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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 MRS §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 MRS §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

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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.