

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during
the First Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2009

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STATE OF MAINE

124TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 124th Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
P&S XXX.....	Chapter # of enacted Private & Special Law
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 124th Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Judiciary

LD 1378 An Act To Adopt Portions of the Uniform Mediation Act

Carried Over

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WAGNER R BLISS		

The purpose of this bill is to encourage parties involved in mediation to communicate openly, and to protect the confidentiality of participants in the mediation process. This bill adopts those portions of the Uniform Mediation Act, as adopted by the National Conference of Commissioners on Uniform State Laws, that:

1. Establish privileges for mediation communication regarding disclosure, admissibility and discovery;
2. Authorize exceptions and waivers to the established privileges;
3. Specifically prohibit and permit various communications by a mediator; and
4. Establish the confidentiality of mediation communications.

This bill was carried over pursuant to Joint Order, H.P. 1053.

LD 1382 An Act To Provide for Equality before the Law

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN	ONTP	

This bill prohibits a court when interpreting a statute or rule in a civil or criminal proceeding from giving any deference to a state department's or agency's interpretation of the statute or rule.

LD 1402 An Act To Enact the Uniform Prudent Management of Institutional Funds Act

PUBLIC 450

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST BLISS	OTP-AM A ONTP B OTP-AM C	H-503 H-559 PRIEST

This bill repeals the existing Uniform Management of Institutional Funds Act and replaces it with the Uniform Prudent Management of Institutional Funds Act adopted by the National Conference of Commissioners on Uniform State Laws in 2006. The Prefatory Note and Uniform Comments are included. This bill does not include the optional clause identifying 7 percent as the maximum level of "prudent spending." This bill increases the amount that defines a small fund for which an institution may release or modify a restriction according to cy pres principles but without court approval. The dollar limit is established at \$100,000, but must be indexed to inflation by the

Joint Standing Committee on Judiciary

Attorney General. The restriction may be released or modified only if the fund is at least 20 years old and the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument. This bill takes effect July 1, 2010.

Committee Amendment "A" (H-503)

This amendment, which is the majority report of the committee, requires an institution to track the historic dollar value of its institutional funds. This amendment establishes a rebuttable presumption that the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund is imprudent. This amendment provides that if the Attorney General objects to the release or modification of a restriction in a gift instrument that applies to a small fund that has been in existence for more than 20 years, the institution must seek court approval of the release or modification. This amendment changes the effective date of the Act to July 1, 2009 and adds a retroactive application date.

Committee Amendment "B" (H-504)

This amendment is a minority report. This amendment requires an institution to track the historic dollar value of its institutional funds. This amendment establishes a rebuttable presumption that the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund is imprudent. This amendment requires an institution to notify the donor, if living, before the institution appropriates for expenditure any amount of an endowment fund if the donor's gift was at least \$50,000. This amendment provides that if the Attorney General objects to the release or modification of a restriction in a gift instrument that applies to a small fund that has been in existence for more than 20 years, the institution must seek court approval of the release or modification. This amendment changes the effective date of the Act to July 1, 2009 and adds a retroactive application date.

House Amendment "A" To Committee Amendment "A" (H-559)

This amendment moves the definition of "historic dollar value" to the general definitions section and provides that an institution's determination of historic dollar value made in good faith is conclusive. This amendment also:

1. Requires that an institution administering endowment funds with an aggregate value of \$2,000,000 or more shall notify the Attorney General upon its adoption of the provisions of the Uniform Prudent Management of Institutional Funds Act; and
2. Requires that an institution administering endowment funds with an aggregate value of less than \$2,000,000 shall notify the Attorney General at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds.

Enacted Law Summary

Public Law 2009, chapter 450 repeals the existing Uniform Management of Institutional Funds Act and replaces it with the Uniform Prudent Management of Institutional Funds Act adopted by the National Conference of Commissioners on Uniform State Laws in 2006. The Prefatory Note and Uniform Comments are included. Chapter 450 requires an institution to track the historic dollar value of its institutional funds. It establishes a rebuttable presumption that the appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund is imprudent. An institution administering endowment funds with an aggregate value of \$2,000,000 or more shall notify the Attorney General upon its adoption of the provisions of the Uniform Prudent Management of Institutional Funds Act. An institution administering endowment funds with an aggregate value of less than \$2,000,000 shall notify the Attorney General at least 60 days prior to an appropriation for expenditure of an amount that would cause the value of the institution's endowment funds to fall below the aggregate historic dollar value of the institution's endowment funds.

Public Law 2009, chapter 450 takes effect September 12, 2009, but applies retroactively to July 1, 2009.