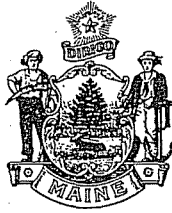


MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1407

H.P. 983

House of Representatives, April 6, 2009

An Act To Implement the Recommendations of the PE4ME Planning and Oversight Team

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BERRY of Bowdoinham.
Cosponsored by Senator MILLS of Somerset and
Representatives: CONNOR of Kennebunk, MILLER of Somerville, NELSON of Falmouth,
Speaker PINGREE of North Haven, RANKIN of Hiram, STRANG BURGESS of Cumberland.

1 available in the State and the number of physical education teachers necessary to
2 implement the program in every elementary school in the State. The commissioner shall
3 develop and maintain a system of incentives to encourage recruitment of graduates of
4 postsecondary institutions in the State for employment as physical education teachers in
5 the State and for schools or school administrative units to participate in the program, with
6 an additional financial incentive for early adoption or ongoing improvement of the
7 program.

8 **§4732. Physical education evaluation**

9 **1. Evaluation.** The commissioner shall develop and implement an evaluation
10 system for the program.

11 **2. Infrastructure and content.** The commissioner shall evaluate the infrastructure
12 and content of a physical education curriculum for a participant every 3 years and
13 conduct separate evaluations for separate grade levels. The evaluation must review:

14 A. The existing physical education infrastructure of the participant including
15 facilities, equipment and schedules for physical education in relation to the ratio of
16 students to teachers, staff education and development opportunities for the staff; and

17 B. The content of the physical education conducted by the participant and whether it
18 comes close to best practices, including defined curriculum and curriculum elements,
19 active time in class and activities that support lifelong physical activity.

20 **3. Impact.** The impact of a physical education curriculum for the students of a
21 participant must be evaluated in an interval and manner determined by the commissioner
22 that will allow the data to be reported per grade, school and administrative unit level on
23 an individual or statewide basis. The evaluation under this subsection must be conducted
24 by a physical education teacher through a fitness assessment of each student to review the
25 health effects of the physical education curriculum on the student including cardio-
26 respiratory fitness, strength, flexibility, body mass index, reported physical activity levels
27 and knowledge and understanding of key physical activity concepts.

28 **4. Reporting to families.** A participant shall report to the family of a student
29 individual fitness data collected under subsection 3 concerning that student pursuant to
30 the provisions of chapter 221, subchapter 1.

31 **5. Small, rural or isolated schools.** A participant that is a small, rural or isolated
32 school or school administrative unit as determined by the commissioner may receive
33 technical assistance or priority funding for equipment, training or development
34 opportunities under the program.

35 **§4733. Rules**

36 The commissioner may adopt rules to carry out the purposes of this subchapter.
37 Rules adopted pursuant to this section are routine technical rules pursuant to Title 5,
38 chapter 375, subchapter 2-A.

39 **Sec. 2. 22 MRSA §263 is enacted to read:**

1 **§263. Obesity and Chronic Disease Fund**

2 **1. Fund established.** The Obesity and Chronic Disease Fund, referred to in this
3 section as "the fund," is established as an interest-bearing account administered by the
4 department.

5 **2. Physical education.** The fund may be used to pay for new equipment, new staff
6 training, new personnel, new administrative costs and other expenses not related to an
7 existing physical education program of a participant and for the implementation of the
8 program under Title 20-A, section 4731 and the necessary expenses of the department in
9 the administration of this section.

10 **3. Revenue.** Any private or public funds appropriated, allocated or dedicated to the
11 fund must be deposited into the fund as well as income from any other source directed to
12 the fund. All interest earned by the fund becomes part of the fund. Any balance remaining
13 in the fund at the end of the fiscal year does not lapse but is carried forward into
14 subsequent fiscal years.

15 **4. Grants and other incentives.** The department may disburse a grant or other
16 incentive from the fund to a participant to carry out the purposes of subsection 2.

17 **5. Withholding.** The commissioner may withhold a disbursement from the fund
18 from a participant, as defined in Title 20-A, section 4731, who does not conform to the
19 provisions of Title 20-A, chapter 207-A, subchapter 4.

20 **6. Rules.** The commissioner may adopt rules to carry out the purposes of this
21 section. Rules adopted pursuant to this subsection are routine technical rules pursuant to
22 Title 5, chapter 375, subchapter 2-A.

23 **Sec. 3. Assessment.** By January 15, 2010 the Commissioner of Education shall
24 conduct a statewide assessment to identify the current teacher capacity and future teacher
25 needs to fulfill the purposes of this Act, current physical education capacities of every
26 elementary school in the State and what evaluation tools are being used at the local level
27 to evaluate physical education students and the success of the Physical Education
28 Program established under the Maine Revised Statutes, Title 20-A, section 4731 and to
29 perform a baseline fitness assessment of all elementary students of a participant of the
30 program.

31 As part of the assessment, the commissioner shall prepare a report for submission to
32 the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing
33 Committee on Health and Human Services. The report must include a description of the
34 physical education program in existence for the 2009-10 school year for each school in
35 the State, including for each school:

36 1. The average teacher-to-student ratio for academic classes and the average
37 teacher-to-student ratio for physical education classes;

38 2. The average minutes of physical education per week per student by grade;

1 3. The average minutes of recess or other opportunity for physical activity during
2 school hours per week per student by grade; and

3 4. The physical plant, infrastructure and equipment in place to support the physical
4 education program.

5 A school administrative unit shall report to the commissioner data required by the
6 commissioner to prepare an assessment under this section that will allow the assessment
7 to be reported by grade, school, school administrative unit and region.

8 **Sec. 4. Program implementation oversight.** The PE4ME planning and
9 oversight team, established pursuant to Public Law 2007, chapter 102, shall oversee the
10 implementation of the Physical Education Program established in the Maine Revised
11 Statutes, Title 20-A, section 4731 until 2015 and conduct at least 2 meetings per year to
12 carry out the purposes of this Act. The PE4ME planning and oversight team shall submit
13 a report pursuant to this section annually to the joint standing committee of the
14 Legislature having jurisdiction over education matters. If the benchmark under
15 subsection 2 is not met, the PE4ME planning and oversight team shall recommend an
16 immediate adjustment to the implementation schedule in this section to meet the
17 benchmarks under subsections 3, 4 and 5. The Commissioner of Education shall
18 endeavor to implement the Physical Education Program by obtaining the consent of all
19 elementary schools in the State with the following benchmarks:

- 20 1. By 2012, 15% of all elementary schools in the State;
21 2. By 2013, 40% of all elementary schools in the State;
22 3. By 2014, 65% of all elementary schools in the State;
23 4. By 2015, 90% of all elementary schools in the State; and
24 5. By 2016, 100% of all elementary schools in the State.

25 **Sec. 5. Funding resources.** The Commissioner of Education shall explore federal
26 and other funding resources available for physical education meeting the guidelines
27 established under the Maine Revised Statutes, Title 20-A, chapter 207-A, subchapter 4.

28 SUMMARY

29 This bill:

30 1. Creates the Physical Education Program, which encourages elementary schools to
31 implement a vigorous physical activity and physical education program involving
32 equipment, teacher training and student physical assessments;

33 2. Requires evaluation standards for the Physical Education Program including
34 evaluation of the infrastructure and content of the physical education curriculum of each
35 elementary school in the program and the impact of this curriculum on the school's

1 students and requires the Commissioner of Education to make a statewide assessment of
2 the needs of elementary schools to meet the requirements of the program;

3 3. Establishes the Obesity and Chronic Disease Fund under the administration of the
4 Department of Health and Human Services to fund the Physical Education Program
5 including equipment, staff training and personnel expenses of the schools to implement
6 the program and to provide funds for obesity prevention and promoting healthy school
7 environments; and

8 4. Requires the Commissioner of Education to explore federal and other funding
9 resources to fund the program.