

Maine  
Food Strategy  
Initiative

Pulse Check:  
**Food Policy Report**  
126<sup>th</sup> Maine Legislature



FINAL UPDATE: January 2015

[www.mainefoodstrategy.org](http://www.mainefoodstrategy.org)

## Background on the Report

*In the fall of 2013, volunteers from Maine's Sustainable Food Systems Leadership Institute conducted a review of food-related agriculture and commercial fisheries bills considered during the 1<sup>st</sup> Session of the 126<sup>th</sup> Legislature (December 5, 2012 through July 10, 2013). A draft version of their report was reviewed by the Maine Food Strategy's Research Committee and presented at the Maine Food Summit, University of Maine Orono, on December 10, 2013. The report was updated in February 2014 with input from the public, the original authors and the Maine Food Strategy Research Committee. A final draft of the report was prepared for release in January 2015.*

**For more information about the Maine Food Strategy:**

[www.mainefoodstrategy.org](http://www.mainefoodstrategy.org).

**For more information on the Sustainable Food Systems Leadership Institute:**

[www.nonprofitmaine.org](http://www.nonprofitmaine.org).

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## Acknowledgments

**Thanks to the volunteer *Maine Food Strategy Research Committee* for providing guidance and review for this report.**

Robin Alden | Penobscot East Research Center

Molly Anderson | College of the Atlantic

Monique Coombs | Fisheries Liaison

Mark Lapping | University of Southern Maine, Muskie School of Public Service

Al Leighton | University of Southern Maine, Muskie School of Public Service

Dana Morse | Maine Sea Grant, University of Maine

John Jemison | Cooperative Extension, University of Maine

Tim Waring | University of Maine

*Special thanks to Amanda Beal who served as coordinator for the Research Committee in 2013 and worked with the authors to prepare the first draft in 2013.*

*Special thanks also to Muskie School Graduate Assistant Sandy Gilbreath who provided significant research and editing for the final draft and to University of Maine graduate Paul Santamore who interned with the project as part of his work with the UMF Sustainable Campus Coalition.*

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### **Funding for the work of the Maine Food Strategy is generously provided by the following supporters**

Broad Reach Fund

Doree Taylor Foundation

Elmina B. Sewall Foundation

Henry P. Kendall Foundation

The Hudson Foundation

Jane's Trust

The John Merck Fund

Maine Community Foundation

The Sandy River Charitable Foundation

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**Access to the database of cataloged bills available here:** <http://bit.ly/1bElOZX>

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**Cover Photos:** *Used with permission, courtesy of the Eat Local Foods Coalition of Maine ([www.eatmainefoods.org/photo](http://www.eatmainefoods.org/photo)), featuring photo submissions by Lisa Fernandes (Produce), Roger Doiron (Mussels), Shawn Saindon (Cheese) & Barbara Ives (Bees).*

## Maine Agriculture/Food Policy Summary

The first session of the 126<sup>th</sup> Legislature dealt with dozens of bills with significance to farming and food policy in the state. The issues that arose ranged across the spectrum of Maine agriculture, and the summary that follows is an attempt to provide highlights of the 2013 session with some context. Fifty-four bills are categorized here with those bills in **bold** receiving the most explanation in this summary. In each section that follows, bills are listed with a short description of the bill, the LD number,<sup>1</sup> and the outcome.

In terms of public interest, some of the most significant agricultural and fisheries legislation touched on labeling of genetically modified organisms (GMO); poultry slaughter regulations and local food sovereignty; the merging of the Department of Agriculture with the Department of Conservation and Forestry; pesticides use and regulations; milk pricing; and local food in schools and other institutions. These topics and others were reviewed in greater depth, however, there were many other important bills on subjects that did not garner as much attention or died.

The following report attempts to provide an objective overview of agriculture and fisheries legislation considered in the 126<sup>th</sup> legislature and is not intended to provide positions on the bills reviewed.

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<sup>1</sup> LD is short for “Legislative Document”. LD numbers can be used to search for bills on Maine’s legislative website: <http://www.mainelegislature.org/LawMakerWeb/search.asp>

**Genetically Modified Organisms (GMO) Labeling - 2 bills**

<b>Labeling of Agricultural Products</b>	<b>LD 718 (enacted)</b>
Labeling of Marine Products	LD 898 (dead)

Genetically modified organisms have DNA that has been spliced with that of an unrelated plant, animal, bacterium or virus. The GMO Labeling bill introduced in the last session was the fifth bill introduced to label GMOs since 1993.<sup>2</sup> It passed in the first session and was enacted without the Governor’s signature early in the second session.<sup>3</sup>

Sponsored by Sen. Chris Johnson (D-Somerville) and Rep. Lance Harvell (R-Farmington), the legislation requires that products made with genetically engineered ingredients be labeled “Produced with Genetic Engineering.” It will also restrict use of the label “natural” on products with GMOs included. Several categories of food are exempt from labeling under LD 718, including food served in restaurants, animal products (unless the animals themselves have been engineered in which case they would be labeled), and alcohol. Importantly, the bill will not go into effect unless four other contiguous states pass comparable labeling laws. Currently, similar legislation has been passed in Connecticut and Vermont.

LD 718 was supported by Maine Organic Farmers and Gardeners Association and Maine Conservation Voters, while opponents included Maine State Chamber of Commerce and the Grocery Manufacturers Association. Opponents said the bill would stigmatize genetically modified foods despite scientific research proving that GMO products are no less healthful than those grown conventionally.<sup>4</sup> Questions about the constitutionality of the bill have also been raised.<sup>5</sup>

The bill ended up with overwhelming support in both the House and the Senate.<sup>6</sup> Since LD 718 addressed animal products including fish, the other GMO labeling bill, which dealt with only marine GMO labeling, was abandoned as momentum built around LD 718. For more detailed information on LD 898, refer to the Fisheries Policy Summary in this report.

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<sup>2</sup> Heather Spalding MOFGA Autumn 2013  
<http://www.mofga.org/Publications/MaineOrganicFarmerGardener/Fall2013/SpaldingEditorial/tabid/2676/Default.aspx>

<sup>3</sup> “2013-2014 State of Maine 126th Legislature - All Bills Filed Without Signature by the Governor,” Office of Governor Paul R. LePage. Retrieved online:  
[http://www.maine.gov/tools/whatsnew/index.php?topic=Gov\\_Bills\\_All&id=543058&v=article2013all](http://www.maine.gov/tools/whatsnew/index.php?topic=Gov_Bills_All&id=543058&v=article2013all)

<sup>4</sup> Mistler, Steve, “GMO labeling bill clears legislative hurdle, but industry fight foreseen,” Portland Press Herald, June 13, 2013, <http://www.kjonline.com/news/Maine-House-gives-first-nod-to-GMO-labeling-bill-in-landslide-vote.html?pagenum=full>

<sup>5</sup> Mistler, Steve, “LePage: I’ll sign bill requiring labels for genetically modified foods,” Portland Press Herald, July 9, 2013, <http://www.kjonline.com/news/Maine-House-gives-first-nod-to-GMO-labeling-bill-in-landslide-vote.html?pagenum=full>

<sup>6</sup> Mistler, “LePage: I’ll sign bill requiring labels for genetically modified foods,” July 9, 2013.

**Food Regulation - 7 bills**

<b>Flexibility for small-scale poultry processing</b>	<b>LD 218 (enacted)</b>
<b>Allow poultry processing for other farms</b>	<b>LD 259 (enacted)</b>
Deregulate custom (not-for-resale) livestock processors	LD 271 (dead)
Establishment of a Maine Food Sovereignty Act	LD 475 (dead)
<b>Allow licensing of mobile poultry processing</b>	<b>LD 836 (enacted)</b>
<b>Allow unlicensed farm-gate sale of raw milk</b>	<b>LD 1282 (dead)</b>
<b>Allow unlicensed sale of homemade food</b>	<b>LD 1287 (dead)</b>

Maine is currently home to a food sovereignty movement that opposes many regulations related to food processing and sales and promotes local decision-making on the issue of food production. Criticism of the movement centers on the need for regulations to preserve safety and public health. A theme in the 126th Legislature was interest in the State of Maine taking proactive steps to make regulations more appropriate for small farmers, primarily in the realm of poultry processing.

In a few areas, the State already assumes responsibility for food safety rather than defaulting to national oversight. Raw milk is one such case. In testimony about LD 1282, the Director of Quality Assurance & Regulations for Maine agriculture stated, “[Maine takes] responsibility for implementing numerous programs to prevent food borne illnesses and to inform consumers of potential food allergens by focusing on food safety practices, sanitation and labeling requirements.”<sup>7</sup> As such, whenever new legislation is introduced that could shift the regulatory balance, people watch closely to ensure that the state does not upset federal standards which could jeopardize the state’s right to self-regulation.

The recent flurry of activity surrounding food sovereignty issues can be traced back to 2009 when the Maine Department of Agriculture implemented facilities requirements for small-scale poultry processing.<sup>8</sup> Small farmers who were processing less than 1,000 birds each year in an open-air manner were no longer allowed to do so, and were required to use licensed facilities on their farm to meet the new regulations.<sup>9</sup>

The three successful bills amending poultry slaughter regulations in 2013 relate to that issue directly. LD 218 gives farmers more options with regards to the number of birds they can process without an inspector present, including in open-air scenarios, alleviating the problem brought to light in 2009. LD 259 allows farmers who have poultry processing facilities to process small quantities of birds for other farmers, reducing the need for redundant, costly facilities. LD 836 defines what “a mobile poultry processing unit” is; adds operators of such units to those required to be licensed and permits a poultry producer to

<sup>7</sup> Ron Dyer, Director of Quality Assurance & Regulations Maine DACF, in testimony on LD 1282 <http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=11963>

<sup>8</sup> O’Brien, Andy, “Eye on Augusta: Food Sovereignty Movement Takes Root in Maine,” The Free Press, August 28, 2013, <http://freepressonline.com/main.asp?ArticleID=28063&SectionID=50&SubSectionID=72>

<sup>9</sup> Chapter 348, State of Maine rule Chapters for the Department of Agriculture, Conservation and Forestry. <http://www.maine.gov/sos/cec/rules/01/chaps01.htm>

sell products exempt from inspection to locally owned restaurants and grocery stores.

Food safety remains a concern with legislation that changes regulations governing how food is inspected and processed. The laws have explicit directions for farmers and processors to ensure food safety. One bill states: “It is the intent of the Legislature to provide maximum flexibility to Maine’s poultry processors while still maintaining compliance with federal requirements. It is the intent of the Legislature that Maine’s meat and poultry inspection program continue to attain its high standards while allowing for maximum flexibility.”<sup>10</sup>

LD 1287, “An Act To Deregulate Face-to-face Transactions between the People and Small Farms and Small Food Producers” would have allowed direct sales between Maine farmers and consumers and was passed by both houses but vetoed in the second session. The bill would have allowed persons preparing food in their own homes to sell directly to consumers or to offer homemade food at certain events without being licensed as food establishments. Amendments were made that did not allow for the unlicensed sale of fluid milk, eggs, dairy products, and meat or fish products. Subsequent amendments also required labeling of products to indicate if they are not inspected by the State.

Regulation of raw milk sales was also addressed in 126<sup>th</sup> Legislature where LD 1282 - a bill to allow small-scale producers to sell raw milk without a license - passed both the House and the Senate and was vetoed by the Governor in the second session.<sup>11</sup>

**Funding and Administrative Policies – 7 bills<sup>12</sup>**

Reducing departmental reporting responsibilities	LD 286 (enacted)
Improving funding of agricultural development projects	LD 287 (enacted)
Elimination of technical services for direct marketing	LD 289 (enacted)
<b>Funding for soil and water conservation districts</b>	<b>LD 377 (enacted)</b>
Governance of Potato Marketing Improvement Fund	LD 5 (enacted)
<b>Departmental merger guidelines</b>	<b>LD 837 (enacted)</b>
<b>Support for small food processors</b>	<b>LD 1521 (dead)</b>

The legislature considered seven bills pertaining to funding and administrative issues of the Maine Department of Agriculture, Forestry and Conservation and agriculture development programs. These included LD 377 which will provide \$50,000 for soil and water

<sup>10</sup> An Act To Promote Small-scale Poultry Farming. Pub. L Chap. 323. LD 218 retrieved online [http://www.mainelegislature.org/legis/bills/bills\\_126th/chapters/PUBLIC323.asp](http://www.mainelegislature.org/legis/bills/bills_126th/chapters/PUBLIC323.asp)

<sup>11</sup> The Governor said he agreed with the spirit of the bill, if not the letter, but had concerns with allowing unlicensed raw milk producers to sell their products at farmers’ markets. In a letter to the legislature, Gov. LePage wrote that he would support an amended bill that restricted sales of raw milk to take place only at the producer’s farm. Correspondence from Gov. LePage to the Legislature, July 8, 2013, <http://www.maine.gov/tools/whatsnew/attach.php?id=559417&an=1>

<sup>12</sup> LD 5 transferred administration of the Potato Marketing Improvement Fund from the ACF Commissioner to the Potato Board. The Commissioner will continue to approve all grants and loans.



conservation districts and LD 1521 which would have directed DACF to create a pilot program modeled on the Maine Farm for the Future Program for small food processors.

Modeled on the Maine Farms for the Future program, LD 1521 would have created a pilot program to provide small food processors in the state with business planning assistance and help securing funding. Opposition testimony to the legislation cited other entities that provide business planning support and suggested that better alignment of these existing efforts would be more appropriate. The bill died in the second session.

In 2012, the Legislature directed the Department of Agriculture to merge with the Department of Conservation and Forestry to become the Dept. of Agriculture, Conservation and Forestry (DACF). In 2013, they wrote the guidelines for that merger via the bill LD 837.

The Commissioner of the new department, Walter Whitcomb, explained in a Portland Press Herald op-ed: "Maine's unique alignment of Agriculture, Conservation and Forestry staff -- there is no other state with an agency quite like it -- very well matches our unique landscape. We have many more trees than people, and we have natural places that should not be disrupted. But we also have a tremendous, barely tapped capacity to grow healthy food to feed an entire region."<sup>13</sup>

LD 837 was supported by the Natural Resources Network, an alliance of organizations whose members depend on Maine's natural resources for business and recreation. The network is comprised of the Maine Forest Products Council, Sportsman's Alliance of Maine, Maine Potato Board, Small Woodland Owners Association of Maine, Maine Aquaculture Association, Maine Dairy Industry Association, Maine Snowmobile Association, Maine Lobsterman's Association, Wild Blueberry Commission, Maine Trappers Association, Maine Farm Bureau, Maine Professional Guides Association and Independent Energy Producers Association.

A motivator behind the merger, however, was also departmental financing. Part of the reasoning for the merger, according to Commissioner Whitcomb, was "a nearly 40 percent reduction in General Fund dollars available to the former Agriculture Department in the last 10 years."<sup>14</sup> This fact concerned some conservation groups, including Maine Audubon and the Natural Resources Council of Maine because of the potential for funds to be diverted from conservation programs towards agricultural programs. Not all conservation groups were opposed. LD 837 received bipartisan support: it was enacted with large margins and signed by the Governor into law.

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<sup>13</sup> Whitcomb, Walter, "Maine Voices: New state department's responsibilities as big as all outdoors," Portland Press Herald, April 20, 2013, [http://www.pressherald.com/opinion/new-state-departments-responsibilities-as-big-as-all-outdoors\\_2013-04-20.html](http://www.pressherald.com/opinion/new-state-departments-responsibilities-as-big-as-all-outdoors_2013-04-20.html)

<sup>14</sup> Whitcomb, "Maine Voices: New state department's responsibilities as big as all outdoors," April 20, 2013.

**Pesticides – 10 bills**

Rule change re: notification and schools	LD 33 (enacted)
Create a plan for mosquito-borne illnesses	LD 292 (enacted)
Enhancement of integrated pest management	LD 903 (enacted)
Restrict pesticides on school grounds	LD 961 (dead)
Create a pesticide spraying notification process	LD 1391 (dead)
Clarify permitted use of aquatic pesticides	LD 1430 (enacted)
Pesticide use on medical marijuana	LD 1531 (enacted)
Rule change re: power equipment application	LD 1567 (enacted)
Rule change re: aerial pesticide application	LD 1569 (enacted)
<b>An Act To Temporarily Ban the Use of Neonicotinoid Pesticides</b>	<b>LD 1587 (dead)</b>

Pest management is a perennially important issue for farmers. Regulations governing where, when, and which pesticides can be used are numerous and are constantly being tweaked. Maine’s Board of Pesticides Control also plays a significant role in this process.<sup>15</sup> Opinions differ widely on the safety and environmental implications of pesticide use and this topic can be divisive. One issue of growing concern for public health is the threat of mosquito-borne illness such as West Nile Virus and Eastern Equine Encephalitis. While this is a public health issue rather than an agricultural one, the potential need to use widespread spraying of pesticides to control mosquito populations means that any laws on this issue could impact agriculture, especially sectors that are sensitive to pesticide use such as organic farming and specialty crops like low bush blueberries.

LD 1587, “An Act To Temporarily Ban the Use of Neonicotinoid Pesticides” would have banned the sale, use, and distribution of neonicotinoid pesticides for two years in the state. This bill would also have attempted a review and study of neonicotinoid pesticides. Neonicotinoid pesticides entered the debate arena after having been linked to the Colony Collapse Disorder in bee colonies (CCD)<sup>16</sup>. Majority of public testimony opposed the ban, expressing that there have been many factors attributed to causing CCD, and that a ban

<sup>15</sup> The Board of Pesticides Control (BPC) is Maine’s lead agency for pesticide oversight and falls administratively under the Maine Department of Agriculture, Conservation and Forestry. Policy decisions are made by a seven-member, public board whose representation is required by Maine statute to include “three persons knowledgeable about pesticides in agriculture, forestry or commercial applications. One person must have a medical background and another must hold a faculty position at the University of Maine with expertise in integrated pest management. The two remaining members are chosen to represent the public and must come from different geographic areas of the state. All members are nominated by the Governor and approved by the Legislature. Members serve for alternating four-year terms and are eligible for re-nomination.” <http://www.maine.gov/dacf/php/pesticides/contact.shtml>

<sup>16</sup> Hobbs, Timothy. Testimony to the Agriculture, Conservation and Forestry Committee of the Maine Legislature. February 4, 2014. Retrieved online: <http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=14302>

would lead to other, more potentially harmful chemicals to be used in its place. The bill was voted ought not to pass on February 13, 2014.<sup>17</sup>

**Dairy Industry – 4 bills**

<b>Ensuring the continuation of dairy farming</b>	<b>LD 368 (dead)</b>
<b>Eliminates the fuel sales tax for ag production</b>	<b>LD 707 (dead)</b>
<b>Establishment of milk pricing “Task Force”</b>	<b>LD 789 (enacted)</b>
Milk promotion	LD 813 (dead)

The high cost of fuel and feed and the low cost of milk in the marketplace have made it increasingly difficult for dairy farmers in Maine to make a profit. Policymaking in the dairy industry generally revolves around the subject of milk pricing, in which a price floor is set in a series of different tiers by fairly complicated formulas.<sup>18</sup> The state has its own dairy price-stabilization program<sup>19</sup> and arguably has been more successful in supporting the industry than other New England states.<sup>20</sup> Despite this and recent strong milk prices, dairy farms in Maine continue to struggle with significant cost increases for their operations.<sup>21</sup> LD 789 established a “Task Force on Milk Tier Pricing” to study the current structure. The Task Force was directed to report to the Agriculture, Conservation and Forestry Committee by December 2013,<sup>22</sup> and the report was posted in Spring of 2014.

Two bills aimed at providing additional assistance to help dairy farms meet rising costs died in the Financial Affairs and Appropriations Committee. LD 368 titled “An Act To Ensure the Continuation of Dairy Farming,” proposed to provide financial and technical assistance to dairy farms in the State to adapt new techniques and utilize new technology to offset the high cost of farming overhead, including the cost of feed and fuel.<sup>23</sup> A second bill, LDD 707, “An Act to Refund the Sales Tax Paid on Fuel Used in Commercial Agricultural Production,”

<sup>17</sup> 126<sup>th</sup> Maine Legislatures, Second Regular Session. “An Act to Temporarily Ban the Use of Neonicotinoid Pesticides.” Final Disposition. Retrieved online: [http://www.mainelegislature.org/legis/bills/display\\_ps.asp?paper=HP1158&snum=126](http://www.mainelegislature.org/legis/bills/display_ps.asp?paper=HP1158&snum=126)

<sup>18</sup> For instance, one aspect of LD 368 “simplifies the process of calculating dairy stabilization tier program payments by eliminating additions to the statistical uniform blend price when determining the base price for comparison with the so-called tier safety net levels.”

<sup>19</sup> Maine Milk Commission. “How Prices are Established.” Retrieved online: <http://www.maine.gov/dacf/milkcommission/established.shtml>

<sup>20</sup> Mack, Sharon Kiley, “Maine dairy farmers closely watch fate of tier payment program,” Bangor Daily News, April 3, 2012. Retrieved online: <http://bangordailynews.com/2012/04/03/business/maines-dairy-farmers-closely-watch-fate-of-tier-payment-program/>.

<sup>21</sup> Bickford, Julie Marie. Testimony to Financial Affairs and Appropriations Committee of the Maine Legislature. April 25, 2013. Retrieved online: <http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=9459>

<sup>22</sup> A 2010 UMaine Cooperative Extension survey on production costs for dairy farms concluded that “purchased feed costs remain the single largest expense on most farms and reflect the higher cost of ingredients in Maine. Labor efficiency is another benchmark for Maine farms that is below other states (CDFBS and Farm Credit studies).” [http://digitalcommons.library.umaine.edu/aes\\_bulletin/index.2.html](http://digitalcommons.library.umaine.edu/aes_bulletin/index.2.html)

<sup>23</sup> “An Act To Ensure the Continuation of Dairy Farming.” Concept Draft Summary. Retrieved online: [http://www.mainelegislature.org/legis/bills/bills\\_126th/billtexts/SP014801.asp](http://www.mainelegislature.org/legis/bills/bills_126th/billtexts/SP014801.asp)

would have required a refund of sales tax on purchases of fuel for use in agricultural production and also died in committee. The bill was voted “Ought Not to Pass”.

**Maine Food in Schools & Institutions - 5 bills**

Teach agricultural studies in schools	LD 668 (enacted)
<b>Promote sustainable food policies</b>	<b>LD 745 (dead)</b>
<b>Increase Maine foods in state institutions</b>	<b>LD 1254 (dead)</b>
<b>Promote school nutrition and local foods</b>	<b>LD 1431 (dead)</b>
<b>Promote local food in schools</b>	<b>LD 1185 (dead)</b>

The legislature entertained several bills focused on encouraging increased procurement of locally produced foods in Maine schools and institutions. These included two bills aimed at requiring public schools to increase procurement of Maine produced foods. One bill, LD 1185, would require school administrative units to determine and report at least annually the percentage of food purchased, grown or otherwise acquired that is grown, raised or caught in Maine. Benchmarks would be created, such as “Gold Medal Eat Local School,” “Silver Medal,” and “Bronze Medal.” The legislation was originally voted “Passed to Be Enacted” with strong support in both the House and Senate. A final veto by the Governor, however, was sustained by the Legislature.

LD 1431 was proposed to fund feasibility studies for food hubs<sup>24</sup> and provide funding to support the development of food hubs to supply Maine schools. The concept of food hubs attracted some controversy throughout the bill’s life with concerns raised about how to fund the bill as well as whether or not government should be involved in encouraging the development of food hubs. <sup>25</sup> The bill was carried over from the 1<sup>st</sup> session of the 126<sup>th</sup> legislature to the second, and at the beginning of the 2<sup>nd</sup> session it was voted “Ought to Pass as Amended.” After further readings of amendments, the document was voted “Ought to Pass to be Enacted” by both the House and the Senate but was vetoed by the Governor in April. In his veto, Gov. LePage acknowledged funding as a reason. He felt the new loans for food hubs would take away resources from the Agricultural Loan Fund that could be used for other purposes. While the Senate overruled the veto, it was ultimately sustained by the House where the bill died.

LD 1254, which was vetoed in the second session, would have required state or school

<sup>24</sup> USDA defines a “regional food hub” as “a business or organization that actively manages the aggregation, distribution, and marketing of source-identified food products primarily from local and regional producers to strengthen their ability to satisfy wholesale, retail, and institutional demand.” Regional Food Hub Resource Guide, USDA, April 2012. Retrieved online: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5097957>

<sup>25</sup> “Agriculture Committee tables bill to fund Maine food hubs.” Associated Press, Jan. 30, 2014. <http://www.pressherald.com/2014/01/30/maine-lawmakers-divided-on-bill-to-expand-local-food-hubs/>

purchasers, except for a school purchaser at a school that participates in the National School Lunch Program, to purchase increasing percentages of Maine harvested and produced foods. LD 745, also vetoed, would have created a state commission on statewide food sustainability to study issues related to establishing food sustainability policies and reducing food insecurity, and to consider the need for a statewide food sustainability plan.

### Other Legislation – 19 bills

- Rule review re: seed potatoes LD 2 (enacted)<sup>26</sup>
- Governance of Potato Marketing Improvement Fund LD 5 (enacted)<sup>27</sup>
- Potato tax info to Maine Potato Board LD 9 (enacted)
- Brucellosis Vaccines for Cattle LD 288 (enacted)
- Transfer bottle bill responsibility from ACF to DEP LD 291 (dead)
- Veteran-to-Farmer Training Pilot Program LD 409 (enacted)
- Prohibit unauthorized wild harvesting LD 421 (dead)
- Reduce food waste in state funded institutions LD 476 (dead)
- Promote industrial hemp LD 525 (dead)
- Tax credit for charitable agricultural food donations LD 561 (dead)
- Clarify agriculture within shoreland zoning LD 641 (enacted)
- Review maple syrup licensing LD 657 (enacted)
- Update maple syrup grade standards LD 658 (enacted)
- Study liability of apiary owners and operators LD 838 (dead)
- Study availability of BPA-free food packaging LD 844 (dead)
- Add biosolids as a fertilizer category LD 1009 (enacted)
- Label food packaging with BPA LD 1050 (dead)
- Prohibit horse slaughter for human consumption LD 1286 (dead)
- Establish a livestock damage compensation fund LD 1307 (dead)

<sup>26</sup> LD 2 authorized final adoption of portions of Chapter 252 of rules and statutes related to Agriculture, Forestry and Conservation. Chapter 252 outlines procedures and standards governing the certification of seed potatoes in Maine. Retrieved online: [http://www.maine.gov/dacf/php/seed\\_potato/index.shtml](http://www.maine.gov/dacf/php/seed_potato/index.shtml)

<sup>27</sup> Under LD 5, the Potato Board will assume administration of the Potato Marketing Improvement fund from the ACF Commission. The Commissioner will continue to approve all grants and loans. The mission of the Maine Potato Board is “to provide a competitive environment for potato growers, processors, and dealers creating stability and the infrastructure for future growth, while promoting the economic importance to the state and quality of the product,” [www.mainepotatoes.com](http://www.mainepotatoes.com). The Potato Marketing Improvement Fund is funded through DACF and provides low-interest financing to help potato growers and packers improve the quality and marketing of Maine potatoes, and to fund programs and activities that improve the economic viability of the potato industry. such improvements include irrigation equipment and water source development projects. The fund is managed by the Finance Authority of Maine. Retrieved online: [http://www.famemaine.com/files/Pages/business/businesses/direct\\_loans/Potato\\_Marketing\\_Fund.aspx](http://www.famemaine.com/files/Pages/business/businesses/direct_loans/Potato_Marketing_Fund.aspx)

## Maine Commercial Fisheries Policy Summary

There were 40 bills related to commercial fisheries in the first regular session of Maine’s 126<sup>th</sup> legislature. The bills were heard by the Joint Standing Committee on Marine Resources, which has jurisdiction over issues related to the Maine Department of Marine Resources (DMR); commercial marine fisheries management, licensing and enforcement; marine fish species; diadromous fish, mollusks; crustaceans; seaweed; sea urchins; sea cucumbers; processing and sale of marine fish and shellfish; and aquaculture.

The bills heard in the first session of 126<sup>th</sup> by the Joint Standing Committee encompassed the major fisheries of the state, including lobster, elver, shellfish, groundfish, river herring (alewife), seaweed, urchin, and scallop. Other subjects addressed by legislation regarded guiding principles for state fishery management plans, reduced license fees for certain citizens, tribal fishing rights, and Genetically Engineered (GE) fish labeling.

Below is a policy summary of the bills, by subject, including the topics of the legislation introduced, information on each bill, the context for the bill’s introduction, and status. Those bills in **bold** received the most explanation in this summary.

### Lobster – 9 bills

<b>Lobster Marketing Collaborative</b>	<b>LD 486 (enacted)</b>
<b>An Act to Support the Maine Lobster Industry</b>	<b>LD 182 (dead)</b>
Bond Issue Support to Lobster Processing	LD 1709 (enacted)
<b>Price Fixing</b>	<b>LD 469 (dead)</b>
<b>Tax incentive for increased processing</b>	<b>LD 643 (dead)</b>
<b>Reduce traps in F&amp;G</b>	<b>LD 810 (dead)</b>
<b>Swan Is. Lobster Conservation Area</b>	<b>LD 1020 (emergency enacted)</b>
<b>New entrants</b>	<b>LD 1544 (emergency enacted)</b>
Non-comm., Nondomiciled	
Res. Lob. & Crab License	LD 899 (dead)

Legislation related to the lobster industry generated the highest number of commercial fisheries-related bills in the 126<sup>th</sup> Legislature. Most of these bills fit into two general categories: **marketing/promotion** and **Lobster Zone regulations**. The high number of lobster-related bills is not surprising considering lobster is the most valuable fishery in Maine and is the fishery that employs the greatest number of fishermen. In 2012, lobster made up 65% of the value of Maine’s commercial species. In comparison, the second highest valued fishery, elvers, provided only 7% of the value of Maine’s fisheries.<sup>28</sup>

<sup>28</sup> See “Preliminary 2012 Commercial Maine Landings By Ex-vessel Value,” Maine Department of Marine Resources. Retrieved online:  
<http://www.maine.gov/dmr/commercialfishing/documents/2012ValueBySpecies.Pie.pdf>

In the category of marketing and promotion, many of the bills introduced related to interest in raising the price fishermen receive (referred to as a “boat price” or “ex-vessel”) for their catch. In the past few years, Maine lobster landings have experienced “unparalleled growth”.<sup>29</sup> However, while landings have increased, the market value of lobster has declined. For example, lobstermen landed 18 million more pounds in 2012 than they did in 2011, but the 2012 lobster catch declined in value by 3.7 million dollars. For all of 2012, Maine lobstermen on average earned \$2.63 per pound for their catch, which is the lowest annual average statewide boat price since 1994.<sup>30</sup>

Chronically low prices make it difficult for fishermen to make a profit from lobster. Lobster prices are influenced by a concurrent increase in Canadian lobster landings, and Canadian lobstermen have experienced decreased prices as well. In an effort to increase market demand and boat prices, two of the lobster bills introduced addressed the increased marketing of lobster nationally and internationally. LD 486, which was signed into law, will generate about \$9 million over the next 5 years for the marketing of lobster through the Maine Lobster Marketing Collaborative. The collaborative intends to transition the Maine lobster “brand” into a new and more aggressive era to target increased state, regional, national and global demand. LD 486 increased the license surcharge fee on the lobster & crab harvester license and certain dealer licenses to fund the collaborative.

LD 182, “An Act to Support the Maine Lobster Industry,” died in the second session. The bill would have appropriated \$1 million from the General Fund to support the Lobster Promotion Council, or successor organization, the Maine Lobster Marketing Collaborative. This money would have been used to increase efforts to promote and market Maine lobsters in state, regional, national and international markets. The Lobster Promotion Council attracted controversy during its creation last year, because of increased fees to lobsterman, processors and wholesalers to fund the council. Supportive testimony surrounded the need for longevity of the industry with better marketing tactics, and promoting the “Maine Brand” associated with lobsters. Opposing testimony surrounded the negative impacts the fees to fund the Council have on the lobsterman, and that it is not needed because the Maine lobster brand is already well-known.<sup>31</sup>

Another bill related to price, LD 469, would have empowered the Commissioner for the Department of Marine Resources to investigate price-fixing by lobster dealers but was voted “ought-not-to-pass” and died. According to DMR, the state attorney general already has the

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<sup>29</sup> Maine Department of Marine Resources news, “Preliminary 2012 Lobster Landings Show an Increase of 18 Percent Over 2011 While Value Declines by \$3.7 Million.” Retrieved online: <http://www.maine.gov/dmr/news/2013/2012LobsterLandings.htm>

<sup>30</sup> Trotter, Bill, “High lobster landings in Canada keep dockside prices low in Maine,” Bangor Daily News, June 14, 2013, <http://bangordailynews.com/2013/06/14/news/hancock/high-lobster-landings-in-canada-keep-dockside-prices-low-in-maine/>

<sup>31</sup> Cairn, North. 2013. Lobster Promotion Gets 2m Boost. Portland Press Herald: June 28. [http://www.pressherald.com/business/lobster-promotion-gets-2m-boost\\_2013-06-28.html](http://www.pressherald.com/business/lobster-promotion-gets-2m-boost_2013-06-28.html)

power to investigate price fixing.<sup>32</sup>

LD 1709, a general fund bond issue to support lobster processing capacity in the state had strong bipartisan support and allotted \$7million from the general fund to be matched by private and other funds.<sup>33</sup> The bond issue was approved to be voted on by the people of Maine in November, 2014 and was passed.

LD 643, a bill to provide incentives to establish more lobster processing in Maine, also died. This bill arose over concern stemming from the fact that less than 10% of Maine's lobster catch is processed in Maine. Instead, many of Maine's lobsters go to Canada for processing.<sup>34</sup> The recent increase in lobster landings and corresponding low prices caused a market glut of lobsters in both Canada and Maine. The economic instability caused by the low prices resulted in Canadian fishermen blockading trucks carrying Maine lobsters to stop them from reaching Canadian processing facilities.<sup>35</sup>

Three of the bills dealt with management within the Lobster Management Zones. There are seven Lobster Management Zones in Maine, governed by an elected council of fishermen that determine best harvest practices. Zone councils determine the maximum number of traps each license holder is permitted to fish, the number of traps that may be fished on a single line, as well as the maximum number of fishermen in their zone.<sup>36</sup> LD 1020, which was passed into law, established in statute the Swan's Island Lobster Conservation Area and increased the trap limit for Swan's Island fishermen from 475 to 550. Most lobstermen in Maine are limited to 800 traps.<sup>37</sup>

Another bill that was signed into law, LD 1544, addressed how to accommodate new entrants into the fishery, which is a concern among most fishermen and has become an increasingly hot-button issue in Maine.<sup>38</sup> The bill was introduced as an emergency measure by the Governor's office, and expands the authority of the lobster zone councils to allow them to make a recommendation to the Commissioner of DMR regarding the methodology used to calculate the number of new entrants into a lobster management zone. This bill

<sup>32</sup> Gilbert, Deidre, director of state marine policy for the Department of Marine Resources, is attributed with providing this information in Working Waterfront, "New marketing collaborative aims to grow demand," July 24, 2013.

<sup>33</sup> Cousins, Christopher. 2014. "\$50 million bond proposal package headed to LePage with strong bipartisan support." April, 18: Bangor Daily News. Retrieved online: <http://bangordailynews.com/2014/04/18/politics/state-house/50-million-bond-proposals-headed-to-lepage-with-strong-bipartisan-support/>

<sup>34</sup> Gilbert, Deidre, Testimony to the Committee of Marine Resources of the Maine Legislature. LD 643. March 20, 2013.

<sup>35</sup> Trotter, Bangor Daily News, June 14, 2013.

<sup>36</sup> FMI on Maine Lobster Zone Councils: <http://www.maine.gov/dmr/council/lobsterzonecouncils/>

<sup>37</sup> Trotter, Bill, "State raises lobster trap limit on Swan's Island," Bangor Daily News, June 29, 2013. <https://bangordailynews.com/2013/06/29/news/hancock/state-raises-lobster-trap-limit-on-swans-island/>

<sup>38</sup> Schreiber, Laurie, "Limited Entry, Young Want In, Seniors Out," Fishermen's Voice, Volume 17, No. 5, May 2012. Retrieved online: <http://www.fishermensvoice.com/archives/201205Index.html>.



would allow a council to recommend using the number of licenses retired, instead of basing the calculation on the number of trap tags retired. It also creates a temporary medical allowance so that a lobsterman who is unable to fish due to a temporary medical condition can allow his child or spouse to operate under the license for up to one year.

LD 810, which concerned reducing the number of lobster traps a lobsterman may fish in the limited entry zone in fishing Zones F and G, died. LD 899, would have created a noncommercial, non-domiciled resident lobster and crab fishing license, and also died.

**Elver – 8 bills**

<b>Sustainability</b>	<b>LD 497 (dead)</b>
<b>Fairness &amp; Equity</b>	<b>LD 1397 (dead)</b>
<b>Increase licenses and conservation</b>	<b>LD 731 (dead)</b>
<b>Strengthened enforcement</b>	<b>LD 632 (emergency enacted)</b>
<b>Technical Changes to Marine Resources</b>	<b>LD 1545 (enacted)</b>
Laws & Elver Enforcement	
Tribal fishing rights	LD 604 (emergency enacted)
	LD 451 (emergency enacted)
<b>Clarity on Licensing Law</b>	<b>LD 1625 (enacted)</b>

The emergent Maine elver fishery was the source of the second greatest amount of bills in the first session of the 126<sup>th</sup> Legislature. This is because of recent dramatic price increase in elvers which makes this fishery very lucrative for those fishermen with licenses. High prices, coupled with high demand, have recently made this fishery the second highest valued in Maine. Over the past decade, prices for the eel have fluctuated, once dropping as low as \$25/lb. However, in 2010 Europeans placed a moratorium on exporting eels and the Japanese eel stock was negatively impacted by the 2011 tsunami. After that, eel prices in Asian markets have soared and in 2012 Maine elver fishermen were being paid as much as \$2,600 a pound.<sup>39</sup> The high value of the fishery, combined with limited license availability (limited entry) and uncertain stock status contributed to the introduction of a number of bills related to elvers.

Maine is one of only two states to have an elver fishery.<sup>40</sup> Elvers are baby American eels, also known as “glass eel”. The catadromous elvers are caught by fyke, or dip nets, as they return to their home rivers after ocean spawning during a short two-month commercial fishing season. The Atlantic States Marine Fisheries Commission<sup>41</sup> manages the elvers in territorial seas and inland waters along the Atlantic coast from Maine to Florida and has assessed elver stocks as being "depleted in U.S. waters," due to a combination of historical

<sup>39</sup> McKim, Jenifer, “Eel fishing has been a boon to many in Maine,” The Boston Globe, May 19, 2013. Retrieved online: <http://www.bostonglobe.com/business/2013/05/18/baby-american-eels-providing-huge-profits-and-big-headaches-maine/2MIpT1TNgztsJFm1sh8ION/picture.html>

<sup>40</sup> McKim, “Eel fishing has been a boon to many in Maine,” May 19, 2013.

<sup>41</sup> Atlantic States Marine Fisheries Commission, American Eel, <http://www.asafc.org/species/american-eel>,

overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxics and contaminants and disease.<sup>42</sup> The U.S. Fish & Wildlife Service is considering listing the species under the Endangered Species Act.<sup>43</sup> Maine was been told by the Atlantic States Marine Fisheries Commission to reduce its statewide catch total in 2014 by 25 to 40 percent from the 18,253 total pounds that were caught statewide in 2013.<sup>44</sup> The Commission limits Maine to a maximum of 744 licenses and gear restrictions that only allow either one or two large, funnel-shaped fyke nets, or a single hand-held dip net. The Commission's current elver fishery plan does not allow Maine to adjust its gear restrictions but adjustments could be made with the next Commission-approved fishery plan, which would be implemented prior to Maine's 2015 elver season.<sup>45</sup>

Poaching has been a major problem in the elver fishery when prices are high. Two bills addressing the need for increased elver poaching enforcement were enacted into law in the first session of the 126<sup>th</sup> Legislature. LD 1545, "Technical Changes to Maine's Marine Resources Laws and Elver Enforcement Mechanisms" was the Governor's bill. Not exclusive to elvers, this bill made changes in the laws governing many marine resources, including aquaculture. Specific to the elver fishery, it implemented changes designed to improve enforcement mechanisms. Another bill, LD 632, "An Act To Enact Measures To Improve Enforcement Mechanisms in the Elver Industry" passed the Legislature on an emergency basis. Most notably, it criminalizes all elver fishery violations. Among other changes, this bill authorizes the seizure of a bulk pile that contains illegally harvested elvers and prohibits the possession of elvers outside of the open season.

LD 1625, "An Act Concerning Maine's Elver Fishery," set limits for both tribal and non-tribal harvesters of the fish in order to better manage the fishery. Both LD 604 and 451 had to do with tribal elver licenses and are explained in the subsequent "Tribal Fishing Rights" section of this document on page 26.

Concern about both limited entry into the fishery and sustainability of the resource also prompted the introduction of several bills aimed at changing licensing processes. None of the bills succeeded. LD 1397, "An Act To Create Equity and Fairness in the Elver Industry" proposed making the elver licensing process more comparable to the licensing processes for "similar industries within the Department of Marine Resources." LD 497, "An Act To Move Maine's Elver Fishery Towards Sustainability," would have restricted elver harvesting to Maine residents and limited harvest to dip nets. LD 731, "An Act To Increase the Number of Elver Harvesting Licenses and Preserve the Fishery through Conservation", would have established special elver fishing license lotteries in 2014 and 2015 to open the licensing process to new entrants.

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<sup>42</sup> Atlantic States Marine Fisheries Commission, American Eel, <http://www.asmf.org/species/american-eel/>, (

<sup>43</sup> Trotter, Bill, "Maine agrees to reduce lucrative elver landings," Bangor Daily News, Oct. 31, 2013. Retrieved online: <http://bangordailynews.com/2013/10/31/business/maine-to-reduce-lucrative-elver-landings/>

<sup>44</sup> Trotter, Bill, "Elver fishermen split on derby-vs-quota proposals to cut harvest," Bangor Daily News, Jan. 7, 2014.

<sup>45</sup> Trotter, "Maine agrees to reduce lucrative elver landings," Oct. 31, 2013.

**Shellfish**– 3 bills

<b>Truth in advertising/depuration</b>	<b>LD 1224 (dead)</b>
<b>Municipalities prohibit worm harvesting</b>	<b>LD 1452 (enacted)</b>
<b>Effects of Ocean Acidification on Shellfish</b>	<b>LD 1602 (enacted)</b>

Shellfish encompasses soft-shell clams, quahogs (hard-shell clams), oysters, whelks, periwinkles, and mussels. The soft-shell clam fishery is Maine’s third most valuable and is co-managed in partnership with individual municipalities and the state through each town’s Municipal Shellfish Program.

LD 1452, “An Act To Allow Municipalities with Shellfish Conservation Ordinances To Request Permission To Prohibit Marine Worm Harvesting” as originally written would have allowed a municipality with a shellfish conservation ordinance to apply to the Department of Marine Resources to request a prohibition on marine worm harvesting in certain areas. While clambers who want to clam in a town’s intertidal habitat must procure a license from that town, worm diggers are only licensed by the state and therefore can travel from town to town digging worms. The original language of this bill was meant to give municipalities more control over the worm harvesting activities taking place in their intertidal habitat. The bill was amended to focus on protecting predation control gear used by towns in attempts to protect soft-shell clam populations and combat invasive European green crabs.

European green crabs feed on shellfish resources, including soft-shell clams. An exponential increase in the green crab population is correlated with warming water temperatures and is having a devastating impact on shellfish in Maine. Municipalities are just beginning to attempt to control the green crab through measures such as netting or fencing that minimizes the ability of crabs to access shellfish habitat and consequently enables juvenile shellfish to mature.<sup>46</sup> The language of the amended legislation arose out of the need to protect the financial investments made by municipalities to protect their intertidal habitat.

LD 1452 drew interest from hundreds of clambers and worm diggers whose livelihoods are affected by closures of the same resource areas. Worm diggers were concerned that they would be excluded from digging in certain areas.<sup>47</sup> The legislation as amended will establish fines of \$300 to \$1,500 for destroying or molesting fencing or other devices placed by marine resources committees around areas that have been seeded with clams.

LD 1602 is a resolve, and creates a first of its kind commission to study the effects of ocean acidification and any subsequent effects to the commercial shellfish industry in Maine. The bill had strong support on both sides of the House and Senate and among diverse

<sup>46</sup> Department of Marine Resources. 2013. “Green Crabs in Maine.” Retrieved online: <http://www.maine.gov/dmr/rm/invasives/GreenCrabs.htm>

<sup>47</sup> Brogan, Beth, “Bill to regulate worm digging in Maine inches forward,” Bangor Daily News, Jan. 22, 2014. Retrieved online: <http://bangordailynews.com/2014/01/22/politics/bill-to-regulate-worm-digging-in-maine-inches-forward/>

stakeholders, although clambers worried that it will deflect needed attention from the ongoing green crab invasion.<sup>48</sup>

Another shellfish related bill, LD 1224, “An Act Regarding Advertising of Maine Shellfish,” died in the first session. The bill would have ensured truth in advertising and labeling of clams by requiring wild clams harvested fresh out of the flats, and clams that have gone through the depuration process (cleansed in sterile seawater under strict controls and tested before they are released to the market) to be differentiated from those that have not.

**River Herring- 4 bills**

<b>Fish passage on the St. Croix River</b>	<b>LD 72 (emergency enacted)</b>
	LD 584 (dead)
	LD 748 (dead)
<b>Take of alewife as bait on own property</b>	<b>LD 1171 (dead)</b>

River herring (alewives and blueback herring) are anadromous fish, which spend the majority of their adult lives at sea, and return to freshwater in the spring to spawn. River herring (and shad) once supported the largest and most important commercial and recreational fisheries along the Atlantic coast<sup>49</sup>. As with most other species of anadromous fish, alewife and blueback herring populations are depleted from their historic levels in part due to habitat loss from dams and other human uses, and as such are the focus of habitat restoration efforts in Maine.<sup>50</sup>

No commercial distinction is made between the blueback and the more abundant alewife and they are often simply referred to as “alewives”. Alewives are harvested and marketed in a similar fashion, and are used for both human food and bait, with adult alewives being the preferred bait for the Maine spring lobster fishery. The river fishery is managed by DMR and select coastal municipalities that have been granted rights to the river herring resources. To be approved, towns must submit an annual harvesting plan to DMR for approval that includes a three-day per week escapement period to assure conservation of the resource. In this way, the runs provide revenue to the towns, many of which lease their fishing privileges to independent fishermen.<sup>51</sup> There are 35 Maine municipalities that have commercial harvesting rights to alewives on 39 streams and rivers. The Atlantic States Marine Fisheries Commission (ASMFC) oversees management of the coast-wide river herring population.

<sup>48</sup> Of the 22 public testimonies for LD 1602, none were against the bill, which was finally passed by an emergency vote of 33-0.

<sup>49</sup> Atlantic States Marine Fisheries Commission, *River Herring and Shad*. Retrieved online: <http://www.asmfc.org/species/shad-river-herring>

<sup>50</sup> Schmidt, Catherine. “Alewives – Feast of the Season,” *Maine Boats, Homes & Harbors*, April / May 2008, Issue 99. Retrieved online: <http://www.seagrant.umaine.edu/files/pdf-global/08CSalewivesMBHH.pdf>

<sup>51</sup> Maine Department of Marine Resources, *Maine River Herring Fact Sheet*. Retrieved online: <http://www.maine.gov/dmr/searunfish/alewife/>.

River herring fish passage on the St. Croix River was a popular topic in the first session with three bills introduced to address an issue stemming from concern that alewives compete with sport fishing in the region. Sport fishermen have long contended that alewives negatively impact small bass and other sport fisheries and in the 1980s successfully passed legislation to block fishways on the Woodland Dam and Grand Falls on the St. Croix River.<sup>52</sup>

In the last session, tribal representatives, lobstermen and environmentalists argued that alewives do not threaten sport fish and that the Grand Fall barrier blocked traditional alewife migrations and impacts alewife populations.<sup>53</sup> LD 72 was passed in the first session and mandated the removal of the Grand Fall fishway barrier by May 1, 2013.

The other bill concerning river herring, LD 1171, “To Allow Certain Holders of Lobster and Crab Fishing Licenses To Harvest River Herring for Personal Use as Bait” died. It was a resolve that would have required DMR to allow a person holding a lobster and crab fishing license to take river herring on property that the licensee owns or rents for use as bait by the licensee.

**Groundfish- 3 bills**

<b>Purchase federal permits</b>	<b>LD 939 (dead)</b>
<b>Keep lobsters as bycatch</b>	<b>LD 1097 (dead)</b>
Exemption for incidentally caught lobsters	LD 1549 (dead)

Three bills concerning groundfishing were introduced in the first session. Groundfishing, which encompasses the harvest of bottom dwelling fish such as cod, haddock, hake and pollock, is historically a very important and valuable Maine fishery. The groundfish fishery encompasses 13 different species, and is managed by 20 different stocks. Since the 1990s, groundfish stocks have been decreasing and numerous management methods have thus far been unsuccessful in restoring the fishery.

In 2010, the New England Fisheries Management Council (NEFMC), the body charged with managing New England’s fishery resources,<sup>54</sup> began using a form of “catch share” management, called sectors, that allocates quota (“potential sector contribution” or PSC) to

federal permit holders based on their recorded landings history from 1996 - 2006. Vessels

<sup>52</sup> Long, Robert, “Legislature sends St. Croix restoration bill to LePage,” Bangor Daily News, April 10, 2013. Retrieved online: <http://bangordailynews.com/2013/04/10/news/state/legislature-sends-st-croix-alewife-restoration-bill-to-lepage/?ref=inline>

<sup>53</sup> Cousins, Christopher, “Alewives win full passage in St. Croix River watershed without LePage’s signature,” Bangor Daily News, April 23, 2013. Retrieved online: <http://bangordailynews.com/2013/04/23/news/augusta/alewives-win-full-passage-to-st-croix-river-watershed-without-lepages-signature/?ref=search>

<sup>54</sup> The New England Fisheries Management Council is one of eight regional councils established by the Magnuson Fishery Conservation and Management Act of 1976 (since renamed the Magnuson-Stevens Act). The Council manages fishery resources within the federal 200-mile limit off the coasts of Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut. FMI: <http://www.nefmc.org/>.

with the federal permit form groups of three or more (sectors) and pool their quota to fish. The combined PSC of all the sector members then becomes the proportion of the Total Allowable Catch (TAC) that is allocated to the sector each year (based on Annual Catch Limits). Thus, this controversial new system measures pounds of fish caught, instead of effort expended.<sup>55</sup> To fish, permit holders must either own or lease quota. The management change left many fishermen in Maine – who tended to be smaller-scale and diversified – with little quota allocation.<sup>56</sup> Today, there are fewer than 50 groundfish vessels left in Maine, compared to an estimated 350 Maine-based groundfish vessels in 1990.<sup>57</sup> Under catch share sectors, whole regions of the Maine coast will be left without access to the resource even if groundfish do return.<sup>58</sup>

In response to this problem, the state and NOAA entered a Memorandum of Understanding in 2010 to create a Maine Groundfish Permit Bank. The stated goal of the Groundfish Permit Bank was to “secure continued access to fishery resources for local, small-scale fishermen from small fishing communities throughout Maine, to create and protect sustainable local fisheries, to supplement existing access rights held by fishermen in small Maine communities; and to mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine”<sup>59</sup>.

Despite these different management efforts, groundfish have not recovered. In 2012, the New England groundfish fishery was declared a federal disaster by the Commerce Department.<sup>60</sup> In 2013, quotas for the species that hold the most market value – cod, haddock, and flounder – were severely reduced.<sup>61</sup> Though quota for redfish, white hake, and pollock did increase, those fish species have not historically been commercially popular, and therefore have fetched very low ex-vessel prices for fishermen. Dependence on lower valued groundfish stocks is a major problem for fishermen who must pay boat expenses, required at-sea monitoring expenses, and quota to go on fishing trips. Non-profits such as the Northwest Atlantic Marine Alliance and Gulf of Maine Research Institute are attempting to create more market value for these undervalued fish by educating consumers and institutional purchasers about non-traditional groundfish options<sup>62</sup>.

<sup>55</sup> Island Institute. “Groundfish Permit Bank.” Retrieved online: [http://www.islandinstitute.org/icif\\_permitbank.php](http://www.islandinstitute.org/icif_permitbank.php)

<sup>56</sup> Jennifer F. Brewer, “Paper Fish and Policy Conflict : Catch Shares and Ecosystem Based Management in Maine’s Groundfishery,” *Ecology and Society*, 16(1), 8, 2011.

<sup>57</sup> Miller, Kevin, “New England groundfish industry at crossroads,” Portland Press Herald, May 10, 2013, [http://www.pressherald.com/news/groundfish-industry-at-crossroads\\_2013-05-08.html?pagenum=full](http://www.pressherald.com/news/groundfish-industry-at-crossroads_2013-05-08.html?pagenum=full)

<sup>58</sup> Trotter, Bill, “Groundfish access must be protected Down East, fishermen say,” Bangor Daily News, August 30, 2012. <http://bangordailynews.com/2012/08/30/news/hancock/groundfish-access-must-be-protected-down-east-fishermen-say/>

<sup>59</sup> <http://www.maine.gov/dmr/rm/groundfish/bank/>. FMI on permit banks in Maine: <http://www.islandinstitute.org/publications/Permit-Banks-A-Strategy-for-Viable-and-Sustainable-Fisheries/15359/>

<sup>60</sup> Bidgood, Jess, “U.S. Declares a Disaster for Fishery in Northeast,” New York Times, September 13, 2012. Retrieved online: [http://www.nytimes.com/2012/09/14/us/commerce-dept-declares-northeast-fishery-a-disaster.html?\\_r=0](http://www.nytimes.com/2012/09/14/us/commerce-dept-declares-northeast-fishery-a-disaster.html?_r=0).

<sup>61</sup> NOAA Northeast Regional Office. 2013. “2013 Groundfish Measures”. Press Release, April 30. <http://www.nero.noaa.gov/mediacenter/index.html>.

<sup>62</sup> Gulf of Maine Research Institute’s “Out of the Blue” program seeks to build markets for underused Gulf of

With recent further quota cuts and consolidation pressure, Maine is in danger of losing its groundfish fleet altogether. The bills that were introduced in the first session were meant to address that issue however none of the three reviewed here were successfully passed. LD 939, “An Act To Restore Maine’s Groundfishing Industry”, would have provided ongoing annual funding of \$3.5 million to purchase federal groundfishing permits for the Maine Groundfish Permit Bank.

The second set of bills, both of which were also defeated, asked for permission for groundfish vessels to land lobster caught as bycatch (“incidentally caught”) in their trawl nets. LD 1097 specifically related to landing lobsters caught by groundfish boats in Portland (area 3), and LD 1549 pertained to the whole groundfish industry.

By allowing fishermen to land the state’s highest valued species, these bills would have provided extra revenue to the struggling groundfish fleet. Both bills, however, faced strong opposition from lobstermen concerned that the legislation would result in additional pressure on the lobster fishery.<sup>63</sup>

**Scallop – 2 bills**

License transfer	LD 583 (dead)
<b>Dive-only areas in mooring fields</b>	<b>LD 946 (enacted)</b>

The scallop fishery made up 1% of the ex-vessel value of Maine’s commercial landings in 2012. Two bills pertaining to the scallop fishery were introduced into the 126<sup>th</sup> Legislature, with one being signed into law.

LD 946, “An Act To Allow Municipalities To Petition the Department of Marine Resources To Establish Dive-only Areas for Scallops in Mooring Fields” passed and gives the DMR Commissioner authority to establish by rule, at the written request of a municipality, “dive-only” areas in harbors that establish areas near moorings within that municipality in which scallops can only be taken by hand. This bill provides that dragging for scallops in a dive-only area is prohibited as a civil violation and comes with mandatory fines.

The bill that died, LD 583, “An Act To Allow the Exchange of Scallop Licenses”, would have allowed a holder of a hand fishing scallop license and a holder of a scallop dragging license to exchange licenses.

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Maine seafood species by working with local restaurants and chefs to feature less popular species and encourage consumer interest and demand. FMI:

[http://www.fishwatch.gov/features/out\\_of\\_the\\_blue\\_10\\_12.htm](http://www.fishwatch.gov/features/out_of_the_blue_10_12.htm)

<sup>63</sup> Mistler, “Maine lawmakers unanimously reject lobster bycatch bill,” Portland Press Herald, April 24, 2013.

**Sea Urchin – 2 bills**

<b>Small-scale cooperatives</b>	<b>LD 832 (dead)</b>
<b>Urchin draggers allowed sea cucumber</b>	<b>LD 935 (dead)</b>

Two bills related to the urchin fishery failed. “An Act To Enable Small-Scale Cooperative Management of Sea Urchin Resources”, LD 832, was a concept draft that would have encouraged resource enhancements and harvest control through small-scale cooperative management of sea urchin resources. LD 935 also died and would have both permitted the harvesting of sea cucumbers as a bycatch of sea urchin dragging and allowed areas to be closed to sea cucumber dragging.

**Seaweed – 2 bills**

<b>Statewide harvest plan</b>	<b>LD 585 (enacted)</b>
<b>Implementation of Rockweed FMP<sup>64</sup></b>	<b>LD 1830 (enacted)</b>

LD 585, “An Act To Require the Development of a Statewide Approach to Seaweed Management” was enacted. This legislation tasked DMR with developing a statewide approach to seaweed harvest management (FMP) and presenting a plan to the Marine Resources Committee by January of 2014. It also repealed laws that established the Cobscook Bay Rockweed Management Area. LD 1830, “An Act To Promote Rockweed Habitat Conservation Through the Consideration of No-Harvest Areas” was enacted in April of 2014 and requires the DMR Commissioner to report to the Marine Resources Committee an update on the implementation of the Rockweed FMP.

These bills re-energized years of debate over whether cutting rockweed and other species of seaweed at current rates is sustainable.<sup>65</sup> In 2011, the seaweed harvest in Maine totaled 15.3 million pounds, up from 12.9 million pounds in 2010, with rockweed accounting for about 90% of the seaweed taken. Harvesters were paid \$0.03 cents a pound in 2011. Though ex-vessel prices are low, only a small fraction of the harvest is sold raw. The majority of the harvest is dried, ground and sold as components of wholesale and retail products that include food supplements, fertilizers and animal feed products. Collectively those value-added products are worth \$20 million per year, making rockweed and other seaweed species “one of Maine’s most valuable marine resources, according to DMR.<sup>66</sup>

<sup>64</sup> Fisheries Management Plan (FMP).

<sup>65</sup> Walsh, Tom, “Bill pulls sustainability, legality of seaweed harvesting into spotlight,” Bangor Daily News, February 23, 2013. Retrieved online: <http://bangordailynews.com/2013/02/23/news/state/bill-pulls-sustainability-legality-of-seaweed-harvesting-into-spotlight/>

<sup>66</sup> “Fact Sheet: “Rockweed Ecology, Industry and Management,” *Maine Sea Grant* in partnership with Maine Department of Marine Resources, Jan. 2013, Retrieved online: [http://www.seagrant.umaine.edu/files/RockweedFactsheet\\_011113.pdf](http://www.seagrant.umaine.edu/files/RockweedFactsheet_011113.pdf).



**License Fee Reduction - 2 bills**

<b>Crab/lobster elderly fee reduction</b>	<b>LD 557 (dead)</b>
<b>No fees for military on active duty</b>	<b>LD 1448 (emergency enacted)</b>

Two bills dealt with commercial fishing license fees. LD 1448, “An Act To Preserve Marine Resources Licenses for Active Duty Service Members” makes a valid license issued by DMR inactive with no fee due for a holder who is a member of the United States Armed Forces (including the National Guard and the Reserves of the United States Armed Forces and the United States Coast Guard) who is under orders for active duty.

LD 557, “An Act To Change the Age at Which a Person Qualifies for a Fee Reduction for a Lobster and Crab Fishing License” died. It would have changed the age at which an applicant qualifies for a fee reduction for a lobster and crab fishing license from 70 years of age to 65 years of age.

**Maine Fisheries Management – 2 bills**

<b>Guiding Principles</b>	<b>LD 778 (dead)</b>
<b>Requirements for FMPs</b>	<b>LD 811 (enacted)</b>

LD 811, “An Act To Provide Guidance for the Development of Marine Fisheries Management Plans” was signed into law. It establishes general requirements for the development of fisheries management plans (FMPs) by the DMR Commissioner. Plans must address certain objectives, as well as the management of resources and scientific content. The bill also allows the Commissioner to adopt a management plan or other policy on the conservation or regulation of marine organisms only after prior notice and public hearing and with the advice and consent of the Marine Resources Advisory Council. The bill requires that a FMP be developed with advice and input from the advisory council for the species for which the plan is developed, if such an advisory council exists.

LD 778 died in the first session. The bill, “An Act To Develop Principles To Guide Fisheries Management Decisions,” was a concept draft that would have established a means of determining the long-term goal of fisheries management in the state, including developing a method of outcome-testing proposed legislation and rules; and requiring periodic review of fisheries management laws and goals in order to ensure that they remain pertinent and applicable.

**GMO (GE Salmon) – 1 bill**

<b>Labeling</b>	<b>LD 898 (dead)</b>
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LD 898, “An Act To Require Labeling of Genetically Engineered Marine Organisms” died. It would have required clear and conspicuous labeling of marine fish and organisms that are

produced using genetic engineering (GE).<sup>67</sup>

**Tribal Fishing Rights** – 3 bills

<b>Elver tribal fishing rights</b>	<b>LD 604 (emergency enacted)</b>
<b>Elver &amp; Scallop</b>	<b>LD 451 (emergency enacted)</b>
<b>Maliseet</b>	<b>LD 953 (enacted)</b>

Three bills in the first session were successful in expanding tribal fishing rights in Maine. Two of the bills concerned elver harvesting, and both were signed into law in March, right before the start of the elver fishing season.

LD 604 increased the Penobscot Nation’s number of commercial elver licenses from eight to 48. LD 451 issued 200 elver licenses with three classifications of restrictions to the Passamaquoddy Tribe, and 16 elver licenses to the Houlton Band of Maliseet. In addition to elver licenses, LD 451 also gave the Passamaquoddy the rights to 20 scallop licenses. After the passage of the legislation, the Passamaquoddy challenged the state’s right to impose license restrictions.<sup>68</sup> The issue of tribal rights and sovereignty continues to be a contentious issue in Maine.<sup>69</sup>

The third bill that was enacted was LD 953, “An Act To Provide for and Recognize the Right of the Houlton Band of Maliseet Indians To Fish for Marine Organisms.” It provides the Houlton Band of Maliseet Indians the same rights regarding the taking of marine organisms as are provided to the other federally recognized Indian tribes in this State. This included the right to issue certain commercial licenses and permits for the taking of marine organisms and the right of members of the band to take, possess, transport and distribute marine organisms for sustenance and ceremonial uses. The bill concerns licenses related to lobster and crab, sea urchin, scallop and elvers. The bill also increased the number of elver licenses allowed to be issued by the Penobscot Nation and the number that may be issued by the Aroostook Band of Micmacs.

<sup>67</sup> If approved by the Federal Drug Administration, GE salmon would be the first GE (or transgenic) animal approved for human consumption. The FDA extended the public comment period from February 2013 to April 2013 and per the FDA website updated in 2013, has not been decided upon. FMI on GE Salmon and GMO labeling in Maine: <http://www.workingwaterfront.com/articles/Wild-to-Transgenic-Salmon-in-Maine/14105/>. FDA: <http://www.fda.gov/AnimalVeterinary/NewsEvents/CVMUpdates/ucm339270.htm>

<sup>68</sup> “Tribe, state officials at odds over elver licenses,” WMTV interview, April 2, 2013, <http://www.wmtw.com/news/maine/Tribe-state-officials-at-odds-over-elver-licenses/-/8792012/19556484/-/tf0p4tz/-/index.html#ixzz2hpGr5RSu>

<sup>69</sup> An article in Wabanaki Legal News, a newsletter of Pine Tree Legal Assistance, associates the problem over fishing rights as related to the question of whether the state has jurisdiction to limit subsistence practices in open waters and whether the regulation of fishing on Indian lands is a internal tribal matter that falls outside the state’s jurisdiction. Egan, Jennifer, “Controversial and jurisdictional disputes regarding Elvers,” Wabanaki Legal News, Fall 2013, <http://www.ptla.org/sites/default/files/wabanaki-news-fall-2013.pdf>

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