

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2021

Eelgrass and Salt Marsh Vegetation Mapping Fund N302

Initiative: Provides an allocation to accept grants, bequests, gifts or contributions from any source, public or private, to support the administration of the eelgrass and salt marsh vegetation mapping program.

OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
All Other	\$0	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

Water Quality 0248

Initiative: Provides appropriations for one Biologist II position and one Environmental Technician position and All Other costs.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$191,551
All Other	\$0	\$6,292
GENERAL FUND TOTAL	\$0	\$197,843

Water Quality 0248

Initiative: Provides appropriations for aerial imagery acquisition and processing and annual equipment maintenance and replacement.

GENERAL FUND	2021-22	2022-23
All Other	\$0	\$86,671
GENERAL FUND TOTAL	\$0	\$86,671

ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS

	2021-22	2022-23
GENERAL FUND	\$0	\$284,514
OTHER SPECIAL REVENUE FUNDS	\$0	\$500
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$285,014

See title page for effective date.

**CHAPTER 425
H.P. 446 - L.D. 610**

An Act To Amend the Laws Governing Employer Recovery of Overcompensation Paid to an Employee

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

Sec. 1. 26 MRSA §635, as enacted by PL 1989, c. 804, is amended to read:

§635. Overcompensation by employer

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Net amount" means the amount of money due an employee as compensation after any deductions or withholdings other than an employer's withholding for the purpose of recovering any overcompensation.

A-1. "Employer" means a person in this State that employs individuals and includes the State and political subdivisions of the State. "Employer" includes a person acting in the interest of an employer directly or indirectly.

B. "Overcompensation" means any compensation paid to an employee that is greater than that to which the employee is entitled under the compensation system established by the employer, but does not include fringe benefits, paid leave, awards, bonuses, settlements or insurance proceeds in respect to or in lieu of compensation, expense reimbursements, commissions or draws or advances against compensation.

C. "Paid leave" has the same meaning as in section 636, subsection 1, paragraph C.

2. Recovery of overcompensation; limitations.

An employer who has overcompensated an employee through employer error may not withhold more than ~~10%~~ 5% of the net amount of any subsequent pay without the employee's written permission, except that, if the employee voluntarily terminates employment, the employer may deduct the full amount of overcompensation from any wages due. An employer who has overcompensated an employee through employer error may not recover more than the amount of overcompensation paid to that employee in the 3 years preceding the date of discovery of the overcompensation.

3. Violation. If an employer with over 25 employees violates this section, that employer forfeits any claim to the overcompensation.

If an employer with 25 or fewer employees knows of the ~~limitation~~ limitations established by subsection 2 and violates this section, that employer forfeits any claim to the overcompensation. ~~Employers~~ An employer of 25 or fewer employees who ~~do~~ does not know of the ~~limitation~~ limitations established by subsection 2 and who ~~violate~~ violates this section shall return all money withheld in excess of that permitted under subsection 2 within 3 days of written or oral demand by the employee, or ~~forfeit~~ forfeits any claim to the overcompensation.

4. Application. This section is applied as follows.

A. An employer has the burden of proof, except that, if the overcompensation amounts to less than 15% of the correct net amount of the employee's compensation, the employer must prove by clear and convincing evidence that the employee knowingly accepted the overcompensation.

B. If an employee knowingly accepts the overcompensation, this section does not apply.

C. This section, except for the forfeiture provisions in subsection 3, does not limit or affect an employer's general civil remedies against an employee or an employee's general civil remedies against an employer.

See title page for effective date.

**CHAPTER 426
S.P. 250 - L.D. 636**

**An Act To Encourage the
Purchase of Local Foods for
Public Schools**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, school administrative units have an immediate need to provide high-quality, locally grown foods to Maine students, many of whom experience food insecurity; and

Whereas, school administrative units require the ability to access the State's enhanced program providing local foods to public schools in the current fiscal year; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA §6602, sub-§12, as amended by PL 2019, c. 511, §1 and affected by §2, is further amended to read:

12. Local Produce Foods Fund. The Local Produce Foods Fund is established within the department. The fund is authorized to receive revenue from public and private sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of the fiscal year must be carried forward to the next fiscal year. The fund must be used to match \$1 for every \$3 a school administrative unit pays for produce, value-added dairy,

protein or minimally processed foods purchased directly from a farmer, farmers' cooperative or local food hub, local food processor or food service distributor in the State, to a maximum state contribution of ~~\$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500~~ \$5,000 per school administrative unit in fiscal year ~~2020-21~~ 2021-22 and subsequent years or ~~\$2,000~~ \$5,500 per school administrative unit if funding is received and the school administrative unit sends a food service employee to local foods training administered by the department under subsection 13. All foods purchased using the fund must be grown or produced in the State. At the end of the fiscal year, the school administrative unit may provide the department with receipts documenting purchases pursuant to this subsection during that year. For purposes of this subsection, "minimally processed" means only the washing, cleaning, trimming, peeling, slicing, drying, sorting, refrigerating, freezing and packaging of food items or a combination of those activities. Reimbursement or partial reimbursement to school administrative units may only be made up to the amount available in the fund. Failure to reimburse does not constitute an obligation on behalf of the State to a school administrative unit. The department shall apply for federal grant funding to provide state contributions in excess of ~~\$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500~~ \$5,000 per school administrative unit in fiscal year ~~2020-21~~ 2021-22 and subsequent years pursuant to this subsection if applicable grant funding is available. The department may accept grant funding from hospitals and other sources to provide state contributions in excess of ~~\$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500~~ \$5,000 per school administrative unit in fiscal year ~~2020-21~~ 2021-22 and subsequent years pursuant to this subsection.

Sec. 2. 20-A MRSA §6602, sub-§12-A is enacted to read:

12-A. Local Foods Fund reimbursement. Reimbursement or partial reimbursement to school administrative units may be made only up to the amount appropriated to support the provisions of the Local Foods Fund as established in subsection 12. Funds appropriated for this purpose do not lapse but must be carried forward to the next fiscal year to be used for the same purpose.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Local Foods N371

Initiative: Transfers funding to support the use of local produce in schools to a newly created Local Foods Fund.

GENERAL FUND	2020-21	2021-22	2022-23
All Other	\$300,813	\$322,500	\$322,500