



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1280

H.P. 939

House of Representatives, March 23, 2011

### **An Act To Establish a Pilot Physical Education Project in Four Maine Schools**

(EMERGENCY)

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative ROCHELO of Biddeford.  
Cosponsored by Senator ALFOND of Cumberland and  
Representatives: BERRY of Bowdoinham, CASAVANT of Biddeford, GRAHAM of North  
Yarmouth, MALONEY of Augusta, NASS of Acton, NELSON of Falmouth, PILON of Saco,  
RANKIN of Hiram.

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

3           **Whereas,** 1/3 of Maine youth are overweight or obese; and

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

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

7           **Whereas,** the 2010 report to the Joint Standing Committee on Education and  
8 Cultural Affairs on the Physical Education Capacity of Elementary Schools submitted by  
9 the Department of Education pursuant to Public Law 2009, chapter 264 revealed that a  
10 student in grade 2 typically receives physical education instruction for one class per week  
11 for a period of approximately 36 minutes; and

12           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
13 the meaning of the Constitution of Maine and require the following legislation as  
14 immediately necessary for the preservation of the public peace, health and safety; now,  
15 therefore,

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

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

19           **1. Fund established.** The Obesity and Chronic Disease Fund, referred to in this  
20 section as "the fund," is established as an interest-bearing account administered by the  
21 department and the Department of Health and Human Services.

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

24           **3. Use of fund; health and physical fitness.** Balances in the fund may be used for  
25 the necessary expenses of the department and the Department of Health and Human  
26 Services in the administration of the fund. Balances in the fund may be used to pay for  
27 new equipment, new staff training, new personnel, new administrative costs and other  
28 expenses not related to an existing physical education program and for the  
29 implementation of a new physical education program for elementary schools.

30           **Sec. 3. PE4ME planning and oversight team; reauthorization.** The  
31 Commissioner of Education, the Commissioner of Health and Human Services and the  
32 Maine Governor's Council on Physical Activity shall reconvene the planning and  
33 oversight team, known as "PE4ME," that was established pursuant to Resolve 2007,  
34 chapter 102. The commissioners shall reappoint PE4ME members to further implement  
35 plans for improving the health and physical fitness of elementary school children in the  
36 State, including the implementation of a pilot project to demonstrate the efficacy of  
37 progressive practices involving physical education in elementary schools in accordance  
38 with this section.

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

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

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

13           B. Reviewing the findings, conclusions and recommendations presented in the  
14 Department of Education report submitted to the Joint Standing Committee on  
15 Education and Cultural Affairs in March 2010 pursuant to Public Law 2009, chapter  
16 264, section 2; and

17           C. Designing and implementing a pilot project in up to 4 elementary schools in the  
18 State to demonstrate the efficacy of fully implementing progressive practices  
19 involving physical education and health education and the coordination of reporting  
20 information regarding the health, fitness and academic performance of elementary  
21 school children.

22           **3. Pilot project; site selection; funding.** PE4ME shall invite elementary schools in  
23 the State to volunteer to participate in the pilot project. PE4ME shall select up to 4  
24 elementary schools to serve as pilot project sites from among the elementary schools that  
25 volunteer to participate in the pilot project. The pilot project must be conducted during  
26 the 2011-2012 school year. The elementary schools selected for the pilot project must  
27 agree to cooperate with PE4ME in fully implementing PE4ME recommendations for  
28 students in kindergarten to grade 8, including meeting national guidelines for providing  
29 physical education instruction and physical activity each week, as well as reporting  
30 information regarding the health, fitness and academic performance of elementary school  
31 children. The elementary schools selected as pilot sites also must participate in follow-up  
32 activities required by PE4ME to evaluate the pilot project following the end of the  
33 2011-2012 school year. PE4ME may use funds available from the Obesity and Chronic  
34 Disease Fund established in the Maine Revised Statutes, Title 20-A, section 6631 to  
35 design, implement and evaluate the pilot project.

36           **4. Reports.** PE4ME shall prepare an interim report on the design and  
37 implementation of the pilot project established pursuant to this section and submit it to  
38 the Joint Standing Committee on Health and Human Services and the Joint Standing  
39 Committee on Education and Cultural Affairs no later than January 31, 2012. PE4ME  
40 shall also prepare a final report on the completion of the pilot project established pursuant  
41 to this section and submit it to the joint standing committee of the Legislature having  
42 jurisdiction over health and human services matters and the joint standing committee of  
43 the Legislature having jurisdiction over education matters no later than January 31, 2013.  
44 The final report must include the findings and conclusions determined by PE4ME in

1 evaluating the pilot project. The final report also may include any recommendations for  
2 legislation that may be necessary to further implement PE4ME recommendations  
3 regarding changes needed to improve physical education instruction and opportunities for  
4 physical activity in elementary schools or other initiatives that are needed to promote  
5 improvements in the health, nutrition and physical fitness of elementary school children  
6 in the State.

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

9 **SUMMARY**

10 This bill implements the recommendations of the PE4ME planning and oversight  
11 team related to improving the health and physical fitness of elementary school children.  
12 The bill accomplishes the following.

13 1. It amends the provisions of the Obesity and Chronic Disease Fund to authorize the  
14 Department of Education and the Department of Health and Human Services to use  
15 resources allocated from this fund to develop improved physical education programs for  
16 elementary schools in the State.

17 2. It directs the Commissioner of Education, the Commissioner of Health and Human  
18 Services and the Maine Governor's Council on Physical Activity to reconvene the  
19 PE4ME planning and oversight team, established pursuant to Resolve 2007, chapter 102,  
20 to further implement plans for improving the health, nutrition and physical fitness of  
21 elementary school children in the State.

22 3. It directs the PE4ME planning and oversight team to design and implement a pilot  
23 project to demonstrate the efficacy of progressive practices involving physical education  
24 and health education in up to 4 elementary schools in the State. The PE4ME planning  
25 and oversight team is required to submit an interim report to the Legislature's Joint  
26 Standing Committee on Education and Cultural Affairs and the Joint Standing Committee  
27 on Health and Human Services by January 31, 2012 and a final report to the joint  
28 standing committee of the Legislature having jurisdiction over health and human services  
29 matters and the joint standing committee of the Legislature having jurisdiction over  
30 education and cultural affairs by January 31, 2013.