

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
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**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2011**

counterparty and the insurer that is the subject of the proceeding; or

(2) Disaffirm or repudiate none of the netting agreements and qualified financial contracts referred to in subparagraph (1) with respect to the person or any affiliate of the person.

B. Notwithstanding any other provision of this chapter, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or immediately preceding rehabilitation proceeding must be determined and either allowed or disallowed:

(1) As if the claim had arisen before the date of the filing of the petition for liquidation;

(2) If a rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of the filing of the petition for rehabilitation; or

(3) As if the claim had arisen before the issuance of any order or the commencement of any summary proceeding under this chapter.

The amount of the claim is the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages used in the derivatives, securities or other market for the contract and agreement claims.

7. Contractual right defined. "Contractual right," as used in this section, includes any right set forth in a rule or bylaw of a derivatives clearing organization as defined in the federal Commodity Exchange Act, a multilateral clearing organization as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991, a national securities exchange, a national securities association, a securities clearing agency or a contract market designated under the federal Commodity Exchange Act, a derivatives transaction execution facility registered under the federal Commodity Exchange Act, or a board of trade as defined in the federal Commodity Exchange Act or in a resolution of the governing board thereof and any right, whether or not evidenced in writing, arising under statutory or common law, or under law merchant, or by reason of normal business practice.

8. Affiliates. This section does not apply to any persons who are affiliates of the insurer that is the subject of the proceeding.

9. Rights of counterparties. All rights of counterparties under this chapter apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

See title page for effective date.

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## CHAPTER 108

### H.P. 939 - L.D. 1280

#### An Act to Establish a Pilot Physical Education Project in Four Maine 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,** 1/3 of Maine youth are overweight or obese; and

**Whereas,** obesity is the 3rd leading cause of preventable death in Maine; and

**Whereas,** students in Maine schools receive far less physical education than students in most other states in the nation; and

**Whereas,** the 2010 report to the Joint Standing Committee on Education and Cultural Affairs on the Physical Education Capacity of Elementary Schools submitted by the Department of Education pursuant to Public Law 2009, chapter 264 revealed that a student in grade 2 typically receives physical education instruction for one class per week for a period of approximately 36 minutes; 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 §6631, sub-§1,** as enacted by PL 2009, c. 264, §1, is amended to read:

**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 and the Department of Health and Human Services.

**Sec. 2. 20-A MRSA §6631, sub-§3,** as enacted by PL 2009, c. 264, §1, is amended to read:

**3. Use of fund; health and physical fitness.** Balances in the fund may be used for the necessary expenses of the department and the Department of Health and Human Services 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. 3. PE4ME planning and oversight team; reauthorization.** The Commissioner of Education, the Commissioner of Health and Human Services and the Maine Governor's Council on Physical Activity shall reconvene the planning and oversight team, known as "PE4ME," that was established pursuant to Resolve 2007, chapter 102. The commissioners shall reappoint PE4ME members to further implement plans for improving the health and physical fitness of elementary school children in the State, including the implementation of a pilot project to demonstrate the efficacy of progressive practices involving physical education in elementary schools in accordance with this section.

**1. Reconvening PE4ME; subcommittees and staff support.** The commissioners shall reconvene PE4ME no later than 30 days after the effective date of this Act. PE4ME may create subcommittees and seek assistance from outside the team membership in addressing its charge and meeting its responsibilities. The commissioners shall provide staff and technical assistance to PE4ME within existing resources.

**2. Charge; duties.** In further examining initiatives to improve the health, nutrition and physical fitness of elementary school children in the State, the commissioners' charge to PE4ME includes, but is not limited to, the following duties:

A. Reviewing the recommendations and implementation plan presented in the PE4ME report submitted to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Health and Human Services in December 2007 pursuant to Resolve 2007, chapter 102;

B. Reviewing the findings, conclusions and recommendations presented in the Department of Education report submitted to the Joint Standing Committee on Education and Cultural Affairs in March 2010 pursuant to Public Law 2009, chapter 264, section 2; and

C. Designing and implementing a pilot project in up to 4 elementary schools in the State to demonstrate the efficacy of fully implementing progressive practices involving physical education and health education and the coordination of reporting

information regarding the health, fitness and academic performance of elementary school children.

**3. Pilot project; site selection; funding.** PE4ME shall invite elementary schools in the State to volunteer to participate in the pilot project. PE4ME shall select up to 4 elementary schools to serve as pilot project sites from among the elementary schools that volunteer to participate in the pilot project. The pilot project must be conducted during the 2011-2012 school year. The elementary schools selected for the pilot project must agree to cooperate with PE4ME in fully implementing PE4ME recommendations for students in kindergarten to grade 8, including meeting national guidelines for providing physical education instruction and physical activity each week, as well as reporting information regarding the health, fitness and academic performance of elementary school children. The elementary schools selected as pilot sites also must participate in follow-up activities required by PE4ME to evaluate the pilot project following the end of the 2011-2012 school year. PE4ME may use funds available from the Obesity and Chronic Disease Fund established in the Maine Revised Statutes, Title 20-A, section 6631 to design, implement and evaluate the pilot project. The Department of Education and the Department of Health and Human Services are not obligated to implement this section if sufficient resources are not available from the Obesity and Chronic Disease Fund.

**4. Reports.** PE4ME shall prepare an interim report on the design and implementation of the pilot project established pursuant to this section and submit it to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Education and Cultural Affairs no later than January 31, 2012. PE4ME shall also prepare a final report on the completion of the pilot project established pursuant to this section and submit it to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over education matters no later than January 31, 2013. The final report must include the findings and conclusions determined by PE4ME in evaluating the pilot project. The final report also may include any recommendations for legislation that may be necessary to further implement PE4ME recommendations regarding changes needed to improve physical education instruction and opportunities for physical activity in elementary schools or other initiatives that are needed to promote improvements in the health, nutrition and physical fitness of elementary school children in the State.

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

Effective May 19, 2011.

**CHAPTER 109**

**H.P. 356 - L.D. 463**

**An Act Concerning Policy Objectives of the Public Utilities Commission**

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

**Sec. 1. 35-A MRSA §3215, sub-§1, ¶A,** as enacted by PL 1997, c. 316, §3, is amended to read:

A. Intervene and participate in proceedings at the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the United States Department of Energy and other federal agencies and in proceedings conducted by Canadian or other authorities or agencies whenever the interests of competition, consumers of electricity or economic development in this State are affected. When intervening or participating in proceedings under this paragraph, the commission shall promote system reliability, the reduction of the cost of electricity to ratepayers in the State and long-term sustainable resource planning; and

See title page for effective date.

**CHAPTER 110**

**S.P. 492 - L.D. 1545**

**An Act To Authorize the Public Utilities Commission To Exercise Jurisdiction over Private Natural Gas Pipelines To Ensure Safe Operation**

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

**Whereas,** there is an immediate need within the State to facilitate the construction of private natural gas pipelines to enable consumers to lower their energy costs and reduce their emissions; and

**Whereas,** in order to encourage investment in private natural gas pipelines, the State, rather than the

Federal Government, should be responsible for the safety regulation of such pipelines; and

**Whereas,** because the permitting, approval and construction process for a private natural gas pipeline can take many months, it is necessary to make changes to Maine law to enable such pipelines to be built during the current construction season; 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. 35-A MRSA §4517** is enacted to read:

**§4517. Private natural gas pipelines**

**1. Private natural gas pipelines; definition.** As used in this section, "private natural gas pipeline" means a pipeline that is used solely for the transport of natural gas to a single customer, is owned by the customer or an affiliate of the customer and is not a natural gas pipeline utility or gas utility.

**2. Safety regulation.** The commission may exercise safety regulation over an entity that owns or operates a private natural gas pipeline on public land or land owned by a 3rd party, notwithstanding that the entity is not a public utility. Safety regulation under this subsection may be enforced as provided in sections 4515 and 4516-A.

**3. Approval of construction.** A private natural gas pipeline may not be constructed without approval of the commission. When requesting approval, the entity that owns or operates a private natural gas pipeline shall submit to the commission information concerning the engineering design of the pipeline and the standards of construction the entity proposes to follow and any other information the commission determines necessary to make a determination of whether to approve construction. The commission shall approve the construction if the commission determines that the standards of construction of the pipeline adequately protect the safety of the public.

**4. Waiver.** The commission may waive for good cause any requirements under this section.

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

Effective May 19, 2011.