

MAINE STATE LEGISLATURE

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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

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

party or parties within 30 days of the date of issuance of the commission award.

See title page for effective date.

CHAPTER 266
S.P. 346 - L.D. 924

**An Act To Clarify the
Taxability of Promotional
Credits in the State
Gaming Laws**

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

Whereas, tourism is a significant segment of the State's economy; and

Whereas, any promotion or encouragement that will bring tourists to the State is of benefit to that segment of the State's economy; 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. 8 MRSA §1001, sub-§36-A is enacted to read:

36-A. Promotional credit. "Promotional credit" means any noncashable electronic thing of value used solely to play a slot machine that is provided by a slot machine operator to customers and approved by the Gambling Control Board. Promotional credits played by slot machine customers have no value attributed to their use for purposes of calculating gross slot machine income, net slot machine income and payback percentage.

Sec. 2. 8 MRSA §1003, sub-§3, ¶J, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

J. Gambling-related advertising and marketing programs, including the use of a promotional credit; and

Sec. 3. 8 MRSA §1032-A is enacted to read:

§1032-A. Promotional credit calculation

Cash prizes, winnings or credits that are received as a result of redeeming promotional credits and are used to play a slot machine are considered gross slot

machine income for the purposes of allocation under section 1036.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 4, 2009.

CHAPTER 267
H.P. 650 - L.D. 947

**An Act To Amend the Laws To
Ensure Equity in the Judicial
Retirement Program**

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

Sec. 1. 4 MRSA §1302, sub-§3, as amended by PL 2007, c. 491, §45, is further amended to read:

3. State Employee and Teacher Retirement Program and Legislative Retirement Program service. Creditable service as a member of the State Employee and Teacher Retirement Program or the Legislative Retirement Program must be allowed as creditable service of the Judicial Retirement Program as follows.

A. Any member who has not withdrawn that member's accumulated contributions with the State Employee and Teacher Retirement Program may, upon appointment as a judge, have that member's State Employee and Teacher Retirement Program contributions and membership service transferred to that member's account with the Judicial Retirement Program and all creditable service resulting from membership in the State Employee and Teacher Retirement Program is creditable service in the Judicial Retirement Program.

All funds in the State Employee and Teacher Retirement Program contributed by the employer on account of employment are transferred to the Judicial Retirement Program and must be used to liquidate the liability incurred by reason of that member's previous employment. The State shall make such contributions, from time to time, as may be necessary to provide the benefits under the Judicial Retirement Program for the member as have accrued to the member by reason of the member's previous employment and may accrue to the member by reason of membership in the Judicial Retirement Program.

A-1. Any member who has not withdrawn that member's accumulated contributions with the Legislative Retirement Program may, upon appointment as a judge, elect to have that member's Legislative Retirement Program contributions and