.

Outreach

Producers may underutilize existing programs. To help remedy this, states may want to consider increasing consumer exposure and recognition of brands through targeted advertising that capitalizes on messaging that is persuasive at the local or regional level and clarifies the brand’s purpose.

Based on a recommendation in Maine’s agricultural creative economy study, states may want to consider

providing targeted word-of-mouth promotion assistance and training for farmers in the local communities where direct farm markets exist.⁴²

Regional Branding and Promotion

Harvest New England offers a potential vehicle for greater promotion of New England-sourced foods to the region's institutions. Collaboration between Harvest New England and Farm to Institution New England may help identify ways that regional foods can be better identified through existing food distribution channels.

Milk and dairy products represent the segment of the food supply that is closest to regional or state-level self-sufficiency. Therefore, New England as a whole and all six states individually would benefit from a greater recognition of the regional nature of the milk supply. Despite the efforts of producer-funded entities such as the New England Dairy & Food Council and the New England Milk Promotion Board, as well as several state dairy promotion organizations, dairy is under-appreciated as a locally and regionally produced food sector.

4.2 PURCHASING AND PROCUREMENT PREFERENCES

Introduction

Federal, state and local purchasing and procurement policies affect the food-buying decisions of federal- and state-owned facilities, including thousands of public schools, colleges and universities in the region. Given the number of meals served by these institutions — the region's public schools alone have over 2 million students — these policies are a potentially significant driver of demand for New England farm and food products. Procurement preferences of all types can be found at various levels of government, from municipal to federal. For example, a unit of government can “prefer” locally sourced food over other food. Procurement preferences are sometimes mandatory, and sometimes enabling — allowing local communities or school districts to prefer locally grown food in their own local contracts and bid systems. This section discusses current federal and state public procurement policies, and how they might be improved to continue driving demand for New England-sourced foods.

Discussion

STATE PURCHASING POLICIES AND PROCUREMENT PREFERENCES

The purchasing authority for each state government in New England is assigned to a single administrative agency that acts on behalf of, or oversees purchases by, all other agencies according to a single set of rules for procurement and contracts. Since each state's requirements are substantively distinct, an agricultural or food purchasing preferred-policy must be tailored to meet the general standard in each state.

Connecticut

Connecticut General Statutes section 4a-51(b) requires the commissioner of administrative services to favor in-state food products: “The Commissioner of Administrative Services, when purchasing or contracting for the purchase of dairy products, poultry, eggs, beef, pork, lamb, farm-raised fish, fruits or vegetables pursuant to subsection (a) of this section, shall give preference to [such products] grown or produced in this state, when such products are comparable in cost to [similar products] being considered for purchase by the commissioner that have not been grown or produced in this state.” The Department of Agriculture internally debated a legislative proposal to allow for a 5 percent larger expenditure for Connecticut-grown products in state procurement language (following the Massachusetts model described below), but chose not to move forward with the proposal because of budget constraints.⁴³

Connecticut recently adopted two important changes to its procurement standards for state agencies and public higher education institutions. Public Act 13-72 requires the commissioner of the Department of Administrative Services to give preference to beef, pork, lamb and farm-raised fish produced or grown in Connecticut if they are comparable in cost to those produced or grown out of state. A previous version of the law required the commissioner to give preference only to Connecticut-grown or -produced dairy products, poultry, eggs, fruits and vegetables.

By law, most public higher education institutions' purchases of goods and services worth more than \$10,000 must be made through competitive bidding. Connecticut's Public Act 13-177 exempts from this requirement purchases of certain agricultural products worth \$50,000 or less. The exemption applies to dairy products, poultry,

farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm products. The act additionally requires public higher education institutions to give preference to dairy products, poultry, farm-raised seafood, beef, pork, lamb, eggs, fruits, vegetables or other farm products grown or produced in Connecticut when they are comparable in cost to those grown or produced outside the state. The law, Public Act 13-72, already requires the Department of Administrative Services to give a similar preference.⁴⁴

Maine

Statutory authority regarding agricultural purchasing is found in the 1984 Purchase of Foodstuffs from Maine Concerns Act: “State institutions and school districts in the State shall purchase food produced by Maine farmers or fishermen, provided that food is available in adequate quantity and meets acceptable quality standards, and is priced competitively.”⁴⁵ However, a number of implementation steps in the statute — including establishing a coordinator position in the Bureau of Purchases, an advisory committee representing a number of state agencies, and quality standards — were never taken, and the Maine Department of Agriculture is considering asking the Maine legislature to repeal the statute.⁴⁶

Massachusetts

Massachusetts General Laws, chapter 7, section 23B, directs food procurement for state agencies, colleges and universities. The statute instructs agencies, colleges and universities to prefer products grown in the Commonwealth. The statute also directs these entities to make reasonable efforts to facilitate the purchase of such products. State agencies in particular are permitted to purchase food products grown in Massachusetts over those from other states as long as the price is not more than 10 percent higher than that of the out-of-state product.

Additionally, Executive Order 515 requires state agencies to purchase environmentally preferable products and services, which include “products and services that: contain recycled materials; conserve energy or water; minimize waste; are less toxic and hazardous; reduce the generation, release, or disposal of toxic substances; protect open space; and/or otherwise lessen the impact of such products or services on public health and the environment.”⁴⁷ While untested, it could be argued that this executive order provides a further preference for state-sourced foods, because of the beneficial impacts of local agriculture, among other things, on protecting open space.

New Hampshire

During consideration of a state Farm to Plate initiative in 2013 (Senate Bill 141), the New Hampshire legislature debated inclusion of a local purchasing preference. The legislation is still pending.⁴⁸

Rhode Island

Rhode Island General Laws section 37-2-8 provides: “When foodstuffs of good quality grown or produced in Rhode Island by Rhode Island farmers are available, the purchasing agent is directed to purchase those foodstuffs at the prevailing market prices when any of those foodstuffs are required by the state institutions.”⁴⁹ Because the statute was not widely implemented, in 2012, the Rhode Island General Assembly enacted legislation creating an Interagency Food and Nutrition Policy Advisory Council, made up of leaders of the departments of Health, Environmental Management, and Administration.⁵⁰ The council is responsible for identifying and addressing regulatory and policy barriers to developing a strong sustainable food economy and healthful nutrition practices. One of the council’s first projects was to determine how much the state spends on food procurement. This figure — \$10 million — served as a good springboard for the council to take action to facilitate directing that money toward local food procurement. A subcommittee has been crafting potential changes to the state procurement policy before the next cycle for state food purchasing.⁵¹

Vermont

In 2007, Vermont directed state agencies to “develop a system of local food and dairy purchasing within state government and government-sponsored entities.”⁵² The Vermont Farm to Plate Strategic Plan, released in January 2011, included a recommendation to enforce the existing statute, since there is as yet no infrastructure or policy mechanism in place to do so.⁵³ Additionally, 29 Vermont Statutes Annotated section 903 requires the state commissioner of buildings and general services to consider life cycle, transportation costs and the minimization of solid waste and pollutants in any purchasing decision. This policy may provide an additional mechanism for preferring foods sourced from within the state or the region, similar to the Massachusetts executive order discussed above. Further analysis of this approach is needed.

ENABLING LOCAL PROCUREMENT PREFERENCES

Across the region, food-buying decisions for K-12 public schools are made by the individual school, the local school district or a combination of the two. K-12 public schools may receive both financial assistance and food products from the federal government through several programs, including the National School Lunch Program, the National School Breakfast Program and the USDA Foods Program. The level of assistance depends on the number of children participating in school nutrition programs, and those eligible under federal guidelines for free or reduced-price meals. Most school food service programs must be self-supporting, meaning they must balance their budgets with the financial assistance and food they receive from the USDA and with any additional revenue they generate from school food sales.

The 2008 Farm Bill included a provision directing the U.S. Secretary of Agriculture to encourage institutions operating federal Child Nutrition Programs, including schools participating in the school lunch and breakfast programs, to purchase “unprocessed locally grown and locally raised agricultural products.”⁵⁴ This provision allows institutions to apply an optional geographic preference in the procurement of fresh or lightly processed (frozen, cut, ground, etc.) agricultural products. This preference option applies to all of the federal Child Nutrition Programs that provide meals and snacks, including the National School Lunch and School Breakfast programs, which alone account for nearly \$400 million annually in the region.⁵⁵ According to some interviewees and reviewers, this farm bill provision is important in giving the region’s schools the formal authority to buy locally.⁵⁶

The federal geographic preference may be expressed as a percentage — such as a 10 percent price preference — or points (such as an additional 10 points in the overall scoring criteria used to evaluate bids). There is no maximum preference percentage or points, but the preference must leave an appropriate number of qualified firms to compete for the contract.⁵⁷ The USDA does not define the geographic area of “local”; this decision is left to the school purchasing agent.⁵⁸ For purchases of less than \$150,000, schools are not required by the federal government to go through the formal bid process.⁵⁹ Even for bids below this threshold, however, schools must solicit more than one bid. Additionally, a state or school district may set a lower threshold than the \$150,000 imposed by the USDA

for formal bids. School purchases under the USDA Foods Program, the Fresh Fruit and Vegetable Program, and the Department of Defense Fresh Program are treated differently. For more information about these three programs, see the Institutional Markets section, below.

Massachusetts is the only state in the region with statutory language that enables municipalities to prefer local food. Massachusetts General Laws, chapter 30B, section 20, allows any governmental body in Massachusetts to elect to use a percent price preference for in-state products, as long as the preference is advertised and is no more than 10 percent above the price of comparable out-of-state products. The preference must be adopted by majority vote of a governmental body.⁶⁰ For individual purchases less than \$25,000, the language also enables a procurement officer for any local government, including school districts, to purchase local agricultural products directly from Massachusetts farm businesses without seeking quotes required under the normal bidding process. This preference has been adopted by a number of towns around the state.⁶¹ This statutory language may be in conflict with the USDA Food and Nutrition Service bid requirements outlined above.

Recently, a number of organizations have voiced concern about whether an international trade agreement currently being negotiated by the U.S. Trade Representative could impact continued use of state and local food procurement preferences. According to the Institute for Agriculture and Trade Policy, American and European Union negotiators to the Transatlantic Trade and Investment Partnership (TTIP) are considering language that may limit or prohibit federal, state and even local government procurement preferences, considering these preferences as “localization” barriers to trade.⁶²

Action

Research and Analysis,

- An analysis of each state’s procurement and purchasing policies could help policymakers and advocates evaluate and strengthen their policies as related to food and agricultural products from the state. In its analysis of the Massachusetts statute, the Harvard Food Law and Policy Clinic suggested considering whether:
 - » The policies are mandatory or optional;
 - » The statute sets out rules to enforce the preference or leaves this task to state agencies;

- » There is an enforcement mechanism;
- » The policies include state colleges and universities or only state agencies; and
- » The language makes it explicit that food service management companies operating at state institutions are subject to the statute.⁶³
- In 2013, the USDA published its first Farm to School Census, aimed at establishing a national baseline of farm to school activities at K-12 public schools.⁶⁴ One of the questions in the census asked respondents to indicate the percentage of food expenditures that went toward locally produced food, including fluid milk. Available census data provides some insights about the extent of local procurement by school districts. State policymakers and advocates around the region have an opportunity to work with the USDA's Food and Nutrition Service to increase the response rate and quality of information gathered through the next census, in 2015.⁶⁵
- Evaluate whether state procurement preferences for environmentally preferable products can and/or should be used to support procurement of in-state or New England-sourced food.
- Develop a tiered regional procurement preference that could be adopted by each of the six New England states, where in-state food products receive the highest preference, regional food products receive a lesser preference, and out-of-region food products receive no preference.⁶⁶ Further research is needed on the constitutionality of such preferences to avoid running afoul of the dormant part of the U.S. Constitution's Commerce Clause.⁶⁷
- Explore the use of rebates or so-called volume-discount practices, which are widespread in the food management industry and appear to be a barrier to institutions sourcing more local and regional food. Under these arrangements, food management companies receive rebates from vendors and distributors in exchange for purchasing a certain amount from a particular company. This practice incentivizes the use of large, typically national, vendors and distributors, as purchasing a high percentage of food from the prime vendor leads to more rebates.⁶⁸

Policy Options

- The Harvard Food Law and Policy Clinic describes tiers of procurement policy types:⁶⁹
 - » Those that give in-state products a “tie goes to local” preference: If all other factors— including quality, quantity and cost — are equal, the state entity will purchase the local product.
 - » Those that go one step further than the “tie goes to local” laws, requiring a comparison of the bid price when in-state bidders are competing against out-of-state vendors. These policies either provide a differential cost preference to in-state bidders by a set percentage and/or increase the bid price of out-of-state bidders by a set percentage.
 - » An alternative procurement mechanism could be a statutory target requiring state agencies, colleges and universities to purchase a certain percentage of their food from local sources, without specifying the means by which they need to reach those targets. This type of preference has been adopted by a number of states, including Illinois. According to the Harvard clinic, this alternative has the advantage of explicitly including food management companies, which may otherwise assert that the preference is not applicable to a private company.
- Consider strengthening state procurement statutes and policies to:
 - » Go beyond the “tie goes to local” preference to include a differential cost preference for in-state foods, or to create a statutory local food target;
 - » Expressly include state colleges and universities, as well as state prisons, where they are not already included;
 - » Clarify where not included now that any preference applies to any entity procuring food for a state institution, including distributors and food management companies;
 - » Have an agency, organization or university create a method to track purchases of local food where those purchases are not already tracked, in order to measure the impact of and compliance with state regulations; and
 - » Allow the purchase of local agricultural products directly from farm businesses without seeking quotes through the normal bidding process, as long as the purchases are worth less than \$25,000 each, for example. States could establish this kind of small purchase threshold for state money spent on school breakfast, lunch and snack programs.
- Encourage state agencies, prisons, colleges and universities to split contracts between local, regional and

nonlocal foods to accommodate local growers. Most state entities use one contract to procure all of their food, a practice that precludes local producers from successfully bidding on the contracts because certain food products cannot be sourced locally.

- Consider adopting a regional procurement preference by all six New England states. For more information about regional procurement preferences, see the above Research and Analysis section.
- Consider what role state government can play in educating students about diet and nutrition. Such education could include a focus on the climate implications of current diets and on what crops and foods can lead us into the next century, based on resource limitations and human health needs.⁷⁰
- Urge the U.S. Trade Representative and Members of Congress to reject procurement commitments in international trade agreements that would limit the ability of state and local governments to institute local and regional food procurement preferences.

4.3 RETAIL MARKETS

Introduction

New England consumers shop at farm stands, farmers' markets and participate in CSA programs because of taste and to support their local farms and farmers. A recent market analysis study commissioned by the Rhode Island Agricultural Partnership found that 99 percent of respondents believed that the food purchased at farm stands and farmers' markets is "fresher and tastes better than food purchased at grocery stores" (76 percent felt that this was strongly the case). The same study showed that 97 percent of respondents come to farm stands and farmers' markets to support local farmers.⁷¹

The growth of direct-to-consumer marketing through farmers' markets, farm stands and CSA farms has led to new and revised state and municipal policies, largely around food safety. These policies are often difficult for farmers to navigate; state and local authority may overlap and be inconsistent, and municipal regulations may differ from town to town. Several interviewees discussed the need for regulatory reform in this area, reducing the number of inconsistent state and local regulations

affecting the sale of local farm and food products directly to consumers.

Direct retail marketing is also expanding consumer access to healthy food.⁷² Farmers' markets have been established in many of the region's food deserts, and nutrition incentives are helping to stretch low-income consumers' buying power at these markets. Electronic benefit transfer (EBT) machines are making it possible for recipients of federal and state nutrition programs to use their benefits at farmers' markets, farm stands and mobile produce trucks. Federal, state and, in some cases, municipal funding has been critical to these efforts; additional federal policy changes could have an even greater impact in this regard.

The vast majority of food that consumers buy to prepare at home continues to come from the region's grocery stores.⁷³ The Vermont Farm to Plate Strategic Plan notes that "the business model of supermarkets, warehouse clubs, and supercenters requires low pricing, scale, standardization, and fees to gain access to shelf space. All of these criteria work against the capabilities and interests of small farmers and processors."⁷⁴ The Rhode Island Agricultural Partnership market survey, however, found that consumers have a lower level of satisfaction with the quality of food purchased at chain supermarkets than at farm stands and farmers' markets: 71 percent of respondents ranked their satisfaction with supermarket food in the range of 8 to 10, whereas 93 percent ranked their satisfaction with food from farm stands and farmers' markets in that range.⁷⁵ Traditional supermarkets have also been losing market share to stores that focus on local, fresh, natural and organic foods. A recent annual survey of Vermont grocers found that 38 percent of respondents indicated they had increased the amount of shelf space devoted to local food over the last five years.

Continuing to encourage direct-to-consumer sales is important for farm profitability. According to the USDA's Economic Research Service, farmers received only 14.1 cents of every dollar spent on food in 2010, while everything else — including processing, distribution and retailing—accounted for 85.9 cents. The farmer's share decreased 50 percent from 1993 to 2010.⁷⁶ Exploring how farmers in the region can offer more prepared foods will also be important, as Americans now spend nearly half of their food dollars on food prepared away from home.⁷⁷

Discussion

STATE DEFINITIONS OF “LOCAL”

Many states in the region define the terms “local” and “native” for use in farm product marketing:

- In Connecticut, farm products produced in the state or within a 10-mile radius of the point of sale may be advertised as native, native-grown, local or locally grown.⁷⁸
- In Maine, farm produce labeled as native, native-grown or locally grown must be grown in Maine.⁷⁹
- New Hampshire statutes require that any product labeled as native, local, locally grown or “our own” must be grown or produced within the state.⁸⁰
- According to Vermont statutes, local and locally grown can refer to any product originating in Vermont or within 30 miles of the place where it is sold.⁸¹ The Farm to Plate Strategic Plan defines local as a product originating in Vermont plus 30 miles from the state border.

FARMERS’ MARKETS AND FARM STANDS

Around the region, farmers’ markets continue to grow in popularity. According to the USDA’s Agricultural Marketing Service, the number of markets in the Northeast increased by nearly 15 percent in 2012.⁸² In Vermont, the number of farmers’ markets more than doubled in a ten-year period, from 2,756 in 1998 to 7,175 in 2011.⁸³

Convenience and product selection are important factors for consumers when purchasing from farmers’ markets. The Rhode Island Agricultural Partnership survey found that consumers perceive farm stands’ and farmers’ markets’ locations, hours of operation, and diversity of products as constraints.⁸⁴ Respondents said these convenience issues, rather than higher prices, are what keep them from shopping more frequently at farmers’ markets and farm stands.⁸⁵

States across the region have recognized the importance of farmers’ markets and retail farm stands and have created programs to support both, through marketing campaigns, guides for farm market managers and financial support. While advocates have worked with state officials to revise local and state regulations to better support these direct-to-consumer outlets, there are still some barriers that hinder growth in these retail markets.

DEFINITIONS AND CRITERIA: FARMERS’ MARKETS

Individual farmers’ markets vary widely in their rules, including restrictions on the origin of products and the sale of products not grown by the farmer vendor. Markets that require a high percentage — in some cases 100 percent — of products sold there to be raised or processed on the vendor’s farm are seen by many farmers as overly restrictive. Many farms rely on other farms to augment their product offerings. Especially in lower-volume markets, allowing a farm vendor to bring a wider variety of products enhances product availability for consumers and the viability of that market or the vendor. Additionally, farms increasingly look to farms in nearby towns, counties or states to supplement their own crops when they do not have sufficient product, either because of a late or poor harvest or increased customer demand. Allowing this flexibility is extremely important to farmers and appears to be important to consumers.

States in the region have generally not preempted local market rules, but some have statutorily defined farmers’ markets and established some criteria:

- Connecticut statutes define a “certified farmers’ market” as one that has two or more farmers selling Connecticut-grown fresh, non-processed fruits and vegetables. Certified farmers’ markets may be either “producer only” or “exempt.” Producer only markets are markets where farmers bring only what they produce. In exempt markets, farmers may purchase products from another Connecticut farmer and resell them to meet demand, or provide a product they do not grow. At exempt markets, the farmers must be in agreement about these conditions, fill out an application and return it to the Connecticut Department of Agriculture prior to the start of the market.⁸⁶ Although markets are not required to be certified, only those that are certified are able to participate in Department of Agriculture programs, including the state farmers’ market brochure and Farmers’ Market Nutrition Program. Certified markets provide participating farmers the use of the farmers’ kiosk designation. This designation allows exempt items, such as jams, jellies and acidified foods, to be sold at certified farmers’ markets. Without this designation, off-farm sales of these products are prohibited.⁸⁷

- Maine statutes define a farmers' market as two or more farmers directly selling farm and food products to consumers. At least 75 percent of the products offered by a farmer must be "grown or processed by that person or under that person's direction." Any product not grown or processed by the farmer must be directly purchased from another farmer, and the name and location of the farm must be identified on the product or on a sign in close proximity to the displayed product.⁸⁸
- Massachusetts policy states that a market must have farmers primarily selling products grown, produced or raised by the farmers; there is no required percentage of product that must be grown by the farm seller.⁸⁹
- New Hampshire defines a farmers' market as two or more vendors selling commodities that must include, but are not limited to, agricultural products.⁹⁰
- Rhode Island defines a farmers' market as a place where two or more farmers are "selling produce exclusively grown on their own farms on a retail basis to consumers."⁹¹ Farmers who want to participate in the markets administered by the Rhode Island Division of Agriculture must follow rules stating that all products must be grown in the state, and vendors must identify any produce they are selling that they did not grow themselves.⁹²
- For the purposes of the Vermont Farmers' Market Association, a farmers' market is defined in statutes as an event at which two or more vendors of agricultural products sell their agricultural products to the public.⁹³

DEFINITION AND CRITERIA: FARM STANDS AND STORES

How a farm stand or store is defined in state law or through municipal regulations affects the type of food and farm products that a farm business can offer in these venues. In turn, this affects farm profitability. Some states define retail farm stands and farm stores in their state zoning statutes. Where state law has not preempted local zoning in this area, municipalities can and often do impose both physical and marketing limits on farm stands and stores in ways that distinguish them from purely commercial retail establishments. As farm businesses have developed farm stands and farm stores into venues with more offerings, such as prepared foods, the line between agricultural and commercial has become increasingly blurred.

New Hampshire law declares, "A farm roadside stand shall remain an agricultural operation and not be considered

commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner."⁹⁴ Some municipal ordinances require a higher percentage of products sold be produced from the farm to qualify as a farm stand.

In Massachusetts, the state's zoning statute includes an agricultural exemption, ensuring that towns do not unreasonably regulate commercial agriculture. Under that exemption, a retail stand located on a farm is exempt from local zoning requirements if at least 25 percent of the products offered are produced from the farm and at least 50 percent are from Massachusetts.⁹⁵ In both Connecticut and Rhode Island, where no similar state standard exists, agriculture advocates have developed and encouraged towns to adopt specific standards around farm stands and stores, with mixed results.⁹⁶

NUTRITION PROGRAMS AND INCENTIVES AT FARMERS' MARKETS, FARM STANDS AND COMMUNITY SUPPORTED AGRICULTURE FARMS

Two important federal nutrition programs enable and encourage participants to use their benefits to purchase local food, primarily fruits and vegetables, at retail venues such as farmers' markets, farm stands and CSA farms. Both of these programs are run in conjunction with state agencies. In Connecticut and Massachusetts, they are connected to the departments of agriculture; in Maine and Rhode Island, with the departments of health and human services; and in Vermont, with the Department for Children and Families.⁹⁷ These programs are:

Women, Infants and Children Farmers' Market Nutrition Program

The Women, Infants and Children (WIC) Farmers' Market Nutrition Program (FMNP) enables WIC recipients to spend their benefits on fresh, locally grown fruits, vegetables and herbs. State agencies can limit sales to specific foods grown within their state to encourage FMNP recipients to support local farmers. The FMNP benefit level must be at least \$10 and cannot be more than \$30 per year, per recipient. However, state agencies may supplement the federal benefit level with state, local or private funds. Federal funds support 100 percent of the food costs and up to 70 percent of the costs of administering the program. States must contribute at least 30 percent of the administrative costs. WIC recipients get coupons that

may be redeemed at farmers' markets or farm stands, but not at CSA farms. New Hampshire is the only state in the region that has discontinued participation in this program. In fiscal year 2012, \$16.5 million was appropriated nationally for the Farmers' Market Nutrition Program.⁹⁸

Senior Farmers' Market Nutrition Program

The Senior Farmers' Market Nutrition Program (SFMNP) awards grants to states to provide low-income seniors with coupons that can be exchanged for eligible foods, including fruits, vegetables, honey and fresh-cut herbs, at farmers' markets, roadside stands and CSAs. Generally, the federal benefit level must be at least \$20 per year, but not more than \$50 per year, regardless of whether it is for an individual or household. Certain state agencies, however, were grandfathered into the program using a different benefit level. State agencies may also supplement the federal benefit level with state, local or private funds. All New England states participate in this program. The 2008 Farm Bill provided \$20.6 million annually for the program.⁹⁹

Redemption rates are typically higher for the SFMNP than for the WIC Farmers' Market Nutrition Program.¹⁰⁰ According to state Division of Agriculture Chief Ken Ayars, this is certainly true in Rhode Island, where the 2013 SFMNP redemption rate was 81 percent. Chief Ayars credits, in part, a state-funded traveling farmers' market that visited 14 senior meal sites, making it convenient for seniors to redeem their coupons.¹⁰¹

While the USDA's Community Food Projects Competitive Grants Program is not a nutrition incentive program, it has provided funding to private nonprofit entities in need of a one-time infusion of federal assistance for multipurpose community food projects aimed, in part, at expanding food access.¹⁰² About \$5 million per year was authorized for the program in the 2008 Farm Bill. One example of the type of projects funded by this program is the Franklin County Community Development Corporation in Massachusetts. In 2012, it received a three-year, \$294,000 grant to partner with Greenfield Community College, Just Roots community farm and the regional employment board to provide more farm-based internship opportunities for students and more fresh and processed food for both local schools and food pantries.¹⁰³

ELECTRONIC BENEFIT TRANSFER TECHNOLOGY

In the past few years, significant state and federal resources have been devoted to increase the use of EBT machines at farmers' markets and farm stands. EBT machines allow SNAP beneficiaries to use their benefits toward purchases at farmers' markets and farm stands. Both House and Senate versions of the next farm bill would also allow the use of EBT to prepay shares in CSA farms, allowing SNAP beneficiaries to participate in CSA programs for the first time.

In each of the New England states, a Double Value Coupon Program is leveraging additional state, local and private dollars to stretch the purchasing power of consumers eligible for FMNP, SFMNP and SNAP. These programs, pioneered by the nonprofit organization Wholesome Wave, are run in conjunction with local partners in 26 states and at more than 300 venues. The Double Value Coupon Program gives participants an incentive to spend their federal nutrition benefits on fresh, locally grown, healthy food.¹⁰⁴ These nutrition incentive programs have had a positive impact both on nutritional health and farm viability. In 2012, more than 40,000 Double Value Coupon Program participants generated \$2.4 million in revenue, with 90 percent of participants indicating that they had increased or greatly increased their consumption of fresh fruits and vegetables.¹⁰⁵ Federal benefits and Double Value Coupon Program sales accounted for 27 percent of the total market sales of the 3,200 participating farmers. Importantly, 12 percent of participating farmers increased production or acreage to meet this demand.¹⁰⁶

LARGE RETAIL

Outside of food safety requirements, public policy has traditionally played little role in how local and regional food flows through the region's grocery chains and stores. Public investments have helped some farmer cooperatives develop branded products and marketing campaigns that have led to expanded supermarket sales. Other public investments have helped cooperatives build or improve aggregation and distribution infrastructure needed to meet supermarket volume and delivery requirements. Federal funding for this purpose has come through Rural Business Enterprise Grants, Rural Business Opportunity Grants, Value-Added Producer Grants, Business and Industry Guaranteed Loans, and the Specialty Crop Block Grant Program.¹⁰⁷ Maine's Agricultural Marketing Loan Fund and Vermont's Working Lands Enterprise Fund are state-level examples of programs helping farmers meet

the challenges of scaling up to meet large retail and wholesale markets.¹⁰⁸

In 2010, the Obama administration created a federal Healthy Food Financing Initiative to promote a range of interventions to expand access to nutritious foods. One such intervention was to develop and equip grocery stores and other small businesses and retailers to sell healthy food in food deserts. The initiative has funded many projects in the region, including a grant to the Madison Park Development Corporation, which will develop a full-sized supermarket in the Roxbury neighborhood in Boston, Mass.¹⁰⁹

Similar funding is being proposed at the state level in Massachusetts to leverage Healthy Food Financing Initiative dollars. Legislation based on the recommendations of a statewide Grocery Access Task Force would authorize community development financial institutions to develop and implement flexible financing programs, including loans, grants and technical assistance to support the development, renovation and expansion of food stores, farmers' markets and other retailers selling healthy food in underserved communities.¹¹⁰ According to the Massachusetts Public Health Association, the program authorized by the bill would be flexible enough to address community-specific needs, such as building a supermarket in a community where none currently exists; renovating a corner store to allow for storage and display of fruits and vegetables; promoting a farmers' market serving seniors; and developing mobile markets.¹¹¹ This legislation would appear to enable, though not prioritize, projects aimed at expanding access to foods sourced from the region.

FOOD SAFETY AND RETAIL SALES

States and municipalities around the region take different approaches in the regulation of farm and food products sold at farmers' markets, farm stands and other retail venues. There has been little regulation to date around the sale of fresh produce, but this will change under the federal Food Safety Modernization Act. (For more information about the Food Safety Modernization Act, see Produce, section 3.1, chapter 3.) The retail sale of milk and dairy products, meat, seafood, poultry, eggs and processed foods are typically regulated already. Below are some of the state statutes and regulations that govern the sale of foods at farmers' markets, farm stands and farm stores.

Processed Farm and Food Products

- In Connecticut and Massachusetts, local health departments or boards of health are responsible for licensing and inspecting any establishment that prepares food — including goods prepared in farm home kitchens — for sale to the public. As a result, regulations and enforcement are not consistent and vary across both states. Farmers have voiced concern that some local regulations are too restrictive. In 2011, legislators in Connecticut took a first step to address the perceived burden on farmers working with various and sometimes inconsistent local boards of health. Legislation (Public Act 11-191) eased the permit process for farmers who sell at multiple markets in various municipalities. The revision makes a farmer's permit or license to operate a food service establishment portable from one health district to any other in the state¹¹²
- The sale of processed foods is regulated at the state level in Maine, Rhode Island and Vermont. In Maine, the Department of Agriculture issues permits that may be needed for baked goods as well as for pickles, jams, salsa and other acidified food. The agency determines if these items may be processed in a home kitchen or whether the producer needs a commercial processing license. The agency also issues the mobile vendor license to sell from farmers' markets.¹¹³ Departments of health have this authority in Rhode Island and Vermont.
- In New Hampshire, there is mixed regulation. Sixteen cities and towns are self-regulating municipalities with local health officers who set regulations governing the sale of processed foods and license any retail food establishments, including farmers' markets.¹¹⁴ The processing and sale of these foods in all other municipalities in the state is regulated by the New Hampshire Department of Health and Human Services. Under these state regulations, the processing and sale of products from a home kitchen does not require a license for certain baked goods, pies, jams and jellies if that producer's annual gross sales are less than \$10,000.

Dairy products, meat, poultry and eggs

- Dairy products, meat, poultry and eggs are typically allowed to be sold at farmers' markets. Each state defines what it permits differently:
 - » Statutes in Connecticut allow for the sale of a range of farm products — including meat, milk and cheese — at “certified farmers' markets.”¹¹⁵

- » Under Maine statutes, any “farm and food products,” which include any agricultural product such as “fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products,”¹¹⁶ are allowed to be sold at farmers’ markets.
- » Massachusetts allows the sale of farm products, including eggs, dairy products, meat and poultry.¹¹⁷
- » In New Hampshire, statutes allow the sale of agricultural products including eggs, dairy products, meat and poultry.¹¹⁸
- » Rhode Island also allows the sale of eggs, dairy products, meat and poultry.¹¹⁹
- » Under Vermont statutes, sales of agricultural products, including dairy, livestock, and poultry, are allowed at farmers’ markets.¹²⁰

LOCAL FOOD SOVEREIGNTY

Several municipalities in Maine have enacted food sovereignty bylaws. For example, the town of Blue Hill passed the Local Food and Community Self-Governance Ordinance of 2011.¹²¹ The goal of such bylaws is to enhance a community’s production of, and access to, locally grown food. Among other things, these bylaws often exempt local food producers and processors from licensure and inspection requirements. The efficacy of such laws, however, is uncertain. A farmer in Blue Hill tried to use that town’s ordinance to sell raw milk without a Maine state license. A Superior Court ruled that, even if the local ordinance applies to raw milk sales, state law requiring licensure of raw milk dairies preempts it.¹²² More test cases will likely come before the courts.

Action

Support for Existing Programs

Federal

- The USDA’s Farmers Market Promotion Program helps communities support local food systems through direct marketing. This includes farmers’ markets, roadside stands, community supported agriculture, agritourism and other direct-to-consumer marketing opportunities. The program funded nine different projects in New England in 2012, many of which expanded EBT use at farmers’ markets. With the expiration of the 2008 Farm Bill, the Farmers Market Promotion Program is without authorization or funding as of this writing, in early 2014. Under the pending Senate and House farm bills, the Farmers Market Promotion Program would be renamed the Farmers Market

and Local Food Promotion Program and would be expanded to include local food sales to retailers and institutions.

State

- The Rhode Island Agricultural Partnership market survey found that convenience is more of a factor than price for consumers with regards to farmers’ markets. Accordingly, states should continue to support the promotion and development of farmers’ markets, with a special eye toward enhancing location, hours of operation and diversity of products. Mobile markets appear to be important to improving consumer access.
- Continue support for state programs that are helping farmers with the business plans and infrastructure needed to develop retail opportunities.
- Where they are not doing so now, states should consider providing additional funding for Double Value Coupon Programs, since these initiatives have a positive impact on both nutritional health and the economic viability of local farms.

Research and Analysis

- Explore using forward contracting and supply agreements — which offer growers greater price certainty — with retail and institutional buyers to see if these instruments spur additional production, especially of fruits and vegetables.

Policy Options

- While uniform food safety and health regulations around farm retail opportunities would be valuable for farmers, such a goal may be difficult to achieve in states with a history of local control of these issues. A bill in Massachusetts offers a compromise to help ensure that municipal health regulations governing agriculture are written with an understanding of agriculture. House Bill 754 creates a system by which municipal board of health regulations affecting agriculture are submitted for review and approval by a municipal agricultural commission. In communities without a local agricultural commission, the state Department of Agricultural Resources, under the guidance of an advisory committee of public health and agriculture experts from the private and public sectors, would serve this role. A hearing on the bill was scheduled for June 2013, but no further action has been taken.

- Uniform state zoning standards for farm stands and farm stores, or model regulations for towns, could help municipalities that do not have the capacity to pay for professional planners.
- The federal Healthy Food Financing Initiative and similar state financing programs, such as proposed in Senate Bill 380 in Massachusetts, should give priority to projects that offer a double bottom line of expanding access to healthy food for underserved communities and expanding market opportunities to farmers in the state or the region. Consider the relevance of benefit corporation legislation as well.
- The Senate version of the 2013 federal Farm Bill provides a significant expansion of federal nutrition incentives, creating Hunger-Free Communities incentive grants through the existing Hunger-Free Communities Program. This incentive program would provide an average of \$20 million annually over the next five years to increase SNAP participants' purchase of fruits and vegetables at direct-to-consumer markets. Organizations carrying out the program must secure matching funds, as the federal share cannot exceed 50 percent of the cost of carrying out the activity. Priority will be given to projects that:
 - » Maximize the share of funds used for direct incentives to participants;
 - » Use direct-to-consumer sales marketing;
 - » Demonstrate a track record of designing and implementing successful nutrition incentive programs that connect low-income consumers and agricultural producers;
 - » Provide locally or regionally produced fruits and vegetables; and
 - » Are located in underserved communities.
- The House version of the current farm bill provides far less funding for nutrition incentives — \$5 million — within the Community Food Projects program.¹²³
- The Senate version of the federal farm bill reauthorizes the Senior Farmers' Market Nutrition Program and continues mandatory funding of \$20.6 million annually. (The Farmers' Market Nutrition Program is authorized under separate legislation.) The House version essentially melds the two programs, which is likely to result in reduced funding overall. States that currently are not participating in the Farmers' Market Nutrition Program should be encouraged to participate.
- States not already doing so should consider allowing the use of WIC cash value vouchers at farmers'

markets. Doing so would allow WIC participants to spend any of their fruit and vegetable allotment each month at farmers' markets instead of only at retail stores. The WIC cash value voucher is a monthly benefit and is available to all WIC participants in all states.

4.4 INSTITUTIONAL MARKETS

Introduction

New England's institutions — including colleges, universities, public and private schools, day care and health centers, assisted living facilities, hospitals, prisons and government and corporate dining facilities — purchase more than \$2 billion in food annually.¹²⁴ Increasing the percent of locally and regionally grown food purchased by these institutions could have a significant economic impact on New England. Data produced by food system analyst Ken Meter shows that a 20 percent increase in the local food served in New England's public schools could return an additional \$30 million to the region's farm economy.¹²⁵ The Northeast Organic Farming Association of Vermont's recent institutional purchasing study identified more than \$11 million in spending that could be replaced with local fruits, vegetables and eggs.¹²⁶

Across the region, many institutions have made significant strides in sourcing food locally. The University of Massachusetts Amherst, for example, sources more than 28 percent of its produce locally and has been increasing its percentage every year.¹²⁷ According to the dining service staff, sourcing food locally and making its menu more innovative and seasonal has helped the university improve the profitability of its dining service by increasing the number of meal plans sold. The university currently sells 16,075 meal plans even though only 12,000 students live on campus, meaning that 4,075 off-campus and commuter students now purchase meal plans.¹²⁸ USDA's recent Farm to School Census shows a growing number of public schools sourcing food locally. One of them, Vermont's Burlington Supervisory School District, spends 35 percent of its budget on local food.¹²⁹

Still, significant barriers to expanding institutional markets in the region remain. Among those identified by interviewees, the Vermont Farm to Plate Plan and the Harvard Food

Law and Policy Clinic study of Massachusetts' public colleges and universities, include:

- Quantity and seasonality of local and regional food production;
- Buyer requirements for producer food safety certification and product liability insurance;
- Lack of transparency in the food distribution system;
- Actual and perceived cost of locally and regionally grown food; and
- Rebate practices of large, typically national food vendors and distributors, incentivizing food management companies to source a high percentage of food from these vendors and distributors.

While some barriers, such as seasonality, may always exist, state and federal policy shifts are beginning to have an impact on others. More will be needed, though, to scale up local and regional food consumption in institutional settings around the region.

Discussion

FARM TO SCHOOL PROGRAMS

State Programs

Around the region, state farm to school efforts differ in type, programming and degree of state support:

Connecticut

Connecticut has the only farm to school program in the region administered by a state agency. The program was authorized by statute in 2006 and is administered by the Department of Agriculture in collaboration with the Department of Education. It is focused both on developing new markets for local farms and offering fresher, local produce for school lunch programs.¹³⁰

Maine

Maine has a network of organizations that provide farm to school assistance and resources. The state departments of Agriculture and Education provide support to these groups and also helped launch a statewide farm to school e-mail Listserv¹³¹ A compilation of Maine farm to school resources, including information on sourcing, preparing and teaching about local foods is available on the Maine Organic Farmers and Gardeners Association website.

Massachusetts

The Massachusetts Farm to School Project is a non-profit organization that receives some support from the state Department of Agricultural Resources. The project has been matching up schools and farmers since 2004, helping to create sustainable local foods purchasing relationships.¹³²

New Hampshire

The NH Farm to School Program is a collaboration of the University of New Hampshire Sustainability Institute and the New Hampshire Coalition for Sustaining Agriculture. Among other things, the privately funded program helps K-12 schools or distributors serving those schools negotiate simple, affordable systems for purchasing New Hampshire-grown and -produced foods.

Rhode Island

The Rhode Island Farm to School program is now administered by Farm Fresh RI, but originated through and largely gained maturity through the non-profit organization Kids First Rhode Island. The program is supported by the state and funded, in part, through the Specialty Crop Block Grant program.¹³³ Every public school district in the state participates in the program.¹³⁴ The program helps develop successful and sustainable relationships between the state's school food purchasers and farmers, and offers technical assistance to school food service workers to help integrate whole, fresh produce into school meals.¹³⁵

- Good Agricultural Practices and Farm to School: In response to food safety issues, the Rhode Island Department of Environmental Management and the University of Rhode Island developed a state level GAP program ten years ago. It remains one of the few state level GAP programs in the country. The program proved instrumental in fostering the growth of the RI Farm to School Program.¹³⁶ The state's school food service is largely provided through management companies, which, for food safety reasons, often require that foods purchased from farms be only from those that are GAP certified.¹³⁷ This state GAP program has helped enable every school district in the state to source foods from Rhode Island.

Vermont

In Vermont, multiple state agencies and programs work on farm to school efforts, including Vermont Food Education Every Day; the agencies of Agriculture, Health and

Education; Green Mountain Farm to School; Upper Valley Farm to School; and Food Connects. All of these partners focus on developing farm to school programming for the classroom, cafeteria and community.¹³⁸ A recent grant from the Centers for Disease Control and Prevention will enable the Agency of Agriculture to support more programming in this area, including an expanded grant program for schools and regional farm to school projects.¹³⁹ Vermont also has a statewide Farm to School Network that links practitioners through learning experiences and resource dissemination. In addition, strong regional farm to school organizations such as Green Mountain Farm to School, Upper Valley Farm to School and Food Connects provide support to dozens of schools, through educational efforts and distribution of local food.

Federal Programs

- The USDA's Farm to School program, established in 2010 through the Healthy, Hunger-Free Kids Act, is operated by the Food and Nutrition Service, which has a Northeast regional office in Boston. A Farm to School regional lead in that office is available to provide support to state agencies and other entities in the region. The Farm to School program provides \$5 million in annual grants to help school districts across the country further develop relevant programming. New England programs and projects received seven grants during fiscal year 2013, the first year grants were awarded.¹⁴⁰ Recipients included the Vermont Agency of Agriculture — to help focus the efforts of regional food hubs on school food procurement — and the Portland Public School District, which plans to update central kitchen equipment and develop trainings and certifications in order to become a large-volume processor of local foods.
- The Farm to School program recently completed the first-ever National Farm to School Census, surveying local school districts about their farm to school activities, including local food purchases and school gardens.¹⁴¹ The census shows the strength of state and local farm to school programming in New England. In five of the six New England states, more than 75 percent of school districts participate in farm to school activities. The census has detailed information about percentage and types of local food purchases that should be useful to state policymakers in considering additional policy needs and emphases in this area.

USDA FOODS, DEPARTMENT OF DEFENSE FRESH, AND FRESH FRUIT AND VEGETABLE PROGRAMS

As discussed above, public schools that participate in the National School Lunch Program receive both financial assistance and assistance in the form of food products purchased by the USDA. The lunch program provides schools per-meal cash reimbursements, the level of which depends on the number of free, reduced-price or fully paid meals the school serves. The amount of food that a school receives through the USDA Foods Program — its “entitlement value” — is similarly dictated by the number of income-eligible lunches the school serves. Foods received from USDA make up 15 to 20 percent of the food on school lunch plates.¹⁴² Each year the program spends about \$2 billion on food purchases, which, in addition to public schools, are donated to food banks and other feeding organizations.¹⁴³

The USDA Foods Program provides products to schools in two different ways. Through a state coordinator — typically a designee from a state Department of Education — states order from a master list of available foods. Products that do not require additional processing are then shipped to state warehouses. School districts are then notified of the products available and choose what to order, drawing down from their federal entitlement dollars. Because many USDA foods are purchased raw and in bulk, schools often need them processed in some way. Processor selection varies by state: In some states, school districts select which processors they want to use for which products, and the state then contracts with the processors; in others, the state coordinator decides which processors may be used. Districts often purchase additional quantities of the same product from processors, and, in most states, can combine their USDA Foods order with their commercial product processing orders. The processor then invoices districts for the full commercial bid price of each processed case, minus the value of the USDA foods. Most participating processors operate in more than one state and have national agreements with USDA.¹⁴⁴ While some of these processors are located in New England, few are handling food grown in New England.

Many school districts in the region find it challenging to make full use of their USDA Foods entitlement dollars because of what kinds of foods are available and when. Districts must also pay storage and transportation fees associated with USDA foods. As a result, millions of USDA

Foods entitlement dollars have gone unused in the region. In Massachusetts alone, school districts used only a combined 77 percent of the dollars they were entitled to in the 2011-2012 school year, leaving almost \$5.6 million on the table.¹⁴⁵

To address this utilization issue, in 2012 a number of organizations around the region proposed that the USDA Foods Program be modified to give the region's smaller school districts, at their option, cash in lieu of commodities.¹⁴⁶ The proposal, which would have limited the option to school districts with annual commodity entitlement value of \$50,000 or less, envisioned that this approach would both reduce escalating state and federal administrative costs and allow districts more flexibility to purchase fresh nutritious foods from local farmers and food processors.¹⁴⁷ The proposal concerned some who feared that it might jeopardize funding for the program. It also spurred discussions with the USDA about ways to improve program efficiency. A recent study of the USDA Foods Program, conducted by the Harvard Food Law and Policy Clinic and commissioned by Project Bread, made recommendations for improving its use in Massachusetts.¹⁴⁸ The study also suggests areas of further research, including cash-in-lieu options, as well as an example of how state-level processing agreements might be used to support local processors and products sourced in New England.

Because fresh fruits and vegetables are perishable, they make up just 10.5 percent of foods distributed through the USDA Foods Program. The Department of Defense (DoD) Fresh Program was created in the 1990s to address this problem by making use of the department's existing supply chain infrastructure to supply fresh fruits and vegetables to public schools. The DoD Fresh Program offers more than 60 varieties of fruits and vegetables, and schools across the country can use their USDA Foods entitlement dollars to purchase fresh fruits and vegetables through the program.¹⁴⁹ Some New England states, however, place limits on the number of schools and the percentage of entitlement dollars that can be spent through the DoD Fresh Program.¹⁵⁰ In 2011, participation in the program ranged from \$90,000 in entitlement value used in Vermont, to \$2.7 million used in Connecticut. The program uses two contract vendors in New England, and participating schools or state administrators place weekly or monthly orders through an online ordering system.¹⁵¹

A 2012 study of the program done by Farm to Institution New England found that DoD Fresh's ordering system,

FFAVORS, does not effectively communicate the availability of local produce by farm name and state to school food service buyers.¹⁵² The study recommended several ways to improve the ordering system, and the USDA is considering those now. Farm to Institution New England partners and the USDA also are collaborating to improve communication among program administrators and participants across the region and to facilitate involvement by local and regional farmers through educational efforts and introductions to the vendors.

A third federal program, the Fresh Fruit and Vegetable Program, provides funding for a subset of public schools to purchase fresh fruits and vegetables to be served outside of normal school meals. Funding is targeted to elementary schools with high numbers of students eligible for free and reduced-price eligible meals. Participating schools receive between \$50 to \$75 per student per school year. Schools must apply for funding and submit a plan for how the program will be integrated with other efforts to promote sound nutrition and health. The Fresh Fruit and Vegetable Program augments DoD Fresh, and schools can order produce either through the Defense Department's program or directly from local farmers or distributors.¹⁵³

FARM TO INSTITUTION NEW ENGLAND

FINE is a six-state collaboration to strengthen the regional food system by increasing the demand for and use of New England food by New England institutions. FINE sprang from regionwide discussions in 2010 between the state leads for the National Farm to School Network; the six state commissioners and secretaries of agriculture; the New England Commission on Land Conservation and the New England Governors' Conference; the USDA; and private philanthropies. USDA Rural Development provided seed funding for Farm to Institution New England, and that was matched with philanthropic dollars. FINE partners include federal and state agencies, land grant universities and nonprofit organizations.

A number of FINE projects have identified and are addressing key institutional barriers. As mentioned above, a FINE report on DoD Fresh spurred changes in that program's ordering system to help buyers identify local and regional produce. A FINE farm-to-college project is focused in part on procurement changes. (For more information about procurement policies, see the Purchasing and Procurement Preferences section above.) A current

regional supply chain project is designed to influence the purchasing decisions of corporate food service management companies that operate a majority of institutional cafeterias in New England.¹⁵⁴

Another project of FINE is the New England Beef to Institution initiative, which started with a marketing study funded with federal, state and private dollars to assess institutional demand for regionally grown beef. The project also aims to analyze the logistics and infrastructure required to support such demand, and will propose a model that could be replicated in each state to source, process, market and distribute regionally grown beef to institutions. Stakeholders from across New England and from various sectors of the meat industry — including production, processing, distribution and government regulation — are coming together through this project to carry out a work plan of research, education and market development.¹⁵⁵

Action

Support Existing Programs

- State investments in farm to school programming are helping to leverage private resources, expand economic opportunities for farmers and educate children about local food and farming.
- The USDA's Farm to School Program is fostering innovative new approaches and collaborations in the region.
- The USDA Foods Program is providing needed foods, especially proteins, at low costs to budget-sensitive school districts.
- The DoD Fresh Program and the Fresh Fruit and Vegetable Program are improving nutritional health while providing expanded market opportunities for the region's produce growers.
- Continue to support food safety training for producers, such as programs like Rhode Island's GAP, to help farmers meet federal and state food safety standards as well as requirements imposed by some large retail and institutional buyers.

Research and Analysis

- Analyze the USDA Foods Program, including:
 - » State administrative costs associated with the program;
 - » State utilization rates of entitlement dollars, and specific barriers in states or districts with low utilization rates;
 - » Opportunities for state-level agreements with processors in the region;
 - » Opportunities for additional collaboration among school districts to attract regional processors; and
 - » The potential regional economic impact of a voluntary cash-in-lieu-of-commodities option for school districts with an annual commodity entitlement value of less than \$50,000.
- Analyze whether changes to DoD Fresh over the past 18 months have resulted in additional procurement of local and regional fruits and vegetables by New England schools.
- Research the use of forward contracting between farmers and institutions, to encourage farmers to plant specifically for an institutional customer.

Policy Options

- Consider limiting the rebate practices of large food vendors and distributors. Legislation introduced in Massachusetts in 2011 would have required that newly formed contracts between food management companies and colleges and universities disclose any rebates provided by vendors and submit the funds to the respective educational institution. The legislation is under formal review.¹⁵⁶
- Consider repealing limits on the number of schools and the percentage of USDA Foods Program dollars that can be spent on DoD Fresh in states that currently have limits in place.
- Consider tasking a state food policy council or state agency with monitoring implementation and impact of a state procurement policy.

ENDNOTES

- ¹ Bruce A. Sherman, *Connecticut Grown: Preserving its Integrity and Reliability for Success*, Connecticut Weekly Agricultural Report 1, 3 (May 29, 2013), http://www.ct.gov/doag/lib/doag/May_29_2013_EMAIL.pdf.
- ² Vermont Farm to Plate Strategic Plan, Vt. Sustainable Jobs Fund, 98 (May 2013), http://www.vtfoodatlas.com/assets/plan_sections/files/3.1_Understanding%20Consumer%20Demand_MAY%202013.pdf.
- ³ *CT Grown Program*, Conn. Dep't of Agric., <http://www.ct.gov/doag/cwp/view.asp?a=3243&q=398984> (last visited Dec. 27, 2013).
- ⁴ *Supplemental Nutrition Assistance Program: Average Monthly Participation (Persons)*, USDA, <http://www.fns.usda.gov/pd/15SNAPpartPP.htm> (last updated Dec. 6, 2013).
- ⁵ *Markets & Food & The New Hampshire Agricultural Marketing Council, Plan for Developing and Implementing a Buy Local New Hampshire Agriculture Program*, N.H. Dep't of Agric. (2009), <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5077667>.
- ⁶ *Grow Connecticut Farms: Developing, Diversifying and Promoting Agriculture*, Conn. Governor's Council on Agric. Dev., 27 (2012), http://www.ct.gov/doag/lib/doag/boards_commissions_councils/gcf/grow_ct_farms_3_6_2013_low.pdf.
- ⁷ *Id.*
- ⁸ *Commonwealth Quality Massachusetts*, Mass. Dep't of Agric. Resources, <http://www.mass.gov/agr/cqp/sectors/produce/index.htm>; Interview with Michael Botelho, CQP Coordinator at MDAR (July 9, 2013).
- ⁹ *New Hampshire Made Criteria*, <http://www.nhmade.com/membershipcriteria.cfm> (last visited Dec. 27).
- ¹⁰ E-mail Communication with Lorraine Merrill and Gale McWilliams Jelle, N.H. Dep't of Food and Agric. (Dec. 2013).
- ¹¹ Communication with Peter Susi, R.I. Division of Agric. (Jan. 14, 2014).
- ¹² Vermont Farm to Plate Strategic Plan, *supra* note 2, at 118.
- ¹³ Paul Patterson, *State-Grown Promotion Programs: Fresher? Better?*, Choices Magazine (2006), <http://www.choicesmagazine.org/2006-1/grabbag/2006-1-08.htm>.
- ¹⁴ E-mail Communication with John Harker, Director of Market Development, Me Dep't of Agric., Conservation and Forestry (Dec. 2013).
- ¹⁵ *Id.*; see also Connecticut Governor's Council on Agricultural Development, <http://www.ct.gov/doag/cwp/view.asp?a=3595&q=423842>.
- ¹⁶ Get Real. Get Maine!, <http://www.getrealmaine.com/index.cfm/fuseaction/home.showpage/pageID/7/index.htm> (last visited Dec. 27, 2013).
- ¹⁷ John Harker et al., *The Agricultural Creative Economy: A Report to the Second Regular Session of the 123rd Legislature* (Jan. 2008).
- ¹⁸ Rules Governing the Agricultural Development Grant Fund, Conservation and Forestry, Division of Markets and Production Development, Me. Dep't of Agric., Chapter 33, <http://www.maine.gov/sos/cec/rules/01/chaps01.htm>.
- ¹⁹ E-mail Communication with John Harker, *supra* note 14.
- ²⁰ The Rhode Island Local Agriculture and Seafood Act, Pub. L. No. 2102-038 (Apr. 2012), <http://webserver.rilin.state.ri.us/PublicLaws/law12/law12038.htm>.
- ²¹ Dig in Vermont, <http://www.diginvt.com/> (last visited Dec. 27, 2013).
- ²² *Annual Report 2011*, Me. Lobster Promotion Council, 13 (2011) <http://www.lobsterfrommaine.com/pictures/pdfs/6-annualreport2011.pdf>.
- ²³ *Second Annual Report*, R.I. Seafood Marketing Collaborative, 2 (Oct. 2013), <http://www.dem.ri.gov/programs/bnatres/agricult/rismc/2013rep.pdf>.
- ²⁴ *About Us*, Food Export Northeast, <http://www.foodexport.org/AboutUs/content.cfm?ItemNumber=925&navItemNumber=509>.
- ²⁵ *Governor Deval Patrick Signs Executive Order Establishing Public Market Commission*, Office of Gov. Deval Patrick (Aug. 4, 2011), <http://www.mass.gov/governor/pressoffice/pressreleases/2011/executive-order-establishes-public-market-comm.html>.
- ²⁶ *Request for Proposals*, Mass. Executive Office of Energy and Env't'l Affairs (Dec. 2011), <http://www.mass.gov/eea/docs/agr/public-market/docs/rfp-for-public-market-operator.pdf>.

- ²⁷ *Id.*
- ²⁸ *Grow Connecticut Farms: Developing, Diversifying, and Promoting Agriculture*, *supra* note 6, at 24.
- ²⁹ *Id.*
- ³⁰ *Local Hero Program*, Cmty. Involved in Sustainable Agric., <http://www.buylocalfood.org/resources-for-farmers/local-hero-program/> (last visited Dec. 27, 2013).
- ³¹ *Local Hero Membership Benefits*, Cmty. Involved in Sustainable Agric., <http://www.buylocalfood.org/resources-for-farmers/local-hero-program/local-hero-membership-benefits/> (last visited Dec. 27, 2013).
- ³² *Funding Partners*, Cmty. Involved in Sustainable Agric., <http://www.buylocalfood.org/about/funding-partners/> (last visited Dec. 27, 2013).
- ³³ Harvest New England, <http://www.harvestnewengland.org/> (last visited Dec. 27, 2013).
- ³⁴ *Agriculture Reform*, Food and Jobs Act of 2012, U.S. Senate Committee on Agriculture, Nutrition, and Forestry, <http://www.ag.senate.gov/issues/agriculture-reform-food-and-jobs-act-of-2012>; *Farm Bill*, House Committee on Agriculture, <http://agriculture.house.gov/farmbill> (2013).
- ³⁵ *Farmers Markets and Local Food Marketing*, USDA, <http://www.ams.usda.gov/AMSv1.0/FSMIP> (last visited Dec. 27, 2013).
- ³⁶ Harker, *supra* note 17.
- ³⁷ *Id.*
- ³⁸ Interview with Phil Korman, Executive Director at Community Involved in Sustainable Agriculture (July 11, 2013).
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ *Id.*
- ⁴² Harker, *supra* note 17.
- ⁴³ E-mail Communication with George E. Krivda, Jr., Legislative Program Manager, Connecticut Department of Agriculture (Sep. 24, 2012).
- ⁴⁴ Conn. Pub. Act No. 13-177 (June 25, 2013).
- ⁴⁵ 7 M.R.S.A. 8-A § 211 (2007).
- ⁴⁶ See 7 M.R.S.A. 8-A § 214 (2007); e-mail communication with John Harker, Maine Department of Agriculture (Sept. 24, 2012).
- ⁴⁷ *Establishing an Environmental Purchasing Policy*, Exec. Order No. 515 (2009), <http://www.mass.gov/governor/legislationexecorder/executiveorder/executive-order-no-515.html>.
- ⁴⁸ N.H. Senate Bill 141, <http://legiscan.com/NH/text/SB141/id/721696>.
- ⁴⁹ Additionally, R.I.G.L. § 44-30-27 provides an income tax credit to individuals or entities selling local food products to local education agencies.
- ⁵⁰ The Rhode Island Local Agriculture and Seafood Act, *supra* note 20.
- ⁵¹ Communication with Ken Ayars, Chief, Rhode Island Division of Agriculture (Nov. 6, 2013).
- ⁵² No. 38, An Act Relating to the Viability of Vermont Agriculture § 3 (May 21, 2007), <http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2008/acts/ACT038.HTM>.
- ⁵³ *Farm to Plate Strategic Plan: Executive Summary*, Vermont Sustainable Jobs Fund, 44 (July 2011), http://www.vsjf.org/assets/files/Agriculture/Strat_Plan/F2P%20Executive%20Summary_6.27.11_Small%20File.pdf.
- ⁵⁴ *Local Food for Local Government: Considerations in Giving Preference to Locally Grown Food*, ChangeLab Solutions, 5 (2012), http://changelabsolutions.org/sites/phlpnet.org/files/Local_Food_Guide_FINAL_20120328.pdf.
- ⁵⁵ *Program Data: Child Nutrition Tables*, USDA Food and Nutrition Serv., <http://www.fns.usda.gov/pd/cnpmain.htm> (last visited Jan. 28, 2013).
- ⁵⁶ Communication with Dana Hudson, VT FEED and State Lead for the National Farm to School Network (Dec. 10, 2011).
- ⁵⁷ *Procurement Geographic Preference Q&As*, USDA Food and Nutrition Serv., http://www.fns.usda.gov/cnd/Governance/Policy-Memos/2011/SP18-2011_os.pdf (last visited Jan. 13, 2013).

- ⁵⁸ See *id.*
- ⁵⁹ *Id.*
- ⁶⁰ M.G.L.c. 30B § 20 (2012).
- ⁶¹ At least three municipalities have passed a preferential purchasing resolution. Many other school districts reference the state legislation, which allows them to avoid getting quotes for agricultural products. Communication with Simca Horwitch, Massachusetts Farm to School Project (Nov. 7, 2013).
- ⁶² Communication with Karen Hansen-Kuhn, Institute for Agriculture and Trade Policy (Jan. 6, 2013).
- ⁶³ *Increasing Local Food Procurement by Massachusetts State Colleges and Universities*, Harvard Food Law and Policy Clinic, 14–15 (Oct. 2012), <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2011/09/Increasing-Local-Food-Procurement-by-Mass-State-Colleges-FINAL2.pdf>.
- ⁶⁴ *About the Census*, U.S. Dep't of Agric. Food and Nutrition Serv., <http://www.fns.usda.gov/farmtoschool/census#/page/about?scroll=viz2> (last visited Dec. 27, 2013).
- ⁶⁵ *Id.*
- ⁶⁶ See *Tools for Advocates: Increasing Local Food Procurement by State Agencies, Colleges and Universities*, Harvard Food Law and Policy Clinic (July 2013), http://blogs.law.harvard.edu/foodpolicyinitiative/files/2013/08/Local-Procurement-Handout_FINAL_WEB-FRIENDLY.pdf.
- ⁶⁷ Cf. *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1107 (9th Cir. 2013) (holding, in part, that California's low-carbon fuel standard, which seeks to reduce the carbon intensity of fuels sold in the state, does not facially discriminate against out-of-state fuels under the dormant Commerce Clause). The appellate court remanded to the district court to determine whether the standard nonetheless discriminates "in purpose or in practical effect," or "imposes a burden on interstate commerce that is 'clearly excessive' in relation to its local benefits." *Id.* at 1078 (citation omitted). Depending on the case's final outcome, the decision could provide a road map for establishing regional food programs that would be consistent with Commerce Clause requirements.
- ⁶⁸ See *Tools for Advocates: Increasing Local Food Procurement by State Agencies, Colleges and Universities*, *supra* note 66.
- ⁶⁹ *Id.*
- ⁷⁰ For a deeper discussion of this issue, see generally Bret Birdsong, *From Food Miles to Moneyball: How we Should be Thinking About Food and Climate*, 65 Me. L. Rev. 2 (2013).
- ⁷¹ *Market Analysis of Direct to Consumer Sales through Farm Stands and Farmers Markets: Preliminary Findings, Rhode Island Agricultural Partnership*, Acadia Consulting Group (Nov. 2013).
- ⁷² See *Double Value Coupon Program: Increasing Food Access and Local Farm Businesses Nationwide*, Wholesome Wave (2012), <https://docs.google.com/file/d/0B9xO2Xo4OIC4cF80VCIYSzdQY0U/edit>.
- ⁷³ See Vermont Farm to Plate Strategic Plan, *supra* note 2, at 94; see also *Market Analysis of Direct to Consumer Sales through Farm Stands and Farmers Markets*, *supra* note 71 (indicating that chain supermarkets are the place where most respondents shop for food and are also their favorite place to shop).
- ⁷⁴ *Id.*
- ⁷⁵ *Market Analysis of Direct to Consumer Sales through Farm Stands and Farmers Markets*, *supra* note 71.
- ⁷⁶ Vermont Farm to Plate Strategic Plan, *supra* note 2, at 102.
- ⁷⁷ *Id.* at 94.
- ⁷⁸ Conn. Gen. Stat. § 22-38.
- ⁷⁹ 7 M.R.S. § 443-A, <http://www.mainelegislature.org/legis/statutes/7/title7sec443-A.html>.
- ⁸⁰ N.H. Rev. Stat. Ann. § 426:5, <http://www.gencourt.state.nh.us/rsa/html/xl/426/426-mrg.htm>.
- ⁸¹ 9 V.S.A. § 2465a, <http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=09&Chapter=063&Section=02465a>.
- ⁸² *USDA Directory Records More Than 7,800 Farmers Markets National Resource Helps More Americans Connect with Local Farmers*, USDA Agricultural Marketing Service (Aug. 2012), <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateU&navID=&page=Newsroom&resultType=Details&dDocName=STELPRDC5099756&dID=173232&wf=false&description=USDA+Directory+Records+More+Than+7%2C800+Farmers+Markets+++National+Resource+Helps+More+Americans+Connect+with+Local+Farmers&topNav=Newsroom&leftNav=&rightNav1=&rightNav2=>
- ⁸³ Vermont Farm to Plate Strategic Plan, *supra* note 2, at 98.
- ⁸⁴ *Market Analysis of Direct to Consumer Sales through Farm Stands and Farmers Markets*, *supra* note 71.
- ⁸⁵ *Id.*

- ⁸⁶ *Farmers' Market Reference Guide*, Conn. Dep't of Agric. (Apr. 2012), http://www.ct.gov/doag/lib/doag/marketing_files/Complete_FM_Ref_Guide_04-25-2012.pdf.
- ⁸⁷ *Id.*
- ⁸⁸ 7 M.R.S. § 415.
- ⁸⁹ *Policy for Massachusetts Farmers' Markets*, Mass. Dep't of Agric. Resources, <http://www.mass.gov/eea/docs/agr/markets/farmersmarkets/farmers-markets-policy-final.pdf>.
- ⁹⁰ N.H. Rev. Stat. Ann. § 21:34-a.
- ⁹¹ R.I.G.L. § 21-27-1(5).
- ⁹² *Rules and Policies for all DEM/Division of Agriculture Run Farmers Markets*, R.I. Division of Agric., <http://www.dem.ri.gov/programs/bnatres/agricult/pdf/fmrkrule.pdf> (last visited July 7, 2013).
- ⁹³ 6 V.S.A. §§ 5001-02; *VTFMA Membership Benefits*, Vt. Farmers Market Ass'n, <http://www.vtfma.org/index.php/membership> (last visited July 7, 2013).
- ⁹⁴ N.H. Rev. Stat. Ann. § 21:34a(III).
- ⁹⁵ See M.G.L. c. 40A § 3.
- ⁹⁶ *Planning for Agriculture: A Guide for Connecticut Municipalities*. Am. Farmland Trust (2012), http://www.ct.gov/doag/lib/doag/farmland_preservation/_2012_planning_for_ag.pdf; *A Vision for Rhode Island Agriculture: Five Year Strategic Plan*, R.I. Agric. P'ship (May 2011), http://students.cs.uri.edu/~rhodyag/docs/RI_agriculture_5yr_strategicplan.pdf.
- ⁹⁷ *WIC Farmers Market Nutrition Program State Agencies, as of September 2013*, USDA Food and Nutrition Serv., <http://www.fns.usda.gov/wic/Contacts/farm.HTM> (last visited Dec. 27, 2013).
- ⁹⁸ *WIC Farmers Market Nutrition Program Fact Sheet*, USDA Food and Nutrition Serv. (Apr. 2012), <http://www.fns.usda.gov/sites/default/files/WIC-FMNP-Fact-Sheet.pdf>.
- ⁹⁹ *Senior Farmers Market Nutrition Program Fact Sheet*, USDA Food and Nutrition Serv. (June 2012), <http://www.fns.usda.gov/sites/default/files/SFMNP-Fact-Sheet.pdf>.
- ¹⁰⁰ Communication with Ken Ayars, Chief of the Rhode Island Division of Agriculture (Dec. 30, 2013).
- ¹⁰¹ *Id.*
- ¹⁰² *Community Food Projects Competitive Grant Program Project Synopsis*, USDA Nt'l Inst. of Food and Agric., http://www.nifa.usda.gov/funding/cfp/cfp_synopsis.html.
- ¹⁰³ E-mail Communication with John Waite, Director of the Franklin County, Massachusetts Community Development Corporation (Dec. 2013).
- ¹⁰⁴ *Double Value Coupon Program*, *supra* note 72.
- ¹⁰⁵ *Id.*
- ¹⁰⁶ *Id.*
- ¹⁰⁷ For a complete list of funding that has been provided through these programs in the region, see the USDA Know Your Farmer, Know Your Food (KYF) Compass, <http://www.usda.gov/maps/maps/kyfcompassmap.htm>.
- ¹⁰⁸ E-mail Communication with Ned Porter, Policy Director for Wholesome Wave (Dec. 2013); see also Maine Agricultural Marketing Loan Fund, http://www.maine.gov/dacf/ard/grants/agricultural_marketing.shtml (last visited Dec. 27, 2013); Vermont Working Lands Enterprise Initiative, <http://workinglands.vermont.gov/> (last visited Dec. 27, 2013).
- ¹⁰⁹ *FY 2012 CED HFFI projects*, Dep't of Health and Human Serv., <http://www.acf.hhs.gov/programs/ocs/resource/fy-2012-ced-hffi-grantees>.
- ¹¹⁰ Testimony of Maddie Ribble, Massachusetts Public Health Association, in Support of S.360, An Act Relative to Food Trusts, before the Joint Committee on Environment, Natural Resources and Agriculture (Oct. 25, 2013).
- ¹¹¹ *Id.*
- ¹¹² *Farmers' Market Reference Guide*, *supra* note 86.
- ¹¹³ Quality Assurance and Regulations, Me. Dep't of Agric., Food and Rural Resources, <http://www.maine.gov/agriculture/qar/index.html> (July 8, 2013).
- ¹¹⁴ *New Hampshire Self-Inspecting Cities & Towns*, N.H. Dep't of Health and Human Serv. (Oct. 2012), <http://www.dhhs.nh.gov/dphs/fp/documents/selfinspect.pdf>.
- ¹¹⁵ Conn. Gen. Stat. § 22-6r, Pub. Act 06-52.

- ¹¹⁶ 7 M.R.S. § 415.
- ¹¹⁷ See Mass. Dep't of Public Health, Food Protection Program Policies, Procedures and Guidelines 1-4 (Apr. 30, 2013), <http://www.mass.gov/eohhs/docs/dph/environmental/foodsafety/farmer-market-guidelines.pdf>.
- ¹¹⁸ N.H. Rev. Stat. § 21:34-a.
- ¹¹⁹ See *RI Farmers Market Vendor Guide*, Farm Fresh Rhode Island!, http://www.farmfreshri.org/about/markets_vendorguide.php (last visited Jan. 14, 2014).
- ¹²⁰ 11 V.S.A. § 991.
- ¹²¹ Local Food and Community Self-Governance Ordinance of 2011, Town of Blue Hill (effective Apr. 1, 2011), http://www.farmtoconsumer.org/news_wp/wp-content/uploads/2013/05/BlueHill_LocalFoodOrd_2011.pdf (last visited Nov. 4, 2013).
- ¹²² *State v. Brown*, No. CV-11-70 (Me. Super. Ct., Han. Cty., Apr. 27, 2013).
- ¹²³ Ned Porter, *supra* note 108.
- ¹²⁴ Farm to Institution, www.farmtoinstitution.org (last visited Dec. 27, 2013).
- ¹²⁵ *2010 Report to the Governors*, New England Blue Ribbon Commission on Land Conservation, New England Governors' Conference, Inc., 18 (June 2010), http://efc.muskie.usm.maine.edu/docs/2010_clc_report.pdf.
- ¹²⁶ *Scaling up Vermont's Local Food Production, Distribution, and Marketing*, NOFA Vermont, 5 (Oct. 2012), <http://nofavt.org/sites/default/files/F2lreport-exec-web.pdf>.
- ¹²⁷ *Increasing Local Food Procurement by Massachusetts State Colleges and Universities*, *supra* note 63, at 28-29.
- ¹²⁸ *Id.*
- ¹²⁹ The Farm to School Census, <http://www.fns.usda.gov/farmtoschool/census#/district/vt> (last visited Dec. 27, 2013).
- ¹³⁰ Connecticut Farm to School Program, Conn. Dep't of Agric., <http://www.ct.gov/doag/cwp/view.asp?a=2225&q=299424> (last visited Dec. 27, 2013).
- ¹³¹ Maine Profile, National Farm to School Network, <http://www.farmtoschool.org/state-home.php?id=25> (last visited Dec. 27, 2013).
- ¹³² Massachusetts Profile, National Farm to School Network, <http://www.farmtoschool.org/state-home.php?id=27> (last visited Dec. 27, 2013).
- ¹³³ Communication with Ken Ayars, Chief of the Rhode Island Division of Agriculture (Dec. 30, 2013).
- ¹³⁴ *Id.*
- ¹³⁵ Rhode Island Profile, Farm to School Network, <http://www.farmtoschool.org/state-home.php?id=36> (last visited Dec. 27, 2013).
- ¹³⁶ Communication with Ken Ayars, Chief of the Rhode Island Division of Agriculture (Dec. 30, 2013).
- ¹³⁷ *Id.*
- ¹³⁸ Vermont Profile, Farm to School Network, <http://www.farmtoschool.org/state-home.php?id=24> (last visited Dec. 27, 2013).
- ¹³⁹ Vermont Food Atlas, Vt. Sustainable Jobs Fund, 112 (May 2013), http://www.vtfoodatlas.com/assets/plan_sections/files/3.1_Understanding%20Consumer%20Demand_MAY%202013.pdf.
- ¹⁴⁰ *USDA Farm to School FY2013 Grant Awards*, USDA, 12 (2013), http://www.fns.usda.gov/sites/default/files/F2S_Grants-FY2013.pdf (last visited Dec. 27, 2013).
- ¹⁴¹ See *Healthy Habits Take Root*, USDA Farm to School Census, <http://www.fns.usda.gov/farmtoschool/census#/national> (last visited Dec. 27, 2013).
- ¹⁴² *USDA Foods in Massachusetts*, Harvard Food Law and Policy Clinic, 1 (Apr. 2013), <http://blogs.law.harvard.edu/foodpolicyinitiative/files/2013/04/USDA-Foods-in-Massachusetts-FINAL.pdf>.
- ¹⁴³ USDA Food and Nutrition Service USDA Foods Infographic, http://www.fns.usda.gov/sites/default/files/PAMZ_USDA7175_Infographic_06mdFINAL.PDF (last visited Dec. 27, 2013).
- ¹⁴⁴ *USDA Farm to School FY2013 Grant Awards*, *supra* note 140, at 13.
- ¹⁴⁵ *Id.* at 1.
- ¹⁴⁶ Winston Brayley et al., *A 2012 Farm Bill Position Paper 1* (Apr. 2012), https://docs.google.com/file/d/0BwTmCA5JPz4nb2ZKakIDbEZEN28/edit?usp=drive_web.

¹⁴⁷ *Id.* at 3.

¹⁴⁸ See *USDA Foods in Massachusetts*, *supra* note 142.

¹⁴⁹ *Id.*

¹⁵⁰ Communication with Emily Broad Leib, Director, Harvard Food Law and Policy Clinic (Dec. 2013).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Fresh Fruit and Vegetable Program Fact Sheet*, USDA Food and Nutrition Serv., <http://www.fns.usda.gov/sites/default/files/FFVPFactSheet.pdf> (last visited Dec. 27, 2013).

¹⁵⁴ Farm to Institution, www.farmtoinstitution.org (last visited Dec. 27, 2013).

¹⁵⁵ *Id.*

¹⁵⁶ *Increasing Local Food Procurement by Massachusetts State Colleges and Universities*, *supra* note 63, at 24.



www.newenglandfoodpolicy.org

THIS REPORT IS SUPPORTED BY A GRANT FROM
THE HENRY P. KENDALL FOUNDATION