

**Review of the Law Governing Municipal Service Charges for Tax-
Exempt Property**

REPORT

A Report Prepared for the Joint Standing Committee on Taxation

On December 17, 2008 by

A handwritten signature in cursive script that reads "David Ledew". The signature is written in black ink on a light-colored background.

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**Study Group to Review the Law Governing Municipal Service Charges for
Tax-exempt Property**

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Introduction

The 123rd Legislature (Second Regular Session, Resolve 2007 c. 146) charged the State Tax Assessor with convening a study group to review the law governing municipal service charges for tax-exempt property. *See* Attachment A. As directed in the resolve, the study group included representatives from Maine Revenue Services (“MRS”), the Maine Municipal Association, Community Housing of Maine, Maine Hospital Association, Maine Association of Non-Profits, Maine Youth Camping Association, Maine Independent Colleges Association, Northern New England Housing Investment Fund, and municipal officers and assessors. The study group met on three occasions to discuss the topics indicated in the Resolve.

The study group was charged with reviewing the Maine Revised Statutes, Title 36, section 652, subsection 1, paragraph L (this section has been rewritten to Title 36 § 508) and evaluating and identifying the following:

1. How the statute is designed to be implemented under current law;
2. Alternative methods of rationally calculating the direct cost of municipal services that are provided to institutions and organizations entitled to property tax exemptions pursuant to section 652;
3. Any institutions and organizations entitled to a property tax exemption pursuant to section 652 that should not be subject to service charges, either by category, size, assessed value or other circumstance;
4. Whether service charges should be applied through the enactment of local ordinances or uniformly across municipal jurisdictions as a matter of state law;
5. All issues regarding the administration of the statute that should be established as a matter of ordinance or statute, including without limitation the process of appeal, assessment and collection procedures, assessment limitations and the municipal use of service fee revenue; and
6. Any other considerations regarding the statute as may be considered appropriate by the group.

The imposition of service charges on tax-exempt entities has been discussed in several previous reports to the Legislature. In 1996, the Commission to Study the Growth of Tax-Exempt Property in Maine’s Towns, Cities, Counties, and Regions suggested a legislative change that provided a broader base of tax-exempt entities that could be subject to the service charge. In 1991, the Select Committee on Comprehensive Tax Reform reported that fees for certain services should be charged to tax-exempt organizations because the voluntary payments in lieu of taxes were ineffective in most cases. In 1986, the Select Committee on Property Tax Reform asserted that municipalities should have the authority to assess service charges on any property exempt from tax. In 1975, the Governor’s Tax Policy Committee recommended that municipalities should have the option of assessing service charges and that the state should pay municipalities for services provided to its property in the municipality.

The current request to review the imposition of service charges on tax-exempt properties arises primarily from a growing recognition of the concentration of tax-exempt property in Maine's service center communities and the resulting disproportionate tax burden property owners in those service center communities have to bear. Attachment B details the ratio of exempt property value to taxable value for Maine's 489 municipalities according to the 2007 Municipal Valuation Return Statistical Summary.

Current Law

Under the current law, the statute is designed to allow a municipality to voluntarily adopt a service charge ordinance imposing a service charge on tax-exempt residential rental properties, excluding student housing and parsonages. The service charge must be calculated according to the "actual cost" of providing the services to that real property and the persons who use that property and the collected revenues must, as much as possible, be used to pay for the costs of those services. The following services may be included in determining the service charge: fire protection; police protection, road maintenance and construction, traffic control, snow and ice removal; water and sewer service; sanitation; and any services other than education and welfare. The service charge is limited to 2% of the tax-exempt organization's gross annual revenues. *See* 36 M.R.S.A. § 508(2).

At the request of the study group, Maine Municipal Association surveyed its membership seeking information regarding the adoption and implementation of any service charge ordinances. In addition, the survey requested information regarding the use of payments in lieu of taxes agreements ("PILOT") and the implementation of these PILOTs, and requested information on any payment the municipalities make to tax-exempt institutions for services provided by the tax-exempt to the municipality. Fifty-one, 10%, of the municipalities responded to the survey. The results indicate that one municipality enacted a service charge ordinance although it provided no information regarding its implementation, 29% reported that they have formal and informal PILOTs, and 24% reported that they make payments to tax-exempt organizations. The results of this survey are included in Attachment C.

Calculation of Direct Cost

Because the statute requires that a service charge be "calculated according to the actual cost of providing municipal services to that real property and to the persons who use that property" the discussion of the calculation of service charges was extensive. While representatives from the tax-exempt groups and the municipalities contributed to this discussion, generally the tax-exempt entities' representatives remained opposed to the enactment of a service charge.

The following methods of calculation are suggested based on the cost of these services to the municipalities:

For fire protection, the square footage of the tax-exempt building relative to the total square footage of all the developed property in the municipality;

For police protection, the same method as described under fire protection or a combination of that method and a per-capita method which is based on the average daily population of the exempt entity relative to the total population of the municipality;

For road maintenance and repair, either the per capita method described under police protection, or the linear public road mileage which the exempt property abuts relative to the total linear mileage of the municipality; and

For storm water control services, the square footage of impervious surface relative to the total impervious surface of all developed properties being served by the stormwater control system.

The Study Group recommends that an administrative service charge be added onto each service charge.

Water and sewer fees were excluded from the discussion because typically those fees are calculated by meter. Additionally, trash removal, recycling, library, and parks and recreation were excluded from the discussion because user fees can more easily be applied to those services. Ambulance service is also generally a fee per use service that was excluded from the conclusion.

Entities That Should Not Be Subject to Service Charges

The Resolve requested that the study group identify those tax exempt entities that should not be subject to service charges.

The representatives of the tax exempt entities struggled with this directive because it seemed to imply as a general rule that all or most non-governmental tax exempt entities should be subject to the service charges. In contrast, the representatives of the tax-exempt organizations contend that the Legislature has previously determined that the benefit that those corporations and institutions provide to the community warrants an exemption from the tax and that this exemption should be honored. The tax-exempt entities further contend that many of the services provided by the exempt institutions are services that the government would otherwise need to provide.

Representatives from the municipalities advocated for broadening the base of the organizations that would be subject to the service charge. Currently, service charges can only be applied to tax exempt rental housing, excluding student housing and parsonages. Some of the municipal representatives supported the application of service charges against all non-governmental tax exempt property without exception. Others suggested authorizing the application of services charges against only those exempt properties that by some measure of size were determined financially capable of contributing to the services they directly receive from the municipality. The size threshold could be

determined by annual revenue, number of people employed, or the value of the tax exempt property.

No consensus on this issue was achieved.

Administration of Service Charges

The Study Group recommends that any legislation enacted should provide the municipalities with ability to adopt local ordinances necessary to carry out the service charge provisions, including the appeal and collection processes.

Other Considerations

It is recommended that the term “gross annual revenue” in 36 M.R.S.A. 508 (2) be further defined or clarified.

It is recommended that the 2% cap be further clarified as follows:

- take into account tax-exempt entities that may have facilities in more than one municipality
- emphasize that it is a cap and not to be used as a proxy for the cost of providing services

Conclusion

Of all the tasks given to the study group, two were central.

The first was to develop a more uniform or standardized method of calculating service charges that might be applied to tax exempt institutions in order to help pay for the services they receive directly from the municipality. By focusing on three primary municipal services (fire protection, police protection and road maintenance) and various ways to quantify the proportionate share of those services (square footage, linear road mile, per-capita, etc.), several members of the study group agreed on possible methodologies; however representatives of the nonprofit community were opposed to all of the methods, feeling that none of them were good proxies for the actual cost. The draft report includes some of the ideas for calculating these service charges.

The second primary task was to identify which tax exempt organizations should be subject to the service charges. There was no consensus on this point among the study group members. The municipal representatives contend that like the payment of water and sewer utility bills, the tax exempt entities should be potentially subject to paying for some of the core services they directly receive from their host municipalities. In contrast, the representatives of the tax-exempt entities believe that the value of the services those organizations provide to both the inhabitants of the host municipality and the wider region outweigh the value of the tax obligation and they should remain exempt from service charges.

Attachment A
Resolve, Chapter 146

RESOLVE Chapter 146

SIGNED on 2008-02-12 - Second Regular Session - 123rd Legislature -

Resolve, To Review the Law Governing Municipal Service Charges for Tax-exempt Property

Sec. 1. Study group. Resolved: That the State Tax Assessor shall convene a group of interested parties to review the current laws and constitutional requirements related to municipal service charges for tax-exempt property. The group must include representatives of municipal assessors; municipal officers, including a municipal officer from a service center community as defined in the Maine Revised Statutes, Title 30-A, section 4301, subsection 14-A; private colleges and universities; hospitals; nonprofit medical institutions; an organization representing the interests of municipal governments; an organization representing a broad spectrum of nonprofit entities; and such persons as the assessor considers desirable; and be it further

Sec. 2. Duties. Resolved: That the group under section 1 shall review the Maine Revised Statutes, Title 36, section 652, subsection 1, paragraph L and evaluate and identify:

1. How the statute is designed to be implemented under current law;
2. Alternative methods of rationally calculating the direct cost of municipal services that are provided to institutions and organizations entitled to property tax exemptions pursuant to section 652;
3. Any institutions and organizations entitled to a property tax exemption pursuant to section 652 that should not be subject to service charges, either by category, size, assessed value or other circumstance;
4. Whether service charges should be applied through the enactment of local ordinances or uniformly across municipal jurisdictions as a matter of state law;
5. All issues regarding the administration of the statute that should be established as a matter of ordinance or statute, including without limitation the process of appeal, assessment and collection procedures, assessment limitations and the municipal use of service fee revenue; and
6. Any other considerations regarding the statute as may be considered appropriate by the group; and be it further

Sec. 3. Report. Resolved: That the group under section 1 shall review and develop recommendations regarding ways to structure the funding of municipal services directly provided to tax-exempt institutions and organizations that fairly allocate those costs to the users and beneficiaries of those institutions and organizations. The group

shall submit its report along with any recommendations to the joint standing committee of the Legislature having jurisdiction over taxation matters no later than December 15, 2008. The joint standing committee may submit legislation related to the report to the First Regular Session of the 124th Legislature.

Attachment B
Top 25 Municipalities with the Greatest Exempt Property by Category

Information compiled by Maine Revenue Services
December 2008

CHARITABLE AND BENEVOLENT

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
PORTLAND	\$432,507,730	LEWISTON	7.07%
BANGOR	\$205,412,900	HARRINGTON	7.05%
LEWISTON	\$175,000,000	BANGOR	6.50%
ROCKPORT	\$50,407,400	WATERVILLE	6.16%
WATERVILLE	\$49,807,800	ROCKPORT	4.87%
BRUNSWICK	\$47,941,900	PORTLAND	4.79%
AUBURN	\$43,492,800	FAIRFIELD	4.78%
BAR HARBOR	\$41,124,200	WESTON	4.18%
ROCKLAND	\$38,454,000	ROCKLAND	3.88%
AUGUSTA	\$38,340,700	BOOTHBAY HARBOR	3.80%
BIDDEFORD	\$33,539,800	PRESQUE ISLE	3.77%
SOUTH PORTLAND	\$30,681,500	FORT KENT	3.52%
BATH	\$27,487,000	PARIS	2.88%
CAMDEN	\$25,993,400	LINCOLN	2.88%
BOOTHBAY HARBOR	\$25,577,400	CLIFTON	2.68%
WESTBROOK	\$23,672,500	BRUNSWICK	2.52%
PRESQUE ISLE	\$20,329,800	BAR HARBOR	2.41%
SACO	\$18,393,600	NORWAY	2.34%
MOUNT DESERT	\$16,647,100	NOBLEBORO	2.22%
ELLSWORTH	\$16,180,600	CAMDEN	2.20%
BELFAST	\$16,120,800	GREENBUSH	2.17%
BOOTHBAY	\$14,542,700	CUTLER	2.11%
OLD ORCHARD BEACH	\$13,964,600	BATH	2.03%
SANFORD	\$13,882,600	BELFAST	1.95%
FREEPORT	\$13,614,750	AUGUSTA	1.94%

LITERARY AND SCIENTIFIC

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
BAR HARBOR	\$187,682,100	MACHIAS	14.67%
PORTLAND	\$162,075,280	HEBRON	12.54%
LEWISTON	\$157,558,800	UNITY	12.01%
BRUNSWICK	\$140,627,000	BAR HARBOR	10.98%
BIDDEFORD	\$67,614,000	BRUNSWICK	7.40%
WATERVILLE	\$54,306,500	SUMNER	6.78%
BANGOR	\$53,362,500	WATERVILLE	6.71%
AUBURN	\$49,418,700	LEWISTON	6.36%
BATH	\$42,459,500	LEE	5.85%
STANDISH	\$42,410,400	WALDO	5.61%
BELFAST	\$37,612,700	CHARLESTON	4.73%
SACO	\$29,856,700	MEXICO	4.67%
OLD TOWN	\$26,767,600	BELFAST	4.55%
SANFORD	\$23,416,400	FORT FAIRFIELD	4.55%
HAMPDEN	\$20,703,200	BUCKFIELD	4.53%
BRIDGTON	\$19,936,890	HOULTON	4.45%
MACHIAS	\$19,229,900	OLD TOWN	4.16%
SOUTH BERWICK	\$16,945,900	PHILLIPS	4.13%
HARPSWELL	\$16,630,900	DOVER-FOXCROFT	3.93%
HOULTON	\$14,513,100	STANDISH	3.83%
AUGUSTA	\$14,139,400	PITTSFIELD	3.45%
YARMOUTH	\$12,775,000	HAMPDEN	3.39%
YORK	\$12,299,600	BATH	3.14%
DOVER-FOXCROFT	\$12,157,700	BOWDOIN	3.12%
OLD ORCHARD BEACH	\$12,039,600	WINTERPORT	2.80%

VETERAN'S ORGANIZATIONS

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
CARIBOU	\$2,310,900	CARIBOU	0.63%
PORTLAND	\$2,146,440	LONG ISLAND	0.45%
SOUTH PORTLAND	\$1,683,400	GREENWOOD	0.39%
BANGOR	\$1,566,200	PEMBROKE	0.32%
WESTBROOK	\$1,151,500	TRENTON	0.32%
GREENVILLE	\$1,021,000	FRANKLIN	0.31%
BIDDEFORD	\$991,000	GREENVILLE	0.29%
BATH	\$938,100	STONINGTON	0.27%
AUGUSTA	\$921,100	MEDWAY	0.22%
TRENTON	\$914,200	STRONG	0.22%
BELFAST	\$816,600	VANCEBORO	0.21%
AUBURN	\$810,500	STOCKHOLM	0.21%
BLUE HILL	\$808,600	HOWLAND	0.20%
MILLINOCKET	\$807,200	CORINNA	0.20%
YARMOUTH	\$790,400	BROWNVILLE	0.20%
NEW GLOUCESTER	\$776,900	MILLINOCKET	0.19%
BAR HARBOR	\$767,100	VAN BUREN	0.19%
KENNEBUNK	\$738,400	BLUE HILL	0.19%
WATERVILLE	\$705,700	HARRINGTON	0.18%
SANFORD	\$659,100	PORTER	0.17%
YORK	\$639,600	NEW GLOUCESTER	0.17%
GREENWOOD	\$621,520	SAINT FRANCIS	0.16%
ORONO	\$593,200	PHILLIPS	0.15%
SCARBOROUGH	\$590,000	MATTAWAMKEAG	0.15%
STONINGTON	\$586,700	TOPSFIELD	0.15%

CHAMBERS OF COMMERCE/BOARDS OF TRADE

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
YORK	\$597,500	BALDWIN	0.44%
BALDWIN	\$531,970	TRENTON	0.12%
AUGUSTA	\$353,800	JACKMAN	0.06%
TRENTON	\$344,700	PRESQUE ISLE	0.04%
OLD ORCHARD BEACH	\$309,100	BOOTHBAY HARBOR	0.04%
BOOTHBAY HARBOR	\$241,000	FORT FAIRFIELD	0.03%
BANGOR	\$222,700	WINSLOW	0.03%
PRESQUE ISLE	\$215,800	PALMYRA	0.03%
BRIDGTON	\$207,950	BRIDGTON	0.02%
WINSLOW	\$146,400	OLD ORCHARD BEACH	0.02%
ELLSWORTH	\$130,600	AUGUSTA	0.02%
BOOTHBAY	\$108,700	YORK	0.01%
MOUNT DESERT	\$93,500	ELLSWORTH	0.01%
FORT FAIRFIELD	\$55,000	BOOTHBAY	0.01%
JACKMAN	\$52,300	MILLINOCKET	0.01%
MILLINOCKET	\$40,800	RANGELEY	0.01%
WINDHAM	\$38,300	BANGOR	0.01%
RANGELEY	\$37,579	DOVER-FOXCROFT	0.01%
PALMYRA	\$24,500	PHILLIPS	0.01%
LEWISTON	\$20,000	PLEASANT RIDGE PLT	0.00%
DOVER-FOXCROFT	\$19,800	MOUNT DESERT	0.00%
SKOWHEGAN	\$16,800	DEER ISLE	0.00%
DEER ISLE	\$8,500	WINDHAM	0.00%
PLEASANT RIDGE PLT	\$5,000	SKOWHEGAN	0.00%
PHILLIPS	\$4,500	FORT KENT	0.00%

Source: 2007 Municipal Valuation Return Statistical Summary

* Total Municipal Value = Total Taxable Value + All Exempt Value

CHURCHES

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
PORTLAND	\$91,663,710	BOOTHBAY HARBOR	4.64%
BANGOR	\$60,957,600	BRIDGEWATER	3.56%
LEWISTON	\$43,120,000	EAGLE LAKE	2.63%
BOOTHBAY HARBOR	\$31,195,300	CARY PLT	2.62%
AUGUSTA	\$26,147,000	BEALS	2.57%
SACO	\$23,693,200	MONTICELLO	2.33%
AUBURN	\$23,402,300	DENNYVILLE	2.31%
BIDDEFORD	\$20,558,000	STOCKHOLM	2.19%
BRUNSWICK	\$17,709,700	FRENCHVILLE	2.13%
WESTBROOK	\$17,601,800	ALFRED	2.08%
YORK	\$15,954,100	BANGOR	1.93%
ELLSWORTH	\$15,243,700	SANGERVILLE	1.90%
WATERVILLE	\$13,757,460	HOULTON	1.88%
KENNEBUNK	\$13,689,000	SPRINGFIELD	1.84%
BATH	\$13,423,700	GARDINER	1.79%
SANFORD	\$12,541,900	FRENCHBORO	1.78%
SCARBOROUGH	\$11,965,600	CALAIS	1.74%
ROCKLAND	\$11,715,000	LEWISTON	1.74%
WINDHAM	\$11,026,300	LIVERMORE FALLS	1.72%
BELFAST	\$10,771,600	WATERVILLE	1.70%
BAR HARBOR	\$9,771,300	SAINT AGATHA	1.69%
TOPSHAM	\$8,748,100	DYER BROOK	1.68%
KITTERY	\$8,440,300	JACKMAN	1.66%
GORHAM	\$7,698,300	CHINA	1.63%
YARMOUTH	\$7,517,300	MATTAWAMKEAG	1.63%

FRATERNAL ORGANIZATIONS

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
PORTLAND	\$10,991,510	VINALHAVEN	0.43%
BANGOR	\$4,607,700	SPRINGFIELD	0.37%
BATH	\$4,227,200	MEDFORD	0.37%
LEWISTON	\$3,500,000	PEMBROKE	0.33%
AUGUSTA	\$3,044,000	NEW PORTLAND	0.33%
STANDISH	\$2,274,200	CANAAN	0.32%
VINALHAVEN	\$1,991,300	BATH	0.31%
BIDDEFORD	\$1,985,800	SANGERVILLE	0.31%
BELFAST	\$1,952,100	CANTON	0.30%
BRUNSWICK	\$1,575,500	MARIAVILLE	0.29%
ELLSWORTH	\$1,480,100	BROWNVILLE	0.28%
ROCKLAND	\$1,471,900	SAINT AGATHA	0.28%
AUBURN	\$1,323,200	GARDINER	0.28%
SANFORD	\$1,279,900	FORT FAIRFIELD	0.27%
SCARBOROUGH	\$1,267,600	BROOKS	0.26%
WINDHAM	\$1,248,400	MONROE	0.25%
GORHAM	\$1,219,300	PITTSFIELD	0.25%
WESTBROOK	\$1,098,600	RIPLEY	0.25%
PRESQUE ISLE	\$975,200	CORINNA	0.24%
BREWER	\$974,200	FRANKLIN	0.24%
GARDINER	\$971,400	BELFAST	0.24%
WATERVILLE	\$896,600	KINGFIELD	0.23%
SOUTHWEST HARBOR	\$894,400	CARMEL	0.22%
SAINT GEORGE	\$832,500	GARLAND	0.21%
YORK	\$782,800	STANDISH	0.21%

PROPERTY LEASED BY HOSPITALS

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
BIDDEFORD	\$48,321,800	DAMARISCOTTA	7.66%
AUGUSTA	\$39,340,700	CALAIS	5.64%
DAMARISCOTTA	\$30,181,000	HOULTON	4.79%
BANGOR	\$26,407,400	BLUE HILL	2.63%
ELLSWORTH	\$22,626,400	FARMINGTON	2.48%
YORK	\$21,847,600	MACHIAS	2.47%
SANFORD	\$20,205,500	BELFAST	2.10%
BELFAST	\$17,389,100	AUGUSTA	1.99%
HOULTON	\$15,625,400	ELLSWORTH	1.93%
BRIDGTON	\$13,747,500	GARDINER	1.81%
FARMINGTON	\$12,544,200	BIDDEFORD	1.79%
BLUE HILL	\$11,234,700	BRIDGTON	1.37%
CALAIS	\$9,945,600	GREENVILLE	1.33%
PORTLAND	\$9,323,140	MARS HILL	1.27%
GARDINER	\$6,376,900	SANFORD	1.15%
SKOWHEGAN	\$5,932,500	BINGHAM	1.14%
GREENVILLE	\$4,713,100	BANGOR	0.84%
RUMFORD	\$4,616,337	FORT FAIRFIELD	0.71%
BRUNSWICK	\$3,680,900	DETROIT	0.69%
FALMOUTH	\$3,399,500	RUMFORD	0.58%
MACHIAS	\$3,239,800	YORK	0.52%
BREWER	\$2,830,200	SKOWHEGAN	0.49%
SCARBOROUGH	\$1,836,100	ASHLAND	0.48%
MARS HILL	\$1,586,900	LEEDS	0.37%
NAPLES	\$1,445,170	MECHANIC FALLS	0.34%

ALL SECTION 652 EXEMPTIONS

TOP 25

TOTAL EXEMPT VALUE		EXEMPT VALUE AS A % OF TOTAL MUNICIPAL VALUE	
PORTLAND	\$708,707,810	MACHIAS	19.83%
LEWISTON	\$379,200,800	LEWISTON	15.31%
BANGOR	\$352,537,000	WATERVILLE	14.76%
BAR HARBOR	\$239,988,300	UNITY	14.26%
BRUNSWICK	\$211,535,000	BAR HARBOR	14.04%
BIDDEFORD	\$173,010,400	HEBRON	13.16%
AUGUSTA	\$122,286,700	HOULTON	12.98%
WATERVILLE	\$119,474,060	DAMARISCOTTA	11.28%
AUBURN	\$118,447,500	BANGOR	11.15%
BATH	\$88,535,500	BRUNSWICK	11.14%
BELFAST	\$84,662,900	BELFAST	10.24%
SACO	\$72,650,200	CALAIS	9.53%
SANFORD	\$71,985,400	BOOTHBAY HARBOR	8.49%
YORK	\$65,333,800	SUMNER	7.87%
ELLSWORTH	\$58,543,100	PORTLAND	7.86%
BOOTHBAY HARBOR	\$57,118,900	HARRINGTON	7.58%
ROCKPORT	\$55,911,600	DOVER-FOXCROFT	7.09%
ROCKLAND	\$51,973,000	MEXICO	7.02%
STANDISH	\$49,485,100	FORT FAIRFIELD	6.98%
WESTBROOK	\$45,205,800	WALDO	6.77%
BRIDGTON	\$45,114,930	OLD TOWN	6.58%
DAMARISCOTTA	\$44,458,900	BATH	6.54%
OLD TOWN	\$42,371,400	BIDDEFORD	6.39%
HOULTON	\$42,312,400	LEE	6.25%
SOUTH PORTLAND	\$36,071,400	AUGUSTA	6.19%

Source: 2007 Municipal Valuation Return Statistical Summary

* Total Municipal Value = Total Taxable Value + All Exempt Value

Attachment C
Use of “Service Charge” Survey Results

Compiled by Maine Municipal Association
September 2008

Maine Municipal Association

Use of “Service Charge” Statute Regarding Tax Exempt Institutions Survey Results - September 2008

Survey Purpose

On September 9, 2008, the Maine Municipal Association (MMA) sent a “service charge” survey to all municipalities. The purpose of the survey was to gather information on how many communities utilized the service charge statutes to collect revenues from tax-exempt institutions to fund the municipal services provided to the organizations.

The survey asked respondents whether or not the municipalities had adopted a “service charge” ordinance or had negotiated a PILOT (Payment In Lieu of Taxes) and to explain how the service charge was calculated and to describe the terms of the PILOT. The survey respondents were also asked to provide information on any payments made to exempt institutions for the services provided to the municipalities as well as to offer any general comments about the assessment of fees against tax-exempt organizations.

Response Rate

To date, MMA has received information from 51 (10%) municipalities. (Municipal survey responses are attached in *Appendix A*.) The municipalities participating in the survey ranged in population from 34,178 (Bangor) to 85 (Maxfield). As illustrated in *Figure 1*, rates of participation were highest in the communities with populations over 3,500 and lowest in communities with populations under 1,000.

Figure 1
2008 Service Charge Survey - Response Rate

Population Group	# of Municipalities in Group	# of Municipalities in Service Survey	Response Rate
10,000 +	20	5	25%
5,000 - 9,999	45	10	22%
3,500 - 4,999	37	10	27%
2,000 - 3,499	63	7	11%
1,000 - 1,999	115	12	10%
Under 1,000	209	7	3%
Total	489	51	10%

Service Charge

Only one municipality, Saco, stated that the community had adopted a service charge ordinance. However, no information regarding the implementation of the ordinance was provided.

Payments In Lieu of Taxes (PILOT)

Fourteen (29%) respondents stated that they had instituted PILOTs in their communities. The methodologies for assessing the PILOT agreements ranged from payments based on the non-school related mill rate to percentage assessments based on the revenues generated by the tax-exempt institutions (see *Figure 2*). The most popular assessment methodology, among the fourteen municipalities was a flat dollar assessment.

Four other communities indicated that they received PILOT payments, but had not entered into or negotiated formal agreements on how those revenues would be paid to the community.

**Figure 2
PILOT Assessment Methodology**

Assessment Methodology	# of Munis Using Methodology
Flat Dollar Assessment	9
Percent of the Institution’s Annual Revenues	2
Percent of Shelter Costs	1
Percent of Real Estate Taxes	1
Non-School Tax Rate	1
Non-School and Non-General Assistance Tax Rate	1
Land Value Assessment	1

Comments from Municipalities with Formal PILOT Agreements

PILOT Method – Formal Agreements	
Alfred	2% of annual revenues of previous year. Long-standing agreement between Town and York Cumberland Housing.
Augusta	Usually pay the non-school tax rate.
Bangor	<p>Bangor Housing Authority – 10% of shelter rent charged. Bangor Housing Authority (Autumn Park West) – 2% of gross annual revenues. Pine Grove Crematorium –10% of real estate taxes. Greater Bangor Shelter – annual payment on transitional housing units based on what they can afford.</p> <p>A number of tax-exempts, primarily in the housing business, have simply gone ahead and paid their annual taxes even though they could apply for an exemption. Also, some tax-exempts lease property rather than own, so, except for hospitals, they pay taxes as well.</p>

	PILOT Method – Formal Agreements, Continued
Bradley	State of Maine purchased land in the Town of Bradley in 1985. Part of the legislation that authorized the purchased required that a PILOT be created. In recent negotiations, the land value was determined to be the base of the PILOT figure.
Damariscotta	This happened many years ago, so no paper trail or documentation of original agreement. We receive quarterly checks from the organization in the amount of \$2,500.
Eastport	The Eastport Port Authority during profitable years makes a financial contribution to the City and, although not negotiated, is similar to a PILOT.
Greenbush	Short wave radio station offered to pay \$25,000 in lieu of taxes.
Guilford	A senior citizens housing complex would have a tax of about \$29,000; they pay \$25,000 via a PILOT.
Hermon	A senior housing complex that is tax-exempt under the law has always paid taxes. The reason is the board that created it “promised” that the facility would never be tax-exempt to Hermon. This promise gathered the needed community support to complete the project. Two years ago their taxes exceeded \$12,000, a \$500 increase. They requested a PILOT agreement to keep taxes at no more than \$12,000 per year. The Town Council agreed and executed the agreement.
Mount Desert	PILOT with National Park Service, Acadia National Park, was in place when current manager was hired, detail of how and why are unknown.
Phippsburg	We have “payments in lieu of taxes” from the Nature Conservancy (\$10,000), Phippsburg Land Trust (\$3,200) and Bates-Morse Mountain (\$10,005). There really is no formula for payments – they basically pay what they feel is fair.
Poland	Generally speaking, it is the value of the tax-exempt property times a mil rate that excludes schools and general assistance.
Saco	\$5,000 per year property in our I-Park.

Comments from Municipalities with Informal PILOT Agreements

	PILOT Method – Informal Agreements
Ellsworth	Some exempt institutions voluntarily pay a PILOT in an amount determined solely by the institution.
Falmouth	PROP contract for General Assistance administration.
Vinalhaven	We receive PILOTs, but do not have formal agreements.
Wells	If the key word here is “negotiate”, then the answer is no. We get PILOT fees from the USA for tax-exempt areas owned by them, but as far as I know these are not negotiated, we basically take what they send. We do assess a PILOT fee for a federally subsidized housing project (AVESTA), but it is just standard (only based on municipal services) and not negotiated.

Municipal Payments to Exempt Institutions for Services Provided

Twelve (24%) municipalities indicated that they make payments to tax exempt institutions for the provision of services. The contributions to the exempt organizations can be divided into two general categories; 1) contributions for services directly provided to the municipality (i.e., workers compensation billing, rescue services, etc.); and 2) contributions to social service agencies (i.e., local library, historical society, etc.).

Comments Regarding Municipal Payments to Exempt Institutions for Services

	Municipal Payments
Bangor	As for exempt institutions, we pay for services provided. We would have any number of them the most common would be the hospitals for workers comp billings, the purchase of medical oversight (ambulance, dental clinic and I believe STD clinic) and other entities that would work closely with our Department of Housing and Community Services.
Bar Harbor	Bar Harbor Historical Society (\$1,500), Hulls Cove Neighborhood Association (\$4,751), Jesup Memorial Library (\$20,964), MDI YMCA (\$56,800).
Bridgton	No direct payment for services. Like most towns, we do fund outside agencies.

	Municipal Payments, Continued
Brownville	We make an annual contribution of \$5,000 to a tax-exempt regional ambulance service and are also members of a solid waste district and pay an annual assessment (neither are located within the borders of Brownville, so we couldn't tax or negotiate PILOTs).
Greenbush	Donations to Penquis CAP, Eastern Agency on Aging and other service agencies.
Hermon	The Town donates \$66,925 to local non-for-profits for services that in general benefit the Town. One very specific one is to Hermon Rescue. We currently contribute \$35,000 to reduce their costs for labor. There is no formal agreement or contract, although it is discussed.
Kennebunkport	The Town rents space from two non-profit fire companies. Fire apparatus is housed there and the two fire stations are used as staging areas. Prior to the Town creating a municipal fire department three years ago there were four separate fire companies with four separate chiefs.
Mount Desert	Local organization, "Neighborhood House" acts as the town's unofficial recreation department. Total funding to the group is approximately \$87,000. Seal Harbor Village Improvement Society, acts as the caretaker and maintenance provider for village green, comfort station and only public saltwater beach (\$22,700).
Newcastle	The Town makes payments totaling \$27,717 to nine tax-exempt institutions outside of Newcastle, but whose service area includes the town. Example: the Sidompha Library and the Miles Hospital/Health Care.
Rockport	Although a governmental entity, the Town of Rockport does contract with Knox County for E-911 Dispatch Services. Also, Mid-Coast Solid Waste, a quasi-municipal entity is paid for their services.
Warren	Central Maine Area on Aging (\$2,243), Penquis Community Action (\$6,454), Coastal Trans Inc. (\$1,900), Hospitality House (\$2,500), Mid Coast Children's Service (\$4,025), New Hope for Women (\$1,155).

General Comments

Municipal officials were also asked to share general comments regarding tax-exempt institutions and whether municipalities should be allowed to charge for the direct costs of the services provided to those institutions. While the comments provided vary, there is the common recurring “fairness” theme.

Several municipal officials believe that exempt institutions should be contributing toward the services directly provided to these institutions, especially for the costs of public safety (i.e., fire, police and rescue) and public works (i.e., road maintenance, water, sewer, etc.) services. Other municipal officials caution however, that the system created should take into consideration the ability of the exempt institution to pay the service fee assessments. In a nutshell, some municipal officials do not believe that all exempt institutions are created equally.

	General Comments
Augusta	Please define how we “calculate the direct cost” of municipal service to tax exempt institutions.
Alfred	It is a sad day when, due to State cuts and higher fees, that we may have to consider this.
Bangor	Not all tax-exempts are the same. Some have significant financial resources and can be market leaders in salaries, capital expenditures, etc., (to say nothing of competing directly with the private sector that does pay taxes) where others struggle to survive, beg and plead for contributions, spend huge efforts to fundraise to keep themselves alive, and pay barely livable wages to dedicated staff. Ability of an organization to make such payments should be factored in. One of the reasons that we have not adopted a service fee ordinance is that where some rental properties are clearly asking and receiving fair market value, others provide heavily discounted rents and, again struggle to survive. I think some measure would have to be included in the legislation to get at the ability to pay issue. Some possibilities: amount of charity care as proportion of all services; contribution as a percentage of revenue or, conversely, fees for service as a percentage of revenues; ratio of highest fulltime salary paid to lowest fulltime salary paid, etc. Not sure which would be the best or best set of such measures, but it appears to me that some institutions could reasonable be expected to make a payment while for others it would be a major hardship that would affect their ability to meet their mission.
Bar Harbor	We have several tax-exempt organizations that make voluntary payments in lieu of taxes. The largest is the Jackson Laboratory, which donated \$61,800 last year. Others include the MDI Housing Authority (\$19,596), MDI Biological Lab (\$3,500), College of the Atlantic (\$6,000) and the YWCA (about \$500).

	General Comments, Continued
Bridgton	Besides direct costs, there is a compelling argument to include all capital expenditures in the cost of services.
Casco	Our greatest value of tax-exempt property is State of Maine property and our own local school district property.
Damariscotta	Honestly, it really is the only fair thing to do. We spend a lot of resources providing police and fire protection as well as DPW services. It truly is not fair for the rest of the taxpayers to foot the bill for this. The question is how will this be calculated?
Dexter	One non-profit makes an annual "payment" of \$1,000, but it is a voluntary payment and they could choose to stop if they wanted to.
Eastport	In small communities the amount of property listed as tax-exempt is significant when viewed as the portion of actual assessed value. With service costs growing, this is probably more apparent in small communities where a great part of the service has been covered by the diminishing volunteer systems that have been in place, while in larger communities these services have been provided fulltime for years. Even more critical in communities losing commercial tax base and/or limited in land mass such as Eastport where new property tax can only be accomplished through the elimination of previously established tax base.
Ellsworth	We have sent letters to tax exempt institutions in the past asking them to participate in PILOTs. We did not feel there was enough increased participation to warrant sending the letter annually.
Farmington	The town sends a letter out each year stating what an exempt would be paying in taxes if taxable and requests a contribution from them. The results are mixed, but in the end receive little. It is about time that exempts pay something toward the services they receive.
Falmouth	I agree with an option for municipalities to assess service charges.
Fort Kent	Exempt institutions and the value of their holdings continue to increase. Of particular concern is the concentration of exempt institutions in service center

	General Comments, Continued
Fort Kent, Continued	<p>communities. We are a small service center community that hosts a variety of exempt organizations such as the hospital, nursing home, university, shelters, etc. All of which serve not only our community but also the entire region. However, we are saddled with the cost of providing services to those institutions while other communities in the region that benefit from the services rendered by the exempt institutions, as well as providing employment opportunities for their residents, do not share in the burden.</p> <p>Currently, the cost of services to exempt institutions is not equitably shared amongst all residents of the state who benefit from these exemptions. Some mechanisms that would allow the opportunity to recoup some of these costs would be beneficial. Another possibility would be adjusting the revenue sharing formula to account for exempt property of regional impact, thereby redistributing the revenue sharing pot in a potentially more equitable fashion. Tinkering with revenue sharing can be dangerous; however trying to impose a mandatory service fee onto exempt institutions is not likely to be enacted by the legislature.</p>
Fryeburg	<p>The Fryeburg Fair makes a payment to the Town in lieu of taxes equal to their tax liability if they were liable, approximately \$80,000 per year. This is strictly a voluntary contribution that they have been making for some time with the understanding that there is no continuing obligation other than advance notice to cease.</p>
Guilford	<p>If no PILOT exists, I would certainly favor a charge for services.</p>
Lubec	<p>We have many tax-exempt organizations in town and the cost of providing services to these entities is a burden to our other taxpayers. I feel it is very unfair for the town to have to provide services with no charge to these entities. Once such entity is the Lubec Regional Medical Center. They are constantly calling the ambulance service, have multiple false fire alarms and even called today to have the airport mowed as they are expecting a flight on Thursday. They were one of the entities approached and did not respond.</p>
Mount Desert	<p>Pretty difficult to charge fees to an organization the Town is contributing to, unless there are other organizations utilizing services that do not receive any funding from the Town. It would be a political nightmare here.</p>
Poland	<p>I think the whole tax-exempt institution deal has gone way too far. Certainly they ought to be required to share the costs of road and public safety at a</p>

	General Comments, Continued
Poland, Continued	minimum (snow removal, streets, paving, trash, police, fire and rescue), if not all infrastructure debt and general government administration. I think education and general assistance and some social service costs could be omitted for a modified tax rate.
Readfield	<p>Readfield has only one significant tax exempt institution (besides several churches): Kents Hill school, a private secondary school that is exempt as an educational and scientific institution. The school owns well over \$20 million of property, but is only taxed on about \$65,000 of the value for faculty residences that have no other educational use. Faculty members do send their children to the Readfield Elementary School, but property taxes just from their residences (just over \$10,000) do not cover the full cost of that education. There also has long been tension between the Town and the school regarding the cost of municipal services as the largest building in Readfield is a three-story dormitory on the school campus, and would require the Mutual Aid Fire Department's ladder truck in case of a structure fire. Lastly, the school rents out its facilities to private businesses in the summer for income not related to the school's core mission. The town to my knowledge has not held any talks with the school at least in recent years regarding any payments in lieu of taxes. The school has offered the town the occasional use of some facilities as meeting space, free of charge – but this value, though appreciated, does not come close to equaling the value of municipal services or the school's exemption. Having some mechanism to allow payment from exempt institutions like Kents Hill School that certainly have the ability to pay would make equitable sense.</p>
Rockport	As an assessor, I am not obliged to offer an opinion; however, it is apparent that the regular taxpayers suffer the consequences while tax-exempt institutions are excluded from the property tax burden. If a municipality intends to continue to offer and maintain a quality service of any kind, all property owners that receive that service should be made to pay their fair share.
Saco	City passed the local ordinance in 1989, this revenue was \$42,554 for 21 properties for fiscal year 2007-2008.
Sabattus	We do charge the two elementary schools for winter storm maintenance, \$12,000/year, no tax assessed.
Searsmont	This is a good question. They do receive or have access to the services provided to them by money receive from property taxes. If they do not pay taxes, the expense is spread out among those who do pay taxes. In most cases,

	General Comments, Continued
Searsmont, Continued	<p>the taxpayer does not receive any benefit from the exempt entity. It would only seem fair to ask them to pay their share of the cost of having the service available to them. This brings to mind the matter of rented parsonages. The town of Union and Searsmont share the same Methodist minister who lives in the Union parsonage. Searsmont rents their parsonage and the Town taxes them. This survey raises questions about taxing this property. They are a small congregation and struggle to pay their obligations. I know they help local families with food, heating assistance, etc. Should we be taxing them if the money received from the rental income is used for the very purpose making them an exempt in the first place? Also, if it is a tax-exempt entity that is renting its building, shouldn't they be accountable and show proof that the money earned for the rental is used for tax exempt purposes?</p>
Waldoboro	<p>Municipalities should be allowed to charge tax-exempt organizations and the state law should expressly state that.</p>
Wesley	<p>I believe that properties that are tax exempt should not be included in the state's valuation of that town/city. Why should residents of any specific town/city carry the tax burden that may or may not benefit its citizens?</p>
West Bath	<p>I would think that some form of mandatory PILOT agreement would be essential for those communities with large non-profits (such as colleges). The municipality's operating costs in such situations are directly and significantly impacted.</p>
Yarmouth	<p>Private educational institutions (such as a private academy or college) that are not essential public entities such as a State university or community college should not be exempt... and if they are, the host town should be allowed to assess PILOT payments.</p>

Attachment D
36 M.R.S.A. § 508

36 M.R.S.A. § 508

§508. Service charges

1. Imposition. A municipality may impose service charges on the owner of residential property, other than student housing or parsonages, that is totally exempt from taxation under section 652 and that is used to provide rental income. Such service charges must be calculated according to the actual cost of providing municipal services to that real property and to the persons who use that property, and revenues derived from the charges must be used to fund, to the extent possible, the costs of those services. The municipal legislative body shall identify those institutions and organizations upon which service charges are to be levied.

A municipality that imposes service charges on any institution or organization must impose those service charges on every similarly situated institution or organization. For the purposes of this section, "municipal services" means all services provided by a municipality other than education and welfare.

2. Limitation. The total service charges levied by a municipality on any institution or organization under this section may not exceed 2% of the gross annual revenues of the institution or organization. In order to qualify for this limitation, the institution or organization must file with the municipality an audit of the revenues of the institution or organization for the year immediately prior to the year in which the service charge is levied. The municipal officers shall abate the portion of the service charge that exceeds 2% of the gross annual revenues of the institution or organization.

3. Administration. Municipalities shall adopt any ordinances necessary to carry out the provisions of this section. Determinations of service charges may be appealed in accordance with an appeals process provided by municipal ordinance. Unpaid service charges may be collected in the manner provided in Title 38, section 1208.

SECTION HISTORY 2007, c. 627, §12 (NEW).