



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1257

S.P. 420

In Senate, March 30, 2017

**An Act To Minimize Hardship by Prohibiting the State from  
Reducing the Wages of a State Employee To Recoup Payments the  
State Made in Error**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by President THIBODEAU of Waldo.

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

2 **Sec. 1. 26 MRSA §635, sub-§4**, as enacted by PL 1989, c. 804, is amended to  
3 read:

4 **4. Application.** This section is applied as follows.

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

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

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

13 This section does not apply to the State in its capacity as an employer.

14 **Sec. 2. 26 MRSA §635-A** is enacted to read:

15 **§635-A. Recovery of overcompensation by the State prohibited**

16 If the State, in its capacity as an employer, overcompensates an employee as a result  
17 of the State's error, the State may not recover the overpayment of wages by deducting or  
18 withholding amounts from that employee's subsequent wages.

19 **SUMMARY**

20 This bill provides that, if the State, in its capacity as an employer, overcompensates  
21 an employee as a result of the State's error, the State may not recover the overpayment of  
22 wages by deducting or withholding amounts from that employee's subsequent wages.