

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

A. Examine this Title and Title 18-B and draft amendments that the commission considers advisable;

B. Evaluate the operation of this Title and Title 18-B and recommend amendments based on the evaluation;

C. Examine current laws pertaining to probate and trust laws and recommend changes based on the examination; and

D. Examine any other aspects of the State's probate and trust laws, including substantive, procedural and administrative matters, that the commission considers relevant.

2. Propose changes. The commission may propose to the Legislature, at the start of each session, changes in the probate and trust laws and in related provisions that the commission considers appropriate.

§1-804. Organization

The Chief Justice of the Supreme Judicial Court shall notify all members of the commission of the time and place of the first meeting of the commission. At that time the commission shall organize, elect a chair, vice-chair and secretary-treasurer from its membership and adopt rules governing the administration of the commission and its affairs. The commission shall maintain financial records as required by the State Auditor.

§1-805. Federal funds

The commission may accept federal funds on behalf of the State.

Sec. 3. Report. On or before January 15, 2010 and January 15, 2011, the Probate and Trust Law Advisory Commission shall report on the activities of the commission to the joint standing committee of the Legislature having jurisdiction over judiciary matters.

See title page for effective date.

**CHAPTER 263
H.P. 471 - L.D. 657**

An Act To Allow the Award of Court Costs or Attorney's Fees in Protection from Harassment Actions

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

Sec. 1. 5 MRSA §4655, sub-§1-A is enacted to read:

1-A. Judgment against plaintiff. If a judgment is entered against the plaintiff and the court finds that the complaint is frivolous, the court may order the

plaintiff to pay court costs, reasonable attorney's fees or both.

See title page for effective date.

**CHAPTER 264
H.P. 983 - L.D. 1407**

An Act To Assess the Physical Education Capacity of Elementary Schools in Maine and To Establish the Obesity and Chronic Disease Fund within the Department of Education

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

Sec. 1. 20-A MRSA c. 223, sub-c. 7-C is enacted to read:

**SUBCHAPTER 7-C
ELEMENTARY SCHOOL PHYSICAL
EDUCATION**

§6631. Obesity and Chronic Disease Fund

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

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

3. Use of fund; physical education. Balances in the fund may be used for the necessary expenses of the department in the administration of the fund. Balances in the fund may be used to pay for new equipment, new staff training, new personnel, new administrative costs and other expenses not related to an existing physical education program and for the implementation of a new physical education program for elementary schools.

Sec. 2. Assessment. The Commissioner of Education shall conduct a statewide assessment, using a survey or sampling methodology, of the current physical education capacities of elementary schools in the State. The assessment must include:

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

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

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

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

5. The methods being used to evaluate the physical education of students; and

6. The capacity to conduct baseline fitness assessments and monitor achievement of elementary students.

The commissioner shall work with the elementary schools selected for the assessment to obtain the data required for this assessment in a manner that allows the assessment to be reported by grade, school, school administrative unit and region.

The commissioner shall submit a report on the findings of the assessment to the Joint Standing Committee on Education and Cultural Affairs by February 1, 2010. The report must include a description of the physical education programs in existence for the 2009-2010 school year for elementary schools in the State.

Sec. 3. Use of the Obesity and Chronic Disease Fund. The Commissioner of Education may accept any private or public funds or other income allocated, dedicated or directed to the Obesity and Chronic Disease Fund established in the Maine Revised Statutes, Title 20-A, section 6631 at any time after the effective date of this Act. Notwithstanding Title 20-A, section 6631, subsection 3, the commissioner may not authorize any expenditures from that fund prior to July 1, 2010.

Sec. 4. Authority to submit legislation. After receipt of the assessment required in section 2 of this Act, the Joint Standing Committee on Education and Cultural Affairs may submit a bill to the Second Regular Session of the 124th Legislature pertaining to physical education in elementary schools in the State.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF
Obesity and Chronic Disease Fund N075**

Initiative: Provides a base allocation in the event that funds are received to fund the implementation of a physical education program for elementary schools, new equipment, new staff training, new personnel, administrative costs and other expenses not related to an existing physical education program.

OTHER SPECIAL	2009-10	2010-11
REVENUE FUNDS		

All Other	\$500	\$500
OTHER SPECIAL	\$500	\$500
REVENUE FUNDS TOTAL		

See title page for effective date.

**CHAPTER 265
S.P. 524 - L.D. 1440**

**An Act To Clarify the Purpose
of the Notice Requirement of
Land Taking by the
Department of Transportation**

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

Sec. 1. 23 MRSA §156, 4th ¶, as repealed and replaced by PL 1991, c. 684, §2, is repealed and the following enacted in its place:

An attested copy of each award must be sent immediately to the Department of Transportation and to the party or parties named in the award. The State Claims Commission shall state by letter sent to all parties the date it issues its decision of the award. If no appeal is taken within 30 days of the date of issuance of the commission award pursuant to section 157, the Department of Transportation shall, within 60 days from the date of issuance of the commission award, pay the awarded amount to the party or parties named in the award.

Sec. 2. 23 MRSA §157, first ¶, as repealed and replaced by PL 1991, c. 684, §8, is amended to read:

The Department of Transportation or any party or parties aggrieved by an award by the State Claims Commission may appeal to the Superior Court in the county where the land is situated within 30 days from the date of issuance of the commission award ~~was forwarded by the commission~~. This appeal is de novo and is taken by filing a complaint setting forth substantially the facts upon which the case will be tried like other civil cases. The party appealing must provide a copy of the complaint to be filed in the Superior Court to the other party or parties within the same 30 days.

Sec. 3. Application. This Act applies to appeals from an award of the State Claims Commission that were pending on or after January 1, 2009, except that an appeal pending on or after January 1, 2009 but prior to the effective date of this Act for which notice was provided in accordance with the law in effect prior to this Act may not be dismissed for failure by a party to provide a copy of the complaint to the other