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To: [JWMED Exhibits](#)
Subject: explanation of difference between -10 and -11 amendments to HB 2038 Farm to School Bill
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Co-chairs Monroe and Smith Warner and members of the Education Subcommittee of Ways and Means:

I'd like to provide an explanation of the difference between the -10 and -11 amendments to HB 2038.

The short answer is:

The -10 amendments were confusing and ODE doesn't know how they would administer the grant with that language.

The -11 amendments are a technical fix that allows ODE to effectively administer the program.

Here is a more detailed explanation:

Both amendments were drafted to address concerns about singling out commodities, specifically dairy and wheat.

Industry partners met and agreed on this concept:

Remove the exclusion of fluid milk and bakery products

And add something like this: shall not supplant purchases of Oregon grown or processed foods regularly made by a school district prior to participation in the Farm to School Grant Program and giving authority to ODE to make exceptions

The exceptions are important because with the "shall not supplant" language we may exclude some items unintentionally that are consistent with the goals of the grant, such as Oregon apples from a local orchard or bakery products made from locally grown wheat that a district had been buying regularly.

Both amendments were intended to do that, but subsection B of the -10 amendments were written in a way that we found confusing and ODE does not know how they would implement them. The -10 reads:

"(B) Notwithstanding subparagraph (A) of this paragraph, the State Board of Education may adopt by rule standards that allow the Department of Education to award grants under this subsection to a school district even if the school district uses the moneys to supplant purchases of food produced or processed in this state that the school district had regularly purchased prior to the date the school district first received a grant as provided by this subsection."

In the -10 amendment, ODE may award *grants* even if districts use the money to supplant purchases. The problem with this language is that we are trying to give ODE authority to provide exceptions for *products* not for a grant award. ODE has to award grants to all districts that opt-in because the grants are awarded non-competitively. ODE doesn't know how they could draft rules given the current language and doesn't think it would allow them to grant exceptions for products. Another possible problem with the language is that it seems circular in nature--we won't know if

schools used the money to supplant purchases until after they received the grant, so it would be hard to make this determination at the time of award.

So we revised the language and came up with more workable language which allows exceptions for *products*, which is reflected in the -11 amendments subsection B.

“(B) Notwithstanding subparagraph (A) of this paragraph, a school district may use moneys received under this subsection to supplant purchases of food produced or processed in this state that the school district had regularly purchased prior to the date the school district first received a grant as provided by this subsection if the product or purchase meets criteria established by the State Board of Education by rule.

The difference is technical, but important to the effective operation of the grant program.

I hope this makes sense. Please let me know if you have any questions or need any other clarification.

The Oregon Farm to School and School Garden Network supports adoption of the -11 amendments of HB 2038.

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