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An Act To Implement the Recommendations of the PE4ME Planning and Oversight Team

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

Sec. 1. 20-A MRSA c. 207-A, sub-c. 4 is enacted to read:

SUBCHAPTER 4

PHYSICAL EDUCATION

§ 4731. Physical Education Program

1. Program established. The Physical Education Program is established in the department.

2. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Participant" means a school or school administrative unit that participates voluntarily in the program.

B. "Physical activity" means bodily movement of any type that may include recreational, fitness and sports activities such as jumping rope, playing soccer and lifting weights and daily activities such as walking, taking the stairs or raking leaves.

C. "Physical education" means providing to a child, through appropriate instruction, meaningful and challenging content and physical activity, the skills and knowledge needed to establish and sustain an active and physically fit lifestyle.

D. "Program" means the Physical Education Program established in subsection 1.

3. Program requirements. The commissioner shall develop guidelines and requirements for the program, which must include requiring a participant to progress towards these goals within 3 years of participation:

A. Provide for all students at least 30 minutes per day of structured moderate to vigorous physical activity, which may include time in physical education instruction;

B. Provide at least 150 minutes per week of physical education that is evidence-based and health-related and teaches students motor and behavioral skills necessary to develop an active and physically fit lifestyle;

C. Ensure that the physical education provided is taught by a teacher who has been certified in physical education under chapter 502;

D. Grade physical education pursuant to section 4708 and report it in a manner consistent with all other subjects taken by a student; and

E. Require a physical education teacher to attend a workshop on creating physical activity opportunities for all students, including methods to get students outside at all times of the year.

4. Assessment and incentives. The commissioner shall regularly conduct an assessment to accurately determine the number of certified physical education teachers available in the State and the number of physical education teachers necessary to implement the program in every elementary school in the State. The commissioner shall develop and maintain a system of incentives to encourage recruitment of graduates of postsecondary institutions in the State for employment as physical education teachers in the State and for schools or school administrative units to participate in the program, with an additional financial incentive for early adoption or ongoing improvement of the program.

§ 4732. Physical education evaluation

1. Evaluation. The commissioner shall develop and implement an evaluation system for the program.

2. Infrastructure and content. The commissioner shall evaluate the infrastructure and content of a physical education curriculum for a participant every 3 years and conduct separate evaluations for separate grade levels. The evaluation must review:

A. The existing physical education infrastructure of the participant including facilities, equipment and schedules for physical education in relation to the ratio of students to teachers, staff education and development opportunities for the staff; and

B. The content of the physical education conducted by the participant and whether it comes close to best practices, including defined curriculum and curriculum elements, active time in class and activities that support lifelong physical activity.

3. Impact. The impact of a physical education curriculum for the students of a participant must be evaluated in an interval and manner determined by the commissioner that will allow the data to be reported per grade, school and administrative unit level on an individual or statewide basis. The evaluation under this subsection must be conducted by a physical education teacher through a fitness assessment of each student to review the health effects of the physical education curriculum on the student including cardio-respiratory fitness, strength, flexibility, body mass index, reported physical activity levels and knowledge and understanding of key physical activity concepts.

4. Reporting to families. A participant shall report to the family of a student individual fitness data collected under subsection 3 concerning that student pursuant to the provisions of chapter 221, subchapter 1.

5. Small, rural or isolated schools. A participant that is a small, rural or isolated school or school administrative unit as determined by the commissioner may receive technical assistance or priority funding for equipment, training or development opportunities under the program.

§ 4733. Rules

The commissioner may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. 22 MRSA §263 is enacted to read:

§ 263. 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. Physical education. 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 of a participant and for the implementation of the program under Title 20-A, section 4731 and the necessary expenses of the department in the administration of this section.

3. 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.

4. Grants and other incentives. The department may disburse a grant or other incentive from the fund to a participant to carry out the purposes of subsection 2.

5. Withholding. The commissioner may withhold a disbursement from the fund from a participant, as defined in Title 20-A, section 4731, who does not conform to the provisions of Title 20-A, chapter 207-A, subchapter 4.

6. Rules. The commissioner may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. Assessment. By January 15, 2010 the Commissioner of Education shall conduct a statewide assessment to identify the current teacher capacity and future teacher needs to fulfill the purposes of this Act, current physical education capacities of every elementary school in the State and what evaluation tools are being used at the local level to evaluate physical education students and the success of the Physical Education Program established under the Maine Revised Statutes, Title 20-A, section 4731 and to perform a baseline fitness assessment of all elementary students of a participant of the program.

As part of the assessment, the commissioner shall prepare a report for submission to the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Health and Human Services. The report must include a description of the physical education program in existence for the 2009-10 school year for each school in the State, including for each school:

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

A school administrative unit shall report to the commissioner data required by the commissioner to prepare an assessment under this section that will allow the assessment to be reported by grade, school, school administrative unit and region.

Sec. 4. Program implementation oversight. The PE4ME planning and oversight team, established pursuant to Public Law 2007, chapter 102, shall oversee the implementation of the Physical Education Program established in the Maine Revised Statutes, Title 20-A, section 4731 until 2015 and conduct at least 2 meetings per year to carry out the purposes of this Act. The PE4ME planning and oversight team shall submit a report pursuant to this section annually to the joint standing committee of the Legislature having jurisdiction over education matters. If the benchmark under subsection 2 is not met, the PE4ME planning and oversight team shall recommend an immediate adjustment to the implementation schedule in this section to meet the benchmarks under subsections 3, 4 and 5. The Commissioner of Education shall endeavor to implement the Physical Education Program by obtaining the consent of all elementary schools in the State with the following benchmarks:

1. By 2012, 15% of all elementary schools in the State;
2. By 2013, 40% of all elementary schools in the State;
3. By 2014, 65% of all elementary schools in the State;
4. By 2015, 90% of all elementary schools in the State; and
5. By 2016, 100% of all elementary schools in the State.

Sec. 5. Funding resources. The Commissioner of Education shall explore federal and other funding resources available for physical education meeting the guidelines established under the Maine Revised Statutes, Title 20-A, chapter 207-A, subchapter 4.

SUMMARY

This bill:

1. Creates the Physical Education Program, which encourages elementary schools to implement a vigorous physical activity and physical education program involving equipment, teacher training and student physical assessments;
2. Requires evaluation standards for the Physical Education Program including evaluation of the infrastructure and content of the physical education curriculum of each elementary school in the program

and the impact of this curriculum on the school's students and requires the Commissioner of Education to make a statewide assessment of the needs of elementary schools to meet the requirements of the program;

3. Establishes the Obesity and Chronic Disease Fund under the administration of the Department of Health and Human Services to fund the Physical Education Program including equipment, staff training and personnel expenses of the schools to implement the program and to provide funds for obesity prevention and promoting healthy school environments; and

4. Requires the Commissioner of Education to explore federal and other funding resources to fund the program.