Final Report of the Nonprofit Tax Review Task Force

Prepared for the
Joint Standing Committees on
Appropriations and Financial Affairs
and Taxation

Pursuant to 2013 Public Law, Chapter 368, Part AA

January 28, 2014

H. Sawin Millett, Jr.
Task Force Chair

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(P.L. 2013, C. 368, p. AA)

Executive Summary

Public Law 2013, Chapter 368, Part AA directed the Commissioner of the Department of Administrative and Financial Services (DAFS) to convene the Nonprofit Tax Review Task Force (**Attachment #1**). Pursuant to the statutory charge, nine members were appointed to the Task Force, representing a reasonably balanced mix of governmental and nonprofit interests (**Attachment #2**).

The Task Force was convened on October 30, 2013 and continued its work and deliberations over an additional four meetings that were held on November 15, November 20, November 25, and December 9. Minutes of the meetings were prepared by DAFS staff and detailed summaries of the meetings were also prepared by the staff of the Maine Municipal Association (MMA). All minutes and summaries were reviewed, amended as necessary, and approved by the Task Force (**Attachment #3**). As will be noted in the review of that material, the Task Force paid close attention to the duties assigned to it in Part AA-4 of the legislation during each of the five meetings and due consideration was given to each of the assigned duties. For example, one of the duties of the Task Force was to consider how other cities and states treat nonprofit organizations for purposes of service charges, payments in lieu of taxes and property taxes. A summary addressing that element of the Task Force Charge is found at **Attachment #4**. Additional material submitted to the Task Force and reviewed in the course of its discussions includes The Maine Nonprofit Sector Impact, a report detailing the economic impact of the Maine nonprofit sector, written by the Maine Association of Nonprofits (**Attachment #5**).

The deliberations of the Task Force can be broken down into two major components.

Consideration of the "Economic Crisis Assessment" model. During the beginning part of the process, the Task Force educated itself with respect to the origin of Part AA, with particular attention paid to the Part AA-4 directives. With the help of Senator Flood and Representative Carey from the Appropriations Committee, the Task Force was informed about the draft "Economic Crisis Assessment" legislation that was briefly advanced and then withdrawn during the late stages of the state budget negotiations last May (**Attachment #6**). It was explained that the proposal was advanced to help mitigate a significant reduction in municipal revenue sharing, but then withdrawn in recognition that it was too late in the process for the proposal to be properly vetted, given a public hearing, and further developed as may be appropriate. Instead of the Economic Crisis Assessment proposal, the revenue sharing issue was addressed in the negotiated budget through the temporary increase in sales tax rates. The Part AA Task Force, in turn, was established to allow continued deliberations over the general concept of nonprofit assessments without the immediate urgency of closing a budget.

This background information helped the Task Force better understand the context of its assignment and the various specifics of the Part AA charge. As will be noted below, the Task Force ultimately concluded by consensus that the design, scope and structure of the Economic Crisis Assessment was neither feasible nor desirable and should not be implemented.

Consideration of an alternative, "service charge" approach. The focus of the remaining meetings was the consideration of an alternative approach. Several members of the Task Force expressed an interest in exploring an expansion of an existing municipal authority established in 36 MRSA § 508. That law allows municipalities, by ordinance, to impose and collect a service charge from rental housing properties that are 100% exempt from taxation. An approach supported by some members of the Task Force would allow municipalities to impose a service charge on a broader array of nonprofit tax exempt institutions. Unlike property taxes, the service charges are calculated on the basis of the direct costs incurred by the municipality to provide essential public works and public safety services to those institutions.

The meeting minutes and summaries describe in detail the development of this proposal during the Task Force meetings. Although the final Task Force recommendations do not advance specific amendments to the service charge statute, a draft proposal was developed for the purpose of modeling impacts, and a half-dozen service center communities provided impact data and other input with respect to the draft proposal in response to a survey conducted by MMA at the Task Force's request. The summarized results of that survey are found at **Attachment #7**.

For the purposes of this executive summary, it is fair to say that there was respectful but clear disagreement among Task Force members as to the feasibility and desirability of this alternative approach.

From the perspective of the members supporting the alternative approach, there are several attributes to the proposal that make it worthy of consideration. It does not apply a tax against the assessed value of the institutional property. Instead, it calculates the direct costs of essential services provided to the institutions according to the same principle that requires tax exempt institutions to pay their utility costs. It places the decision to apply or not apply the service charges at the level of the local legislative body, where the communities' costs and benefits associated with hosting the exempt institutions are well known. Finally, although much of the decision-making with respect to the imposition of service charges would be local, certain parameters or safeguards would be embedded in statute to ensure that the service charges, if imposed at the local level, would fairly recognize the value of the benefits provided by the tax exempt institutions to the host municipality and its residents, and would only be applied to institutions with a demonstrable capacity to pay. At least some Task Force members in support of this approach believe that the increasing financial pressures facing state and local governments will inevitably result in structural changes to tax exempt policies and it would be prudent to advance a relatively modest and well-guided proposal proactively rather than make no change to the status quo and be forced to react to more significant initiatives that may be advanced.

From the perspective of other members, there are numerous serious flaws to the service charge proposal. The tax exempt institutions recognize and sympathize with the financial constraints that are bearing down on municipal government, and are particularly concerned with the impacts of the service center communities that tend to host concentrated levels of exempt property. In fact, they are facing very similar constraints themselves. As a matter of principle, however, the imposition of service charges against the institutions only results in a further deterioration of the nonprofits' capacity to deliver the charitable and educational services which constitute their mission and which provide necessary and complementary benefits to the community and wider society, just as the local governments do.

In addition to the concerns of principle, the representatives of the nonprofit organizations identified a number of methodological concerns with implementation, including how the service charges could be fairly and accurately calculated, how the value of the nonprofit's contributions could be fairly calculated, and how the various threshold and capping systems could be established without unfairly discriminating against certain types of nonprofits that are structured differently than others.

Task Force recommendations. As a result of the deliberations over the course of the five meetings, two key recommendations were made, the first of which is agreed to unanimously. The second recommendation is supported by a majority of the Task Force members, with the representatives of the nonprofit organizations dissenting.

First, the Task Force took the following position with respect to the first sentence in Part AA-4, which provided the central charge to the group:

> *"The Task Force unanimously supported the position that any proposal to apply a tax to a broad array of tax exempt nonprofit organizations for the purpose of generating as much as $100 million which would be collected by the state, either on a temporary basis or as a matter of ongoing policy, is neither a feasible nor desirable recommendation."*

Second, by a vote of 6 - 3, (Peluso, Blank and Libby dissenting) a majority of the Task Force endorsed the following recommendation to the Joint Standing Committees on Appropriations and Financial Affairs and Taxation:

> *"The Task Force further suggests guidance to the Appropriations Committee and Taxation Committee going forward on this matter to utilize the following discussion parameters:*
>
> *In further discussion of any impositions of taxation or service costs applicable to nonprofit entities, we suggest that those deliberations be limited under Title 36 solely to consideration of locally applied (actual cost) service charges on nonprofits; giving necessary consideration of supportable thresholds such as size (as determined by annual local revenue or annual local income), caps on assessments, appropriate offsets, and/or consideration of other impacts to communities and the nonprofit entities. Such determinations would require more time than the Task Force currently has, but it is our hope that this guidance provides helpful direction to the Appropriations and Taxation Committees in the Second Session of the 126th Legislature."*

Addendum to the Final Report of the Nonprofit Tax Review Task Force submitted by:

Brenda Peluso, Director of Public Policy and Operations, Maine Association of Nonprofits
Arthur Blank, President and CEO, Mt. Desert Island Hospital
Dr. James Libby, Academic Dean, Thomas College

We are sympathetic to municipal fiscal pressures caused by high-reliance on property-tax revenue, the unequal distribution of tax-exempt properties, and a host of other issues; however, we are opposed to efforts that impose taxes or service charges on nonprofit organizations in order to relieve some of these pressures. Nonprofits earn their tax exemptions every day by contributing to the common good in partnership with their host communities, county, state and federal governments.

Seven other task forces and study commissions have met over the last 35 years to study nonprofit property tax exemption and the imposition of service charges[i]. In summary, the committee reports consistently reflect a central tension in the property tax debate: the desire to value and support the vital public role served by the various non-governmental service organizations versus the strain on municipalities and other taxpayers that have high levels of tax exempt property. Each failed to solve the issue, in spite of spending much more time on the issues than did this 2013 Task Force. Some proposed solutions that would not reduce nonprofits' ability to serve Maine. Solutions from the February 1996 Commission to Study the Growth of Tax-exempt Property in Maine's Towns, Cities, Counties and Regions include:

- Restoration of municipal revenue sharing to 1991 levels
- Increased state funding to 55% of local education costs
- State reimbursement of 100% of local property tax revenues lost to the tree growth classification
- The establishment of a mechanism of relief for those municipalities whose level of property tax exemption exceeds 20% of all property
- Local option taxes to fund municipal services, including local option sales, income, excise, and meals and lodging
- Reduce the level of reliance on the property tax to approach the national average over a several year period. In Maine in 1996, the property tax accounted for 48% of the total state and local tax revenues, this compares with a national average closer to 30%.
- In order to facilitate the availability of more accurate data, the legislature should require that local assessors revalue all tax exempt property no less frequently than at five year intervals

Many Maine Legislatures and many of these task forces and study commissions have recommended the imposition or expansion of service charges, but never unanimously or successfully. We offer the following observations:

- The Nonprofit Tax Review Task Force reviewed how other states handle this issue and based upon research offered by the Maine Municipal Association, there is no evidence that any other state is authorizing the imposition of service fees on nonprofits in a broad manner. Maine would be the first.

- For a service charge to be a true service charge and not a tax, the actual cost of providing a service to the particular property would need to be calculable. If indeed it is calculable, it should then be pulled out of the tax base and assessed on all properties, taxable and tax-exempt. The Lewiston "Rain tax" is a good example, as are metered water and sewer fees, and pay-per bag trash services.
- Services that are not easily appropriated to individual property owners are legitimately a shared responsibility and rightfully belong in the tax base. There is considerable legal and historical precedent for nonprofit tax-exemption. In 1924 the United States Supreme Court ruled that "the exemption is made in recognition of the benefit which the public derives from the corporate activities of the class of charitable organizations." This was further strengthened by the House of Representatives in 1938 when they noted, "The exemption from taxation of money and property is based on the theory that the government is compensated for the loss of revenue by its relief from financial burdens which would otherwise have to be met by appropriations from other public funds, and by benefits resulting from the promotion of general welfare." Nonprofits are performing services that would have to be performed by the government were it not for their efforts and the public good is served by their activities. Taxing these entities would be counter-productive, robbing Peter to pay Paul.
- Often there is a great lack in understanding of what it means to be a nonprofit. In order to be a nonprofit organization, the entity must meet the requirements set forth in law (statutes and case law). Meeting those requirements indicates that the entity's purpose is to benefit the public. Then to be eligible for a property tax exemption, the entity must use its property SOLELY for its public benefit purpose. The Maine Law Court has said "solely means solely"; therefore if there are more than de minimis off-purpose uses, the property will not qualify for tax-exemption. The bar is high to become tax exempt.

In conclusion, nonprofits earn their tax exemptions every day and our society has a long history of supporting this social contract. The imposition of taxes or service charges on one public serving entity to fund another is not good economic or public policy.

1- Report of the Committee on Taxation on Statutory Review of Property Tax Exemptions in Title 36, sections 652 and 656 (February 28, 1979)

2- Joint Standing Committee on Taxation: Statutory Review of Property Tax Exemptions Contained in 36 MRSA Part 2 (March 1984)

3- Relieving the Burden of the Property Tax in Maine: Report of the Speaker's Select Committee on Property Tax Reform (November 1986)

4- Report of the Standing Committee on Taxation Regarding Tax Expenditure Review and Property Tax Exemptions (December 1987)

5- The Commission to Study the Growth of Tax-Exempt Property in Maine's Towns, Cities, Counties and Regions, 117th Legislature (February 1996)

6- Report of the Joint Standing Committee on Taxation: Property Tax Exemption Review (January, 2000)

7- Review of the Law Governing Municipal Service Charges for Tax-Exempt Property (December 17, 2008)

Attachment 1

PART AA

Sec. AA-1. Nonprofit Tax Review Task Force established. The Commissioner of Administrative and Financial Services or the commissioner's designee shall establish the Nonprofit Tax Review Task Force, referred to in this Part as "the task force."

Sec. AA-2. Task force membership. Notwithstanding Joint Rule 353, the task force consists of the following 9 members:
1. The Commissioner of Administrative and Financial Services or the commissioner's designee, who serves as chair of the task force;
2. Two members of the Joint Standing Committee on Appropriations and Financial Affairs appointed by the committee chairs;
3. Two members of the Joint Standing Committee on Taxation appointed by the committee chairs; and
4. Four members representing interested parties, including a representative of the Maine Association of Nonprofits, a representative of the Maine Municipal Association and 2 representatives of other interested parties appointed by the Governor from a list of names suggested by the Speaker of the House of Representatives and the President of the Senate.

Sec. AA-3. Convening of the task force. The task force shall convene no later than September 1, 2013.

Sec. AA-4. Duties. The task force shall evaluate the feasibility and desirability of identifying parameters and a process for imposing a temporary assessment on certain nonprofit organizations that will generate approximately $100,000,000 in revenue annually. The task force shall consider how other cities and states treat nonprofit organizations for purposes of service charges, payments in lieu of taxes and property taxes. The task force shall prepare a report that must include recommendations, including the following:
1. An identification of certain nonprofit organizations on which the assessment will be imposed;
2. A value basis for the assessment that includes all land, buildings and equipment held by certain nonprofit organizations;
3. A method for calculating the amount of the assessment to be imposed on certain nonprofit organizations that includes a mechanism to provide adjustments for nonprofit organizations with fixed assets that are disproportionate to the size of the nonprofit organization's operating budget;
4. A method for crediting against the temporary assessment any payment in lieu of taxes that is being paid by a nonprofit organization; and
5. A process to transfer the assessment revenue to municipalities.

Sec. AA-5. Staff assistance. The Department of Administrative and Financial Services shall provide staffing services to the task force.

Sec. AA-6. Legislation. The Commissioner of Administrative and Financial Services shall submit the task force's report, including any necessary implementing legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Taxation no later than December 1, 2013. The Joint Standing Committee on Appropriations and Financial Affairs may submit a bill related to the report to the Second Regular Session of the 126th Legislature.

Attachment 2

Nonprofit Tax Review Task Force Membership

H. Sawin Millett, Jr. – Chair
Commissioner, Dept. of Administrative and Financial Services

Senator Patrick Flood

Representative Michael Carey

Senator Rebecca Millett

Representative L. Gary Knight

Ms. Brenda Peluso
Director of Public Policy and Operations
Maine Association of Nonprofits

Mr. Joseph Grube
Chief Assessor, City of Lewiston

Mr. Arthur Blank
President and CEO, Mt. Desert Island Hospital

Dr. James Libby
Academic Dean, Thomas College

Attachment 3

October 30, 2013 Meeting of the Nonprofit Tax Review Task Force
Summary
(Prepared by the Maine Municipal Association)

Members present:

Sawin Millett, Chair, Commissioner of the Department of Administrative and Financial Services
Rep. Gary Knight (Livermore Falls)
Sen. Patrick Flood (Kennebec Cty.)
Rep. Mike Carey (Lewiston)
Brenda Peluso (Director of Policy, Maine Association of Nonprofits)
Joe Grube (Assessor, City of Lewiston)
Jim Libby (Academic Dean, Thomas College)

Members absent:

Arthur Blank (CEO, Mt. Desert Island Hospital)
Sen. Rebecca Millett (Cumberland Cty.)

Introductions and overview. Commissioner Millett opened the meeting by asking for introductions around the horseshoe. In general, members spoke of the challenge and complexities of the charge given to the Task Force which requires balancing the broad tax exemptions that are provided to certain nonprofit organizations against the pressure on local governments to provide services to all constituencies with limited tax resources.

The Commissioner then provided a review of Part AA of the state budget that created the Task Force, including:

- A requirement that the Task Force conduct its first meeting no later than September 1, (noting the significant delay in getting started);
- The principle charge, which is to "*evaluate the feasibility and desirability of identifying parameters and a process for imposing a temporary assessment on certain nonprofit organizations that will generate approximately $100,000,000 in revenue annually*", (noting the inherent flexibilities strung throughout the sentence in such words as "feasibility", "desirability", "parameters", "temporary", "certain", and "approximately");
- The direction to examine the practices used in other state and municipal tax jurisdictions to elicit contributions from tax exempt institutions; and

- The so-called "1-5" list under the principle charge, directing the Task Force to identify:
    - The nonprofit institutions that should be made subject to a tax;
    - The method of determining the value of those institutions for taxation purposes;
    - The appropriate tax levy;
    - The method of crediting against the tax levy any contributions voluntarily made by the tax exempt institutions; and
    - How to transfer the state-collected revenue to the municipalities.

The Task Force recommendations are to be reported to both the Taxation Committee and the Appropriations Committee by December 1, 2013, and the Appropriations Committee is authorized to implement the recommendations through legislation.

Presentation by Nonprofits. Task Force member Brenda Peluso provided a 40-minute overview of nonprofit organizations in Maine, including the demographics of nonprofits, the history and rationale for their tax exempt status, the economic impact of nonprofits on the state's economy, the nonprofits' sources of revenue, and the current state or financial status of nonprofit organizations. Much of the material used in the presentation is contained in a January 2013 publication entitled The Maine Nonprofit Sector Impact (link provided below) published by the Maine Association of Nonprofits, the Maine Community Foundation and the Unity Foundation. (http://www.nonprofitmaine.org/wp-content/uploads/2013/01/P-in-P-Full-color.pdf)

In summary, Ms. Peluso's presentation included the following:

- Nonprofits perform functions that governments don't or won't perform. Nonprofits are community-based vehicles for civic engagement, and generally smaller and therefore more flexible than governments.
- There are "public benefit" nonprofits (hospitals, educational institutions, animal shelters, etc.) and "mutual benefit" nonprofits (e.g., homeowners' associations), with the obvious focus of this Task Force on the public benefit nonprofits.
- For IRS purposes, the public benefit nonprofits fall into the "public charities" category (actual service providers) or "private foundation" category (philanthropic).
- There are approximately 6,000 public charity nonprofits in Maine. Approximately 2,600 of that total receive income over the respective $5,000 and $50,000 levels

to be required to file a "990" form with the IRS. Filers of the 990 form with income greater than $50,000 have to provide detailed financial data to the IRS.

- According to a survey conducted by the Maine Association of Nonprofits, with 109 respondents, "many" nonprofits provide Payments in Lieu of Taxes (PILOTs) or Services in Lieu of Taxes (SILOTs) to their host communities.
- Nonprofits earn their tax exemption by foregoing profits, political influence, private benefits, and privacy with respect to the management of their income. They are duty-bound to promote the public good and their contributions reduce the cost of government.
- The nonprofits maintain that case law has established that the concept of nonprofits reducing the cost of government does not necessarily mean the cost of the local government where the nonprofit may be located, but "government" in a larger sense. They also maintain that case law provides that the service a nonprofit may be providing does not have to be a service the government would actually provide in the nonprofit's absence.
- On a nationwide basis, the number of nonprofit organizations in Maine is above average, but similar to other geographically large, rural states.
- Nonprofit organizations employ approximately 86,000 employees, or 15% of the state's workforce. The largest category of nonprofit employer, with 37% of all nonprofit employees, are hospitals.
- There is no general rule regarding sources of revenue for nonprofits. Religious nonprofits tend to obtain funding from individual and foundation sources. Human service nonprofits get a much larger share from government sources. Higher education nonprofits receive a large share of funding from private fees and tuitions.
- Typically, the larger the nonprofit organizations, the larger the share of government payment.
- Foundation giving in Maine is relatively low compared to other states. Individual contributions to nonprofits is low in terms of dollars but middle of the pack in terms of percent of income.
- Surveys of nonprofits show that most are experiencing an increase in demand for services with roughly half of those respondents unable to meet the increased demand. About 30% of survey respondents just broke even in recent years, and another 30% are experiencing revenue-to-expenditure deficits.

Questions from Task Force members after the presentation focused on what information sources were available that could identify the value of the nonprofits' assets and whether there was any hard data on the PILOTs that are actually provided by the nonprofits in Maine.

Maine Revenue Services presentations. Three Maine Revenue Services employees provided the Task Force with information about the taxation of nonprofit organizations under Maine's current tax code.

Income taxation. Two handouts were provided during the income tax presentation: a listing published by IRS of the various tax exempt categories, and the IRS 990 form, which calls for detailed income information and must be submitted to the IRS for any filing over certain income thresholds. The thrust of the presentation was that, in general, Maine's treatment of nonprofit organizations builds off the federal income tax code. There is no separate Maine version of the 990 form. Tax exempt nonprofits that earn or receive taxable "unrelated business income" and file accordingly with the IRS must also file for tax treatment at the state level with respect to that non-exempt income.

Questions from the Task Force after the presentation focused on what elements of the information provided on the 990 form could help identify a nonprofit's capacity to make a contribution to the provision of governmental services. For example, could the 990 data be searched or stratified to profile nonprofits individually or in categories to determine (1) their asset value, (2) the margin of their income-to-expenditure information, and/or (3) staff compensation profiles that might reasonably identify a capacity to pay?

Property taxation. Three handouts were provided for the property taxation presentation, including the statutes governing the tax exemption for non-governmental institutions (36 MRSA, section 652) and the "service charge" authority (36 MRSA, section 508), a 2008 working group report on the development of a more comprehensive "service charge" approach, and the 2012 Municipal Valuation Return Statistical Summary, which tabulates the value of exempt property, by category and by municipality, as those values are determined on the local level.

Each category of exempt property ("benevolent and charitable", "literary and scientific", fraternal, etc.) was briefly reviewed, with references made to the statewide value of the exempt category (e.g., $2.5 billion of charitable property, $1.86 billion of "literary and scientific" property, etc.).

The presentation included a discussion of the expansion to the veterans' organization exemption enacted several years ago that allows areas of the veterans' halls to be exempt even though not exclusively related to meetings, ceremonials and instructions, provided those additional areas of the facilities are used to further the charitable activities of the organization (e.g., generate income used for the veterans' organization's purpose).

Questions were also asked about how municipal assessors determine if the compensation received by the directors and other staff of a non-profit organization fall within the "reasonable" category. Are seven-figure salaries "reasonable"?

The "service charge' statute (section 508) was also reviewed, and the structural difference between PILOTs (purely voluntary) and "service charges" (enforceable levies, but calculated according to actual cost of governmental service) was discussed, as was the fact that the current service charge statute is so narrowly focused on certain low income rental properties that it is not useable in most municipalities.

A question was asked about property taxation policy in Maine's Constitution, and the constitutional provision was discussed that requires all property taxes to be assessed and apportioned equally, according to "just value".

Sales taxation. The presentation on the sales tax exemptions provided to nonprofit institutions included a review of the pertinent statute (36 MRSA, section 1760), which includes over 90 listed categories of exemption, at least a half-dozen of which pertain to nonprofit organizations (e.g., subsections 16, 17, 18, 18-A, 28, 42, etc.). Task Force members were provided the so-called "Red Book", which identifies all the state's "tax expenditures", including the nonprofits' sales tax exemptions, and attempts to ascribe a value of foregone tax revenue to each category. The system of providing and managing the tax exempt certificates was discussed, as was the point that all the retail purchases made by the tax exempt institutions have to be for products pertinent to the exempt institution's purpose or mission in order to be legitimately exempt.

Questions after the presentation included whether it would be legitimate, legally, for a state to provide an income and sales tax exemption to a nonprofit organization but not a property tax exemption, or some other mix of exemption and non-exemption among the major tax categories. The general answer to that question was yes.

MMA presentation. The Task Force entertained a brief presentation by MMA, which involved the distribution of responses to a 2013 survey MMA conducted among the municipal leagues throughout the U.S. in an effort to assist the Task Force in the part of its charge to "*consider how other cities and states treat nonprofit organizations for purposes of service charges, payments in lieu of taxes and property taxes*". The handout included the responses from 20 state leagues describing the tax exempt policies in those states, and providing the pertinent statutory language or guidance documents related to those states' programs. Task Force members were invited to review that material at their leisure. In summary, the material suggests the structure and scope of tax exempt policy in Maine is not that dissimilar from the other respondent states, with some variation in (e.g.) Connecticut, California, Pennsylvania (at least formerly), etc. MMA explained that one of its goals in providing the information is to assist in completing the "other state practices" element of the statutory charge to allow Task Force members to focus in the short time remaining on the rest of the task before them.

Conclusion. Future meeting dates were discussed. Task Force members seemed to agree that their work could be accomplished in three more meetings, and four potential dates for those meetings were laid on the table, with all potential meetings being held from 1:00 – 4:00 p.m.

- Thursday, November 7th
- Friday, November 15th
- Wednesday, November 20th
- Monday, November 25th

All Task Force members, including those absent from today's meeting, will be polled to determine the best three dates to convene.

As to the focus of the next meeting, it was agreed that Maine Revenue Services would assemble some data for the Task Force to review that should assist with the directive to determine which nonprofits have the capacity to contribute to public charges and how those charges should be structured. Stratified information from 990 forms, Maine-based information from IRS sources, and the National Center for Nonprofit Statistics were all identified as possible resources, and it was suggested that an experienced tax lawyer for nonprofit organizations might be able to frame the methodology to determine fiscal capacity-to-contribute based on the nonprofit's publicly-reported financial data.

Task Force members also discussed the underlying goal of Part AA of the state budget, and whether it was to generate revenue to solve a state budget problem or get at the more localized, municipally-based issue of concentrated nonprofit organizations in service center communities with limited tax bases.

The discussion concluded with the observation that the purpose of Part AA began with the former (a need for revenue to balance a state budget) but has appropriately evolved to the latter (the opportunity to get inside the issue of the nonprofit's capacity to contribute to public charges), primarily because the state budget revenue relief was provided in a different way (temporary two-year increases to sales tax rates).

It was generally agreed that the statutory charge to the Task Force contained enough flexibility of language to allow a recommendation to be developed that addressed the public policy issues somewhat differently than may have been envisioned when the Task Force charge was written.

November 15, 2013 Meeting of the Nonprofit Tax Review Task Force
Minutes
(Prepared by Kathleen Hamel, DAFS/MRS)

Members Present:

H. Sawin Millett, Jr., Chair
Senator Rebecca Millett
Senator Patrick Flood
Representative L. Gary Knight
Representative Michael Carey
Joseph Grube
Arthur Blank
Brenda Peluso
James Libby

Members Absent:

None.

Overview

- Commissioner Millett asked the members to briefly introduce themselves for the benefit of the members who were unable to attend the first meeting.

- The minutes (summary prepared by Geoff Herman of MMA) of the October 30, 2013 meeting were reviewed, and were accepted with one minor correction.

- Information requested at 10/30/13 meeting –

  Mike Allen provided and reviewed a handout prepared by John Sagaser, Legal Counsel, of the constitutional provisions relevant to the taxation of real and personal property. The relevant articles of the Maine Constitution and US Constitution were cited.

  Geoff Herman provided a handout of the review of actual PILOT and PILOT-type programs currently in effect. Information was obtained from a 2008 survey of municipalities conducted by MMA and recent follow-up inquiries he made to the cities of Waterville, Augusta, Portland and Brunswick. The data shows that the majority of PILOTs are from low income housing facilities. Geoff pointed out that a municipality must have an ordinance in place to mandate service charges.

  The members discussed the benefits nonprofits provide to the communities, such as hospitals collaborating in emergency preparedness and other nonprofits offering services that the municipalities are unable to provide.

Throughout the discussion, Lewiston was used as an example with its 2 big hospitals and Bates College. These provide many jobs for area residents. However, Joe Grube pointed out that nonprofits generally keep expanding (example; hospitals developing office complexes) which results in more property being taken off the tax rolls. He said there is no shortage of nonprofits setting up in Lewiston. 38 nonprofit group homes have opened in recent years.

Commissioner Millett asked the Task Force if modifications or amendments should be made to the statutes (M.R.S. 36 §508 Service charges; §652 Property of institutions and organizations.)

A service charge is not a tax; the trick is to calculate the charge in a way that is fair, consistent and won't be challenged in court.

LD 936, *An Act to Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations,* sponsored by Representative Kathleen Chase, has been carried over to the Second Session of the 126th Legislature.

Information from IRS 990 Returns Filed from Maine

- Mike Allen provided a handout of data obtained from the Internal Revenue Service and the National Center for Charitable Statistics at the Urban Institute. The data showed the number of Maine-based nonprofits, broken down by category, and the amount of assets and revenues reported by each.

Section AA-4 Duties

Some members seemed reluctant to take on issues that might better be handled in a forum of overall tax reform. Senator Flood reminded the members that the Nonprofit Tax Review Task Force was created as a result of the need to close the biennial budget. Ultimately, the Legislature temporarily increased the rates of sales, meals and lodging taxes to balance the budget instead of further decreasing Municipal Revenue Sharing. However, it was agreed that this issue still needs to be fully examined and the Part AA Task Force was established and charged with these duties. Commissioner Millett stated that the Appropriations Committee will be expecting to see a report in December so the Task Force needs to fulfill its obligations. There was more discussion on "feasibility and desirability", temporary or long term and state or local level taxation.

Commissioner Millett asked the Task Force to hold in abeyance the terms "feasibility and desirability" and the finding of $100 million for Revenue Sharing and remember that the Task Force will be making recommendations only, not the final decisions. Could the members determine, 1A – does the committee want to recommend a <u>temporary</u> or <u>long term</u> assessment? And 1B – does the committee want to recommend a <u>state</u> or <u>local</u> level of assessment? Senator Rebecca Millett responded that she would like to see any recommendations be for a long term and at the local level.

Commissioner Millett then asked for a show of hands for all those favoring a long term recommendation (1A). All members responded in favor. The Task Force then discussed whether the assessment should be at the state or local level (1B), with the general agreement that it should be local. While the nonprofits benefit the surrounding communities, it is the host municipalities that are bearing the brunt of the burden. There is a correlation between high mil rates and a concentration of nonprofits in a municipality. There was also discussion on tax base sharing arrangements between municipalities and credit-enhancing TIFs.

Agenda for Next Meeting

Commissioner Millett asked Mike Allen and Geoff Herman to get copies of the relevant statutes for tax base sharing and inter-local sharing for the next meeting. He suggested the agenda for the next meeting be:

1) Discussion of tax base and inter-local sharing
2) Define "certain nonprofits"
3) Discuss "value basis" for assessments

The next meeting of the Nonprofit Tax Review Task Force will be on Wednesday, November 20, 2013, 1:00 – 4:00 in Room 127, the Taxation Committee Room.

November 15, 2013 Meeting of the Nonprofit Tax Review Task Force
Summary
(Prepared by the Maine Municipal Association)

Sawin Millett opened the meeting with introductions, including Task Force members and staff.

Members present:

Sawin Millett (Chair, Commissioner of the Department of Administrative and Financial Services)

Arthur Blank (CEO, Mt. Desert Island Hospital)
Rep. Mike Carey (Lewiston)
Sen. Patrick Flood (Kennebec Cty.)
Joe Grube (Assessor, City of Lewiston)
Rep. Gary Knight (Livermore Falls)
Jim Libby (Academic Dean, Thomas College)
Sen. Rebecca Millett (Cumberland Cty.)
Brenda Peluso (Director of Policy, Maine Association of Nonprofits)

Staff:

Mike Allen (Associate Commissioner of Maine Tax Policy for the Department of Administrative and Financial Services, Maine Revenue Services)
Kathleen Hamel (Administrative Secretary, Maine Revenue Services)

The Task Force agreed to accept the summary of its October 30th meeting (attached) with one amendment.

Constitution and property taxation. In accordance with the meeting's agenda, Dr. Allen provided an overview of the state constitutional provisions related to property taxation.

Sen. Millett asked if the state is meeting its obligation to reimburse municipalities for 50% of the tax revenue lost associated with the tax exemptions created after April 1, 1978. The answer was 'yes', noting that large categories of exempt property (e.g., the "benevolent and charitable" corporations) were established before the reimbursement obligation, so no reimbursement is available even for newly established charitable organizations.

PILOTs and Service Charges. For the next item on the agenda, Geoff Herman, Maine Municipal Association, distributed a handout describing actual "payments in lieu of taxes" (PILOTs) that are being made in Maine. The information included responses to a 2008 survey conducted by MMA and a recent informal survey of four service center communities with high concentrations of exempt property.

In summary:

- Most PILOT payments are made by low income housing facilities, in some cases as a result of the municipal imposition of "service charges" pursuant to 30-A MRSA, section 508, in some cases pursuant to agreements established when the facilities were established, and in some cases voluntarily.
- Formal PILOT programs conducted by the recently surveyed service center municipalities have been largely or completely unsuccessful.
- There are no major categories of contributing tax exempt facilities after low income housing facilities. The federal government provides some PILOTs for its parks and reserves, Bowdoin College provides an unrestricted gift of $100,000 to Brunswick, the private schools that provide educational services for disabled children provide PILOTs to their host municipalities, etc.

Joe Grube provided information about Lewiston. Bates College makes no financial contribution but does provide some services to local schools. The Lewiston Housing Authority and three other low income housing facilities provide approximately $132,000 in total PILOT contributions. One low income housing corporation is making higher-rate PILOT payments because the City is dedicating the revenue to affordable housing programs.

Sen. Flood asked why more municipalities have not adopted "service charge" ordinances and it was pointed out that service charges can only be applied against low income rental housing units which are 100% exempt from taxation. The service charge statute is not helpful to those communities without a concentration of low income housing. In addition, many low income housing systems are no longer completely exempt from taxation because they utilize the federal low income housing tax credits in their capitalization and so are not purely charitable in their organization.

Sawin Millett asked about the history of the service charge statute. Geoff Herman surmised that its origin was a legislative recognition that low income housing units are clearly associated with increased local services, including educational services. Geoff also pointed out that in the early 1990s, the law was amended to allow a reduced, 50% exemption for low income housing that converted from for-profit to non-profit status (see 36 MRSA, section 1(C)(6)). That is the only partial exemption in statute.

The Task Force engaged in a discussion recognizing the fact that municipalities both benefit from and need to provide services to large tax exempt institutions located within their borders. There are the local economic benefits (jobs, spin-off economic activity) and in some cases the contribution of locally beneficial services.

It was pointed out that Lewiston, for example, would not be Lewiston without the college and its hospitals.

It was also pointed out that the tax exempt institutions are not only exempt in their current footprint, but are also often in the process of expanding, which can involve taking property that is generating tax revenue off the tax rolls. Joe Grube said that of the 38 tax exempt group homes in Lewiston, some were newly constructed while others are older-stock residential housing that was formerly taxable.

The observation was made that different types of tax exempt institutions impact their host municipalities in different ways. Arthur Blank said that the hospitals exist to provide benefits to the local and larger-than-local communities with their free-care services, bad-debt write-offs, and lower-than-cost reimbursement rates under Medicaid. His hospital, as an example, is directly engaged with all of the towns in that region in collaborative emergency response planning efforts.

The Task Force also engaged in a discussion regarding the legal differences between a tax and a service charge. In summary, it was determined that:

- The service charge statute, which focuses only on low income housing facilities, cannot be cited by municipalities as an authority to apply service charges to other categories of exempt property,
- Only the Legislature is empowered to establish tax policy; there is no "home rule" authority in this area of law,
- The Legislature is empowered to impose a property tax against the value of exempt property. To meet the constitutional standard of equal assessment, the "just value" of the exempt institutions would need to be accurately determined, and
- Service charges, which are not taxes, need to be calculated in some relation to the value of the services provided. Service charges calculated on the basis of the institutions' assessed value could be easily challenged as an unauthorized "tax".

Aggregate assets and revenue of charitable institutions. For the next item on the agenda, Dr. Allen distributed a two-page analysis of the aggregate IRS and NCCS data (National Center for Charitable Statistics) regarding the number of charitable entities in Maine organized into 20-plus categories, and the aggregate value of the organizations' assets and revenues in each category.

After these general discussions, Sawin Millett observed that the working group's membership, by design, was certain to have various points of view about the charge given to the Task Force, but there was a task to be accomplished and the agenda was structured to begin addressing the several decision-making assignments.

In different ways, Brenda Peluso and Jim Libby asked whether it would be appropriate to first address a threshold question of whether the Task Force should go forward at all. Jim's interpretation of the charge given to the Task Force is that the threshold question is whether it would be desirable and feasible to apply some form of taxation against tax exempt institutions. Therefore, if applying such a tax was determined from the onset to be either infeasible or undesirable, there would be no need to continue with the discussion.

Arthur Blank reiterated the range of contributions hospitals make to medical care, emergency services and the state budget, and said that notwithstanding his sympathies to the challenges facing local government, he did not see how it made sense to consider tax exempt institutions like hospitals as part of the solution. With respect to the issue of taxable property being taken off the tax rolls, Arthur suggested that a longer-term analysis might reveal that a greater economic benefit accrued to the municipality because of a nonprofit's expansion even though some taxable property is made exempt in the process.

The legislators on the Task Force from the Appropriations Committee reviewed the origin of the Task Force in the budget discussions this spring when legislators were grappling with a proposed $180 million elimination of municipal revenue sharing for the biennium. Legislation to solve some of that problem by imposing a temporary tax on nonprofit institutions was offered and then withdrawn, and the temporary sales tax rate increases were chosen instead, temporarily fixing some but not all of the revenue sharing shortfall. Although the urgency of the problem has temporarily subsided, the thinking of the Appropriations Committee was that the issue of tax exempt institutional contributions to the public charge deserved further review.

Rep. Carey said that the Task Force charge, because of its origin in solving a state budget problem, carries within it a disconnect. The services the institutions receive are being provided by the host municipality, not the state, but the Task Force charge appears focused on generating state revenue and then engaging in some form of redistribution. Rep. Carey thought that instead of creating increased state revenues, the Task Force should focus on the financial relationship between the tax exempt entities and their host municipalities.

To accomplish the given assignment, Sawin Millett suggested proceeding through the decision tree assigned to the Task Force under the protective umbrella of a big "IF". In summary, the big IF puts the threshold questions at the end of the process by allowing any and all Task Force members to vote to oppose any recommendation that may be developed on the grounds that the proposal fails the "feasible or desirable" threshold questions.

Sen. Flood expressed an interest in giving municipalities some home rule authority to help themselves, along the lines of expanding the existing service charge statute.

Brenda Peluso said that the nonprofits are sympathetic to the municipal problems, but the nonprofits have similarly been hurt by elements of the state budget and the economic downturn.

Jim Libby said that he was also sympathetic and familiar with the municipal concerns as the son of a municipal assessor, but he's not sure this Task Force is the appropriate venue to deal with those concerns because of the way the charge to the Task Force is structured.

Arthur Blank also expressed sympathy with the concerns of the municipalities but agreed that the solution embedded within the Task Force charge did not allow the appropriate conversation. The work done by the nonprofits and the municipal tax base don't fit together as cause and solution.

Under the umbrella of the big IF, Sawin Millett asked whether a system to levy a fee or tax against nonprofit institutions – if such a system were to be developed – should be temporary in nature or a permanent system. The group voted against a temporary approach for some differently articulated reasons. One opinion was that the municipal issues the Task Force charge is trying to address are not temporary in nature and would be better addressed through comprehensive tax reform. Another observation was that legislative enactments that are instituted as "temporary" often turn out otherwise or have their own set of problems.

Sawin Millett put forward the next question, which was whether the revenue that might be collected from tax exempt entities should be collected by the state, retained at the local level, or put through some sort of municipal distribution system.

Rep. Carey said that imposing a tax on Lewiston's exempt institutions and then redistributing the revenue to municipalities throughout the state would feel like a tax being imposed on service center communities. Sen. Flood agreed that the tax and redistribution system should not occur at the state level.

Rep. Knight inquired if this system was intended to replace the municipal revenue sharing system.

Geoff Herman was asked for the MMA perspective and indicated (1) that a service charge or nonprofit tax system should allow the revenue to remain with the host municipality, noting the strong correlation of higher-than-average property tax rates with the high concentration of exempt property, and (2) levying a fee on nonprofit organizations should not be designed as a substitute for municipal revenue sharing. Many municipalities have a high property tax burden for reasons not associated with tax exempt institutions.

With respect to potentially allowing the nonprofit contribution to be spread beyond the host municipality's border, Rep. Carey described the tax base sharing arrangement Lewiston has with Auburn.

Sawin Millett asked the Task Force if there was any interest in exploring a system whereby municipalities could impose some sort of charge against exempt tax institutions, with the possibility of sharing that revenue with neighbors in the region through something akin to the tax base sharing system.

Sen. Millett suggested that consideration be given to situations where any authority that allows the imposition of a tax or fee on nonprofit entities should be restricted or disallowed in those municipalities that are authorizing Tax Increment Financing (TIF) agreements. Geoff Herman pointed out that a TIF agreement is not the equivalent of a tax exemption because the property tax obligation is still maintained in a TIF agreement. TIF agreements merely dedicate the use of the tax revenue generated within the TIF district. Admittedly, a "credit enhancement" TIF agreement, where the tax revenue is returned to the taxpayer, can easily be regarded as the equivalent of a tax exemption.

Arthur Blank said that hospitals have a significant amount of personal property in their facilities, which in any commercial parallel would be exempt from taxation under the Business Equipment Tax Exemption program.

Sawin Millett suggested that at the next meeting the Task Force have an opportunity to review the current law regarding tax base sharing arrangements, the general municipal capacity to enter into interlocal agreements, and the current law governing service charge assessments.

Sen. Millett said she was interested in discussing thresholds with respect to the development of a new municipal authority.

Brenda Peluso said that there were annual or biennial attempts to expand the service charge statute and it may not be necessary to review that statute yet again.

Sen. Flood said he was interested in reviewing LD 936 (*An Act To Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations*), a bill sponsored by Rep. Chase. LD 936 has been carried over into the 2014 legislative session.

With respect to its charge to consider how other tax jurisdictions deal with exempt nonprofit institutions, the Task Force accepted the material submitted at its October 30th meeting describing the tax exempt policies of 20 states as described by those states' municipal leagues in response to a survey.

The next meeting of the Task Force is Wednesday, November 20, 2013, beginning at 1:00 p.m.

Nonprofit Tax Review Task Force
November 20, 2013
Meeting Summary
(Prepared by Jennifer Merrow, DAFS)

Members Present:
H. Sawin Millett, Jr., Chair
Senator Rebecca Millett
Senator Patrick Flood
Representative Michael Carey
Joseph Grube
Brenda Peluso
James Libby
Jeff Austin for Arthur Blank

Members Absent:
Representative L. Gary Knight

The meeting convened at 1:10 p.m.

Overview

- The meeting summaries were reviewed and accepted with minor corrections.

  Geoff Herman of Maine Municipal Association shared the following handouts:
  - Title 30-A, §5751 – 5753 regarding Tax Base Sharing Agreements
  - An example of agreements between Lewiston and Auburn for the Lewiston Falls Hydro-Electric Project and the Auburn – Lewiston Industrial Air Park
  - Title 30-A §2201 – 2208 regarding Inter-Local Cooperation
  - LD 936 "An Act To Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations" (carried over to the Second Session of the 126th Legislature.)

  Following discussion of the handouts, Commissioner Millett asked if the group would like to pursue reviewing portions of existing statutes.
  - Senator Flood felt that the bill narrows things down, and would be a simple tool more in alignment with the charge to the Task Force and would have it remain on the table for discussion.
  - After discussion regarding the complexities and the disparate perspectives involved, Senator Flood felt it is necessary to provide a document that sets the direction or provides a consensus back to the committee. Some areas to explore could be the out of state influx, the issue of reasonable compensation, and the tax exempt status of those nonprofits whose executives earn seven figures.

- Representative Carey proposed that the group consider the following elements:
    - Allow the city or town council to decide whether or not to charge a fee and the idea of "just value"
    - A possible threshold of $250,000 income
    - Maintaining a 2% (or 1.7%) cap – or consider assets
    - Allow city or town council to categorize the entities and apply the fees to all within that category

Senator Flood and Representative Carey will draft a document for further consideration by the group at the next meeting.

Geoff Herman will look at the current service charge ordinances for Waterville and Saco and provide to the group for review.

The meeting adjourned at 3:50 p.m.

The next meeting of the Nonprofit Tax Review Task Force will be on Monday, November 25, 2013, 1:00 – 4:00 in Room 126, the Transportation Committee Room.

November 20, 2013 Meeting of the Nonprofit Tax Review Task Force
Summary
(Prepared by the Maine Municipal Association)

Members present:

Sawin Millett (Chair, Commissioner of the Department of Administrative and Financial Services)
Jeff Austin (Maine Hospital Association, Representing Arthur Blank, CEO, Mount Desert Island Hospital)
Rep. Mike Carey (Lewiston)
Sen. Patrick Flood (Kennebec Cty.)
Joe Grube (Assessor, City of Lewiston)
Jim Libby (Academic Dean, Thomas College)
Sen. Rebecca Millett (Cumberland Cty.)
Brenda Peluso (Director of Policy, Maine Association of Nonprofits)

Absent:

Rep. Gary Knight (Livermore Falls)

The Task Force reviewed both the minutes of the meeting and the meeting summary prepared by the Maine Municipal Association, and both were accepted with minor corrections.

Sawin Millett reminded the Task Force that no formal Task Force actions have been made with respect to a number of its assigned evaluative tasks (the second through fifth bulleted items on the November 15th Task Force agenda) and suggested that after the other items on the printed agenda for this meeting were dealt with, the Task Force return to those assignments.

In response to requests for additional information that were made at the November 15th meeting, Geoff Herman presented:

- The statutes governing municipal tax base sharing agreements, along with the actual agreements that have been executed under that authority between Lewiston and Auburn for a hydroelectric generation facility and an industrial park associated with the airport in Auburn that supports the Lewiston-Auburn area. After review and discussion, the Task Force concluded that although the concept of sharing both revenues and costs across municipal boundaries can make sense in many applications, it was not an area of public policy that would be particularly on-point to address the assignment given the Task Force.

- The statutes governing "Interlocal agreements," which could potentially allow groups of municipalities to share in the revenue generated by the application of service fees charged against nonprofit institutions. After review and discussion, the Task Force concluded that it was helpful to be aware of this interlocal agreement authority, but there did not seem to be any need to recommend amendments to that law in the context of the Task Force's assignment.

- LD 936, *An Act To Authorize Municipalities To Impose Service Charges on Tax-exempt Property Owned by Certain Nonprofit Organizations.* Sponsored by Rep. Kathy Chase (Wells), LD 936 would expand the authority given to municipalities under current law to apply charges against certain tax exempt institutions that reflect the cost to the municipality of providing governmental services (excluding education and welfare). Under current law, an ordinance can be adopted to apply those "service charges" against residential property that is 100% exempt from taxation and used to provide rental income. Under LD 936, that same authority would be expanded to include "benevolent and charitable organizations" (with some exceptions), "literary and scientific institutions," fraternal organizations, and the chambers of commerce and boards of trade.

The distribution of LD 936 prompted considerable Task Force discussion. Brenda Peluso pointed out that in addition to the expanded scope proposed by LD 936, the bill also eliminated the service charge cap in current law, where no charge can exceed 2% of the organization's or institution's gross annual revenue. Brenda said that applying charges to these exempt institutions would have the direct effect of reducing their capacity to provide their services. Brenda also thought that it is very difficult to calculate an accurate municipal service charge.

Further discussion among Task Force members focused on precisely how LD 936 amended current law and how the sponsor may have thought that her bill exempted hospitals from the application of any service charges. LD 936 excludes from service charges a certain section of the law governing the exempt status of nongovernmental institutions (36 MRSA, section 652(1)(K)) which many people believe pertains to hospital property, generally, but actually only applies to the personal property leased by the hospitals.

Sen. Flood thought that amendments to the service charge statute represented a simple approach to the overall Task Force assignment and should be kept on the table for discussion.

Geoff Herman pointed out that LD 936 was not the only bill submitted in 2013 regarding the service charge statute. He said (erroneously, see footnote) that Rep. Libby (Lewiston) submitted a similar bill, later identified as LD 562 [1].

After the presentation and review of the items on the printed agenda, Sawin Millett asked the Task Force for direction on next steps. Referring to the yet unaddressed bullet points on the 11/15/13 agenda, Sawin said that the Task Force has yet to determine how nonprofits should be valued for the purposes of assessment, which nonprofits should be identified for assessment, or how the assessments should be calculated or credited.

Sawin asked the Task Force if there was any interest in further exploring a focus on the expansion of nonprofit facilities, as that issue was brought up at the previous meeting. For example, the Task Force could consider a system that would authorize some system of assessment, or a reduced

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[1] LD 562, *An Act Related to Service Charges in Lieu of Property Taxes on Tax-Exempt Property,* is sponsored by Rep. Wilson (Augusta). The concepts behind LD 562 and LD 936 were given some support by Rep. Libby, a member of the Taxation Committee.

level of exemption, for new exemptions created by expanding nonprofit institutions within the community, provided the nonprofits were identified as types that typically demand municipal services.

Rep. Carey said that the expansion of nonprofits is one issue. Another is the different types of services provided by nonprofits, in many cases within the same nonprofit's service delivery system. Some services provided by a nonprofit would reasonably be considered as completely deserving of exemption because they are services not otherwise provided in the marketplace, while other services provided by the same nonprofit are being provided by other, non-exempt institutions.

Joe Grube distributed a map of Lewiston, in the draft stage, that shows the 18% of the city's geography that is exempt from taxation. Joe gave other examples of nonprofits in the community that were obviously eligible for tax exempt status (e.g., a homeless shelter taking people off the street with no charge). In contrast, his review of the 990 forms submitted by other nonprofits in Lewiston reveals how relatively little charitable care is being provided in the context of overall expenses. Joe said that the Lewiston school superintendent just informed the City Council that the City's schools are going to need a special appropriation of $1 million this year to cover some special education costs, which will start off the budgeting process for next year in the red. The City's property tax rate, at 27 mills, is one of the highest in the state. In that context, he has to question why the chamber of commerce facility should be tax exempt. Also, under current Maine law, the companies that own very valuable personal property and lease it to hospitals enjoy a tax exemption. No other non-exempt company that leases personal property to exempt institutions, whether governmental or nongovernmental, enjoys such a tax exemption.

Jim Libby asked if the map showing Lewiston's exempt properties could be presented to show the growth of those exempt footprints over time. Joe Grube said he could provide a list of the entities that have applied for and received exempt status over the last 20 years, if that would be helpful.

Jeff Austin said that he understood Rep. Carey's point about some tax exempt institutions providing services that are otherwise provided in the marketplace, but in the case of hospitals, the provision of those for-pay services creates the fiscal capacity of the hospitals to provide the free care and partially-subsidized care that is expected and required by the government. With respect to the example of the for-profit doctor's office being put under the hospital's exempt umbrella, Jeff pointed out that while it may look like nothing really changed except the organization's status, the converted doctor's office is required to accept Medicaid patients. Jeff also pointed out that evidence may suggest that the value of hospitals in the form 990 records may not be reflective of market value, citing the attempted sale of the former Augusta hospital, which was so lacking in value it had trouble finding any willing buyer.

Sen. Millett said that it seemed like the problem to be addressed, which was really the high tax burden on service center communities, should be more directly addressed by revitalizing the municipal revenue sharing program and somehow protecting it from the political winds. Sen. Millett said that she was not comfortable with the assignment given to the Task Force to choose which tax exempt institutions are more or less deserving of being subject to an assessment.

Sen. Flood said that he noticed under current law there was some attempt to contain or limit the scope of exemption in at least one category – the exemption for religious institutions – where the actual house of religious worship is made exempt (without the ancillary property) as well as the parsonage, with the parsonage exemption limited to $20,000. Whether it is that type of containment, or limiting the increased footprint of an expanding exempt institution, Sen. Flood said he was interested in some sort of reasonable system of limitation.

Brenda Peluso said that current law already contains boundaries. For example, the property of the exempt institutions must be used solely for their charitable purpose.

Sawin Millett indicated that the Task Force was going to have to submit a report of some kind to the Appropriations Committee and he was looking for guidance from the Task Force.

A general discussion followed, including:

- A review of why Lewiston's school budget is going in the red with respect to special education and how a municipality that does particularly well at providing services for certain populations can be financially punished by providing those services,
- A suggestion that the Task Force recognize that the issue is too difficult to deal with in the manner suggested by the Part AA charge, and focus instead on how to relieve the financial pressure on local government,
- The observation that imposing a service charge on the state's colleges and universities would have impacts on their tuition charges, which would limit access.

Sen. Flood said that he felt the Task Force should not fail to provide a report for the Appropriations Committee responsive to its charge. Taking a look at exempt institutions that provide a large amount of their services to non-Mainers might be one area to look at. Sen. Flood thought another area to look at, given the amount of controversy it generates every year at the Legislature, is the compensation issue, and what level of compensation to CEOs of the large exempt institutions should be considered "reasonable," as that standard is found in the law.

Rep. Carey put a "straw man" proposal on the table for the Task Force to consider. Underlying the proposal is Rep. Carey's belief that many of the Task Force assignments that are supposed to be addressed within the Part AA charge are best addressed at the local level and not within the State House. The proposal includes the following elements:

- The service charge statute (36 MRSA, section 508) would be expanded along the lines of LD 936 to allow municipalities, by ordinances adopted by their legislative bodies, to apply service charges to a wider array of exempt institutions.
- As currently provided in that law, if a municipal ordinance identifies a category of exempt institutions subject to the service charges, the charge must be applied against all institutions in that category.

- Some level of fiscal capacity should be established. A starting point for that discussion is $250,000 in annual revenue.

- A maximum service charge should be established. A starting point for that discussion is 2% of the institution's annual gross revenue. Consider language, if necessary, to clarify how the percentage cap is applied for institutions with revenue-generating subsidiary or parent facilities located outside of the municipal boundaries.

Task Force members asked various questions about the proposal. Geoff Herman provided his understanding of how the current cap of 2% of revenue appears to be the common assessment method among the few municipalities that currently have service charge ordinances, and how he believes that the underlying method of calculating the service charge, which defaults to the 2%-of-revenue assessment, is the tax that would be paid on the subject property, excluding the mill rate for education and welfare. Geoff explained that such a methodology is subject to easy challenge because there is no necessary relationship between property value and the cost of municipal services that are provided (i.e., the fee is really a tax).

Sawin Millett asked the members of the Task Force if there was any interest in pulling together Rep. Carey's proposal for further review. Three members were in favor (Grube, Flood and Carey) and four members were opposed (Austin, Peluso, Libby and Sen. Millett). Sawin Millett didn't vote.

The Task Force discussed the proposal in additional detail. Sen. Millett was interested in obtaining more information about how many organizations would be potentially affected with a revenue threshold of $250,000. Brenda Peluso referenced the aggregate data with respect to charitable organizations in the report she distributed at the first meeting.

Brenda also said she would be more enthusiastic about the proposal if it was structured so the nonprofits' obligation to pay the service charge would become merely voluntary, and if the calculation of the service charge also included a calculation of the value of the services the institutions provides to the greater good, which could be set-off against the service charge.

Sen. Flood said that he thought a positive addition to the service charge statute would be a reference to a set-off calculation of the value of the services provided by the tax exempt institution to the community. Rep. Carey said that the 2% cap deserves to be reviewed, and could be lowered.

Geoff Herman said that he didn't think it would be appropriate to go backward with respect to the municipal authority that presently exists in statute with respect to exempt rental housing.

Geoff Herman and David Ledew of Maine Revenue Services were asked if the impact of such a proposal could be estimated. The response was that aggregate impact data would be extremely hard to calculate given the fact that the newly-created municipal authority would be voluntary at the municipal level, and each participating municipality could decide to focus on some category of exemption and not others. The best way to evaluate impacts would probably be to review the impacts in a few municipalities after making a few assumptions about what the local ordinance would contain.

Rep. Carey and Sen. Flood are scheduled to put the various elements of the proposal on paper for further review at the next meeting. Geoff Herman is going to obtain the existing "service charge" ordinances from Saco and Waterville for the Task Force to review.

The next (fourth) meeting of the Task Force is scheduled for Monday, November 25th, from 1:00- 4:00 p.m. in Room 126 of the State House (Transportation Committee room). A fifth meeting has been scheduled for Monday, December 9th, from 1:00 – 4:00 p.m. in the Taxation Committee room (Room 127).

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[1] LD 562, *An Act Related to Service Charges in Lieu of Property Taxes on Tax-Exempt Property,* is sponsored by Rep. Wilson (Augusta). The concepts behind LD 562 and LD 936 were given some support by Rep. Libby, a member of the Taxation Committee.

November 25, 2013 Meeting of the Nonprofit Tax Review Task Force
Meeting Summary
(Prepared by Kathleen Hamel, DAFS/MRS)

Members Present:
H. Sawin Millett, Jr., Chair
Senator Rebecca Millett
Senator Patrick Flood
Representative L. Gary Knight
Representative Michael Carey
Joseph Grube
Jeff Austin for Arthur Blank
Brenda Peluso

Members Absent:
James Libby

Overview

Commissioner Millett asked for a review and comments of the November 20, 2013 meeting summaries prepared by Jennifer Merrow (DAFS) and by Geoff Herman (MMA). Both summaries were accepted and approved with one correction.

Information requested at Prior Meeting

- Draft language from Senator Flood and Representative Carey
- Service Charge Ordinances in Saco and Waterville
- LD 562 – An Act Related to Service Charges in Lieu of Property Taxes on Tax-exempt Property

Senator Flood did a quick review of the draft of proposed changes to Title 36 §508. Service Charges. He said the draft was meant to be a point of beginning for discussion and that he included other Task Force options (italicized) to the proposals. Both he and Representative Carey agreed the intent was to allow as much local control as possible as long as all nonprofit property owners within a category are treated in the same manner.

Representative Knight applauded their work on the draft and asked for clarification of the proposed Calculation of Basis for allocating the Service Charge. He also wondered if there could be constitutional challenge if, for example, Brunswick assessed a service charge on Bowdoin College but Lewiston decided not to assess a service charge on Bates College. Geoff Herman answered that §508 already allows municipalities the option to assess a service charge. Representative Carey pointed out that the storm water assessment fees ("rain tax") imposed by municipalities could be used as a model. Brenda Peluso noted that the so-called "rain tax" was imposed on <u>all</u> properties in a municipality and service charges should also apply to all. Joe Grube explained the different levels of the storm water assessment fees in Lewiston: residential, multi-family residential and commercial. This assessment is included in the property owners' water/sewer bill.

Senator Millett expressed concern with implementation issues. Who will do the calculations – the municipalities or the nonprofits? Will the economic benefit associated with the nonprofits be considered? Will there be overlap of TIFs? Will capital campaigns be counted in gross revenues for nonprofits for the cap limitation? Senator Flood said that there is already a process in place for nonprofits to report revenue to the municipalities. This is an attempt to do the reverse and calculate the nonprofits' value in services to the municipalities. Geoff Herman provided a handout of the service charge ordinances in Saco and Waterville and pointed out that the calculation methodology in their ordinances closely mirrors the wording in §508 and §652. However, §652 currently only applies to nonprofit low income housing and doesn't provide a lot of guidance for calculating the service charge. Commissioner Millett noted that §508 requires a nonprofit to file an annual audit of revenues with the municipality; he asked Brenda Peluso if all nonprofits have an annual audit prepared by a CPA. Brenda replied that most do not but all file the form 990. The IRS has a requirement for an annual audit for organizations with revenues over $500,000, (Brenda was uncertain of this figure but offered to bring correct information to the December 9th meeting) but she cautioned against just looking at gross revenues and feels even using net revenues could be difficult. Certain revenue streams should be excluded.

Jeff Austin said it could be very difficult for a hospital or college to determine what portion of their value of services goes to residents of the host municipality. Also, a cap based on gross revenue may be difficult to obtain. For example, MaineGeneral, based in Augusta, would list its gross revenue, but an entire department, the Thayer Unit, is located in Waterville. Perhaps this should be map-based on square footage of property located in a municipality? Joe Grube had created a map of Lewiston showing the footprint of the nonprofit property owners; houses of worship, cemeteries and government-owned properties were not included. The largest property shown is a bird sanctuary.

Commissioner Millett asked if the Task Force should focus more on economic impact and TIFs. Senator Millett said if TIFs are offered to businesses then they should also be offered to nonprofits. Organizations such as colleges, hospitals, the Portland Symphony, etc. all have a positive impact on the local economy. Commissioner Millett asked how the Task Force could quantify a nonprofit's contribution; is there a methodology? Senator Flood said there may be a method used by others but he hadn't looked. Representative Knight said that the Lewiston map visually complicates things for him. The bird sanctuary probably doesn't have a big revenue stream for paying a service charge and also probably does not have much economic impact for Lewiston.

Commissioner Millett asked if the Task Force should look at the exemption provisions A-J in §652; are there any that the committee feels should not be included in being assessed for service charges?

Senator Millett noted that Senator Flood had said that the language of the draft was broad to allow municipalities to reflect their own unique relationship with the nonprofits. Would all municipalities have the ability to understand the intricacies of the different nonprofits involved; would they have the staff and budget to develop such expertise and knowledge? Representative Carey said he was not too worried about that as municipalities tend to copy what is already working in another area and narrow the provisions of an ordinance to their own requirements. However, the Task Force should offer guidelines so that it is not so open-ended. Commissioner Millett said that even the smallest towns have tax assessors with knowledge of the tax laws and they know that they must apply the same methodology for all real property in the town. Joe Grube confirmed that this is reported by all municipalities for the annual State Valuation. Commissioner Millett also stated that all the different task forces currently meeting are trying to minimize the impact on the municipalities. Senator Millett said she would like to see more definition for the implementation process.

Commissioner Millett asked the members if they wanted to spend more time trying to craft something that will work. Representative Carey said he believed they should and that the removal of tax exemptions or the assessment of service charges is bound to happen eventually. He said he cared too much about many of the nonprofits to just let this issue go to a Referendum or perhaps have an ill-conceived law come out of the Legislature. The members should look at the issue from how we pay as individuals – not as corporations. Senator Flood and Representative Knight agreed that the task force should keep trying. Senator Millett said she was willing to continue but that the Task Force needs to understand what they are doing and that there could be unintended consequences.

Senator Flood said the members should look at the 3 variables (options) in the draft and should start with the first which is to decide if any of the properties listed in A-J of §652 should be exempt from service charges. Joe Grube suggested striking the properties listed in E (Veterans' organizations) and G (Houses of religious worship and parsonages). A show of hands had 5 members in agreement with this; 3 members abstained (Jeff Austin, Brenda Peluso and Senator Millett). Brenda Peluso expressed the opinion that if service charges are assessed, they should be assessed on <u>all</u>. Representative Carey said a different legal standard already applies to houses of religious worship and parsonages and only a portion of their value is exempt from taxation. Also, he didn't know of any Veterans' organizations that would meet the $250,000 threshold in gross revenues. Joe Grube said there are no longer any properties owned by Veterans' organizations in Lewiston; activities take place in buildings owned by others.

Commissioner Millett asked the members if they wanted to adjust the threshold of $250,000 in annual gross revenues up or down. Brenda Peluso felt that $250,000 was too low and could not recommend a reasonable threshold given the innate problem with using gross revenues as a proxy for ability to pay. Additionally, most nonprofits at this low threshold would not be property owners.

Senator Millett said she would like to see an analysis for the next meeting that would show how much money a $250,000 threshold would bring into a municipality (or thresholds of $500,000 or $1,000,000) and just how would the municipality calculate the value of the nonprofits' services. Since it would be impossible to get this information from every municipality prior to the December 9th meeting, she agreed that a sampling of about a half-dozen municipalities would help. Geoff Herman said he could do some outreach to municipalities with a large concentration of nonprofits to get these figures but the valuation of the nonprofits' contributions would probably be a guesstimate. Brenda Peluso said that some nonprofits do a very good job of calculating their contributions; Jeff Austin again said that it is difficult to break down by municipality the contributions of colleges and hospitals since they serve large regions. Representative Carey noted that it will be in the best interests of the nonprofit organizations to state their full contributions. Hospitals could be asked if they had a reasonable way, perhaps through patient management records, to determine the contribution of charity care to the host community. Geoff Herman felt he would be able to have information from a sampling of municipalities to present at the December 9th meeting.

Commissioner Millett asked if the Task Force members wanted to plan additional meetings; no one suggested more meetings would be needed.

The meeting was adjourned at approximately 4:20 p.m.

November 25, 2013 Meeting of the Nonprofit Tax Review Task Force
Summary
(Prepared by the Maine Municipal Association)

Members present:

Sawin Millett (Chair, Commissioner of the Department of Administrative and Financial Services)
Rep. Mike Carey (Lewiston)
Sen. Patrick Flood (Kennebec Cty.)
Rep. Gary Knight (Livermore Falls)
Joe Grube (Assessor, City of Lewiston)
Sen. Rebecca Millett (Cumberland Cty.)
Brenda Peluso (Director of Policy, Maine Association of Nonprofits)
Jeff Austin (Maine Hospital Association, Representing Arthur Blank, CEO, Mount Desert Island Hospital)

Absent:
Jim Libby (Academic Dean, Thomas College)

The Task Force reviewed both the minutes of the 11/20/13 meeting and the meeting summary prepared by the Maine Municipal Association. Both summaries were approved with one correction.

The Task Force began its review of a proposal advanced for the purpose of discussion by Sen. Flood and Rep. Carey. Sen. Flood described the manner in which the proposal was developed as well as the substance of the proposal itself.

As presented, the existing service charge statute (36 MRSA, section 508) would be amended to authorize municipalities to adopt ordinances that would assesses service charges, potentially, to all the nongovernmental tax exempt categories listed in 36 MRSA, section 652. Through its ordinance, the municipal legislative body could pick which categories would be subject to the service charge system (charitable organizations, private education facilities, etc.). If a certain category was established, a municipality could not pick-and-choose which organizations within that category would be subject to the service charge. All would have to be treated equally.

The service charge system would essentially remain as established under current law, with two significant differences.

First, a threshold is established of $250,000 in gross revenue. A nonprofit with less annual gross revenue than $250,000 could not be made subject to the service charge.

The municipal ordinance would contain the methodology for calculating the value of the municipal services that would be used to form the basis of the service charge.

Unlike current "service charge" law, the municipal ordinance would also contain a methodology for calculating the value of the contributions made by the nonprofit entity to the municipality.

The actual service charge would be the remainder, if any, after subtracting the value of the contributions made to the municipality by the nonprofit from the value of the services provided to the nonprofit by the municipality.

Finally, the total service charge could not exceed 2% of the nonprofit facility's annual gross revenue. The gross revenue figure would be the revenue accruing to the nonprofit's facility in the municipality, not including revenue received by subsidiaries or branches of the organization not located within the municipality.

Rep. Carey said that his intention with the proposal is to allow for the conversation about balancing the cost of municipal services with the contributions made by the tax exempt entities to occur on the local level. The local level, according to Rep. Carey, is the more appropriate venue than the State House. The legislative role in this proposal is to establish some size and fiscal capacity parameters, but otherwise work within the service charge law that is already in place.

Rep. Knight expressed appreciation for the work but had questions about how the cost and contribution values would be calculated. It was explained that the methodologies would be left up to the ordinance development process at the local level. Rep. Knight asked if there were constitutional "equal protection" issues associated with a system that would allow one community to impose service charges on a certain facility while no charges would be imposed on a similar facility in the next municipality. Geoff Herman pointed out that the existing service charge law governing tax exempt rental housing has been allowing the local option approach for 30 years without any equal protection challenges.

The Task Force discussed the storm water fee (a.k.a., "rain tax") established in Lewiston and how the challenge as to the constitutionality of that fee went to the state's Law Court and the fee was upheld. Brenda Peluso said that she distinguished the storm water fee in Lewiston from the service charge statute because all similarly situated property owners in Lewiston were subject to the storm water fee, not just the nonprofit entities. Joe Grube was asked about the implementation of the storm water tax. He explained that one flat rate was applied to single family homes, another to multiple family homes, and the larger commercial, industrial and tax exempt properties were assessed the fee on the square footage of impervious area, with credits for on-site storm water retention systems. Joe was asked if the city, state and federal governments had to pay the fee. Joe said he thought the city did pay the fee, but the state and federal governments were exempt, but agreed to follow up on this. (Note: Joe reported at the December 9th meeting that the state and federal government do pay the storm water fees on their properties.)

Sen. Millett expressed concern about how the ordinances would be implemented at the local level and who performed the various calculations. Sen. Millett also wondered if the calculation of the nonprofit's contribution to the community should include the impact on the local economy, as tax increment financing benefits are provided to reward for-profit contributions to the local economy. Another question was whether the organization's gross annual revenue includes revenue collected for capital campaigns.

Geoff Herman distributed the ordinances from Waterville and Saco that currently govern the service charge system in those communities with respect to tax exempt rental housing. Geoff walked the Task Force through the Waterville methodology, which determines the ratio of the square footage of the exempt facilities to the built square footage of the entire municipality, and applies that percentage to the city's budgeted costs for fire and police protection, road maintenance and construction, traffic control, snow and ice removal and sanitation services if those services are actually provided to the property. With respect to the service charge limitation, Waterville's ordinance follows the authorizing statute by applying a cap of 2% of gross annual revenue received by the nonprofit, as identified by a certified public accountant.

As to the definition of "gross annual revenue," Brenda Peluso was asked if all nonprofits undertake annual audits. Brenda indicated that the threshold for the annual post-audit requirement is for nonprofits with revenue exceeding $500,000.

Rep. Carey said he thought it was important to establish the threshold and the service charge capping system on the basis of revenue rather than asset value because the asset/income ratio for some nonprofits is disproportionate.

Brenda Peluso said that the Task Force should be cautious about putting too much weight on the gross annual revenue proxy for fiscal capacity. Beyond the issue of revenue for capital campaigns, a service charge associated with revenue could provide a disincentive for private contributions to exempt entities. Also, there are issues with establishing an effective tax based on Medicaid/Medicare revenue. Brenda said she was not sure if a good definition of revenue could be crafted for the purpose of establishing a service charge cap.

In response to some of the questions being asked to help shape the proposal, Jeff Austin asked a process question. Since the hospital association would not likely support this proposal, does the Task Force want to take his input? If so, Jeff pointed out that the Augusta hospital has a branch in Waterville. The income information for the Augusta hospital includes the income from the Waterville facility. Jeff asked if the intention of the revenue component of this proposal, either for threshold purposes or for service charge cap purposes, is to restrict the revenue to just what is generated by the facility within the municipality? Jeff also pointed out that current statute excludes the education costs and welfare costs from being included in the service charge calculation, but the current proposal does not seem to include that language. Jeff also expressed a concern about how the 2% cap would be actually applied and whether it delivers the protection or limitation it appears to provide.

Sawin Millett said he sensed that the intention of the proposal is to focus only on revenue produced where the facility is located and not revenue generated by branch facilities.

Joe Grube distributed an updated map of Lewiston's exempt property in response to Jim Libby's request from the previous meeting to see how the nonprofits have expanded over time. In 5-year increments, the map shows the added nonprofit facilities from the base of exempt facilities in 1980 to the present.

Discussion followed about how to define annual gross revenue and whether the nonprofit contribution calculation should include benefits to the local economy.

Sen. Millett pointed out that the broad and relatively unguided authority in the current service charge statute might work because there is a very limited applicability of that statute (to tax exempt rental property). If the authority is going to be opened up to all classes of exempt property, the broad authority might not work as well and may be difficult to implement, especially for those municipalities without resources to perform all the necessary analysis. A discussion from various perspectives followed about the relative capacities of small and larger municipalities, how each of the various nonprofit categories include different models of organization and mission that needs to be understood, how the result of broad authority could be very disparate methods of implementation from town to town, and how municipalities quickly learn from each other the best ways to implement programs.

The conversation drifted toward whether the Task Force should continue its efforts or give up trying. Sen. Flood and Rep. Carey said that they wanted to produce a recommendation for the Appropriations Committee to consider and were committed to finding a reasonable, balanced and logical system that could work. If something reasonable could be developed and implemented, less rational and more severe approaches could be avoided. Rep. Knight said that the goal was a worthy one, but he has seen politics get in the way and frustrate very good ideas.

The Task Force was asked if there are any categories of exempt property in section 652 that the proposed law should exempt from service charges.

Joe Grube suggested that church property should be exempted from service charges as should the veterans' organizations. Rep. Knight, Rep. Carey, and Sen. Flood agreed. The reason for the church exemption was a general sense among many that it was a "separation of church and state" issue. In addition, the church exemption is already limited relative to other exempt categories. The reason for excluding the veterans' halls was that none of them would be able to meet the revenue threshold. The various veterans' organizations appear to be having deep financial problems as it is, with many folding up and merely sharing space or meeting in members' residential homes.

Jeff Austin didn't think it would be appropriate to help design a system he could not ultimately support. Brenda Peluso and Sen. Millett did not see the fairness of exempting some tax exempt organizations and not others.

The question was asked if the threshold figure ($250,000 in revenue) or the cap (2% of gross revenue) should be adjusted either up or down. Brenda Peluso said she had no recommendation on either issue. Based on the earlier observation that nonprofits with a revenue of $500,000 or more are likely to have annual audits, the proponents of the proposal suggested raising the threshold level to that figure.

Sen. Millett said that she could not ultimately vote on the proposal until she had a sense of its impacts. Geoff Herman said statewide impact data would be impossible to generate, but he could outreach to a number of communities to obtain a sampling of potential impact. The element of the proposal that the municipal officials could not generate without collaboration from the nonprofits would be the calculation of the value of the nonprofit's contribution to the municipality. Geoff is going to survey a handful of communities with some concentration of tax exempt property for the purpose of providing to the Task Force at the next meeting information about the number of exempt institutions that could be subject to the service charge and the approximate value of the service charge, capped and uncapped.

The next and last meeting of the Task Force is scheduled for Monday, December 9th.

December 9, 2013 Meeting of the Nonprofit Tax Review Task Force
Meeting Summary
(Prepared by Kathleen Hamel, DAFS)

Members Present:
H. Sawin Millett, Jr., Chair
Senator Rebecca Millett
Senator Patrick Flood
Representative Michael Carey
Joseph Grube
Arthur Blank
James Libby
Brenda Peluso

Members Absent:
Representative L. Gary Knight

The meeting commenced at 1:12 pm.

Review of DAFS and MMA Summaries of November 25, 2013 Meeting

Commissioner Millett asked the members to review and comment on the November 25, 2013 meeting summaries prepared by Kathy Hamel (DAFS) and Geoff Herman (MMA). The Task Force approved both summaries of the November 25, 2013 meeting with minor corrections.

Presentation and Discussion of MMA Impact Survey Data

As requested at the November 25, 2013 meeting, Geoff Herman and the Maine Municipal Association prepared a Municipal Service Charge Impact Survey which was sent to 10 municipalities with high concentrations of tax exempt property. The communities of Bath, Biddeford, Caribou, Lewiston, Presque Isle and Rockport responded with some data. A handout that included the survey, the reported results and comments was given to the Task Force members. Geoff Herman explained that the participating municipal officials only had one week to generate this information and they were asked to use a formula for calculating a service charge similar to the formula used for the assessment of storm water fees, which uses the square footage of the property in the calculation.

The Task Force then reviewed and discussed the survey results. Some members felt there should be some alternative formula a municipality could apply that didn't use the square footage calculation. Nonprofit organizations are so diverse and a "one size fits all" approach shouldn't be legislated. It was also noted that the data showed that the calculated service charge assessments seemed to be far less than the suggested 2% cap. Senator Millett felt that the survey data didn't show a way for a municipality to calculate the full value of the nonprofits.

Final Review of Proposal and Drafting of Final Report

The members then discussed the original concerns of desirability and feasibility of assessing service charges on nonprofit organizations. Most agreed that the draft proposal prepared by Senator Flood and Representative Carey showed the feasibility, although Senator Millett remained concerned about the municipalities' ability to determine a methodology for calculation given the various types of nonprofits.

Commissioner Millett asked if the members were ready to draft a consensus statement for the report back to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Taxation. After much discussion, it was agreed the statement would read: *"The Task Force unanimously supported the position that any proposal to apply a tax to a broad array of tax exempt nonprofit organizations for the purpose of generating as much as $100 million which would be collected by the state, either on a temporary basis or as a matter of ongoing policy, is neither a feasible nor desirable recommendation".*

Senator Flood and Representative Carey suggested that a second statement be included in the report that the Committees should consider going forward with locally-based options for service charges; a discussion of this suggestion ensued. James Libby proposed that instead of ongoing service charges, another option might be a one-time fee assessed on future acquisitions of property that moves the property from the tax rolls to tax-exempt status. Senator Flood felt it was possible to give a statement that gives guidance to the Committees without actually drafting the legislation. He then prepared a first draft of this statement which the members reviewed and amended. The majority of the members voted in favor of adding this second statement to the report: *"The Task Force further suggests guidance to the Appropriations Committee and Taxation Committee going forward on this matter to utilize the following discussion parameters:*

In further discussion of any impositions of taxation or service costs applicable to non-profit entities, we suggest that those deliberations be limited under Title 36 solely to consideration of locally-applied (actual cost) service charges on non-profits; giving necessary consideration of supportable thresholds such as size (as determined by annual local revenue or annual local income), caps on assessments, appropriate offsets, and/or consideration of other impacts to communities and the non-profit entities. Such determinations would require more time than the Task Force currently has; but it is our hope that this guidance provides helpful direction to the Appropriations and Taxation Committees in the Second Session of the 126th Legislature."

The vote in support of the recommendation was 6-3 (Peluso, Libby and Blank dissenting). (Representative Knight was polled for his vote).

On behalf of the Task Force, Commissioner Millett expressed appreciation of the work done by Geoff Herman and the Maine Municipal Association on this project.
The final report will be drafted by Commissioner Millett with assistance from Geoff Herman and Brenda Peluso. All members will have the opportunity to include a comment, if desired.

The meeting adjourned at 4:50 pm.

December 9, 2013 Meeting of the Nonprofit Tax Review Task Force
Summary
(Prepared by the Maine Municipal Association)

Members present:

Sawin Millett (Chair, Commissioner of the Department of Administrative and Financial Services)
Rep. Mike Carey (Lewiston)
Sen. Patrick Flood (Kennebec Cty.)
Sen. Rebecca Millett (Cumberland Cty.)
Arthur Blank (CEO, Mount Desert Island Hospital)
Joe Grube (Assessor, City of Lewiston)
Jim Libby (Academic Dean, Thomas College)
Brenda Peluso (Director of Policy, Maine Association of Nonprofits)

Absent: Rep. Gary Knight (Livermore Falls)

Meeting minutes. Sawin Millett opened the meeting with a review of the 11-25-13 meeting minutes as prepared by DAFS staff and the meeting summary as prepared by MMA. Both summaries were approved with minor corrections.

Impact data. Moving on to the second item on the agenda, Geoff Herman provided the committee with the data received from six service center municipalities that were asked to model the proposed expansion of the service charge statute as developed at the 11-15-13 meeting. The handout containing the impact information as developed by those participating municipalities represents the information provided by Geoff to the Task Force.

Senator Millett, who initially asked for this type of data at the 11-25-13 meeting, was asked if the information provided was satisfactory. She indicated that it was satisfactory in part but without data regarding the value of the contributions made to the community by the exempt institutions, including the value of economic development, she was still lacking sufficient information to decide on the proposal.

Brenda Peluso expressed concern with the methodology used to determine the municipal cost of services because the square footage of the tax exempt buildings is not necessarily a good proxy to determine the value of services actually provided. Brenda also pointed out that the income of the various tax exempt institutions, as reported on their IRS 990 forms, often includes income received by branches of the institution that are not located in the municipality, so the representations of the 2%-of-revenue cap in the material presented would be overstated in those cases. When asked if there was a better methodology, Brenda said that because the nonprofits are so diverse in their structures and missions, it would be very difficult to craft a one-size-fits-all methodology.

Senator Flood pointed out that on the basis of the information provided, the 2%-of-revenue cap on the service charge is nearly irrelevant because the calculation of the municipal cost of services is generally such a small percentage of the proposed service charge cap.

Jim Libby expressed discomfort with the overall proposal after reviewing the data, citing the possibility of assessing an institution like the Hyde School in Bath with a service fee as high as $99,000 as an example.

It was pointed out that the decisions to levy or not levy a service charge would be a local option, which led to a larger discussion about the different types of local options that were within the proposal. For example, would the method to calculate the service charge be established in law or left up to each municipality to develop on its own? Would the municipalities have the local option to apply the service charge against some categories of exempt property and not others?

Rep. Carey said that as of the 11-25-13 meeting, the municipalities would be authorized to develop their own systems of calculating the service charge and would be allowed to choose the categories of tax exempt institutions as listed in 36 MRSA, section 652, against which to apply the service charge, except that church property and veterans' organizations would be excluded. Rep. Carey said that his thinking on the local option issues has further developed since then, but that's where the proposal stood at the time.

Jim Libby said that the local option issues raised the question in his mind whether the proposal was feasible. Arthur Blank said that the proposed solution was creating a greater level of complexity and he was concerned about too much flexibility being provided at the local level, which could trigger legal questions and tensions locally between the nonprofits and their host communities.

Sawin Millett provided a review of what the Task Force has decided not to do. Referring to the original charge in Part AA of the state budget, the Task Force has decided not to propose a temporary tax as applied to a broad array of nonprofits that would generate approximately $100 million which would be collected by the state. Given all that the Task Force has decided not to recommend, Commissioner Millett was asking what the Task Force was willing to recommend. The specific question was whether the Task Force wanted to make some decisions with respect to specific details of the working proposal. An item on the meeting's agenda presented such a decision tree.

This led to a general discussion about when the Task Force is to weigh in on the "feasibility and desirability" of the service charge proposal as it has developed. Sen. Flood said that he thought the proposed expansion of the service charge statute, with some tweaking of the threshold and capping systems, was certainly "feasible". Arthur Blank said that he thought "feasibility" and "desirability" were separate determinations, and a discussion focused on the desirability of any proposal would be helpful.

Rep. Carey said that he believed that something would be occurring in the years ahead with respect to nonprofit taxation and it would be to the benefit of all concerned to implement a relatively narrow, municipal-based authority to impose service charges rather than wait for the less rational consequences that might play out in the political realm.

Senator Millett said that she was not convinced the service charge proposal was feasible. There were still innumerable questions about how it would be implemented and what its impacts would be. There was a question about the feasibility at the municipal level to manage the service charge system equitably. Sen. Millett agreed that the desirability of such a proposal was another question entirely.

Arthur Blank said that he did not think the proposal was desirable because it fundamentally conflicted with the social contract that society has established with the charitable nonprofits. The real problem, according to Arthur, was the system of taxation that requires municipalities to rely so completely on property tax revenue to pay for all local government services, and the overreliance on property taxes is the problem that needs to be fixed.

Sawin Millett asked the Task Force if there was consensus that, as laid out in the Part AA charge to the Task Force, a temporary tax on a broad array of nonprofits to generate approximately $100 million in revenue that is collected by the state is "infeasible".

Task Force members spoke in agreement to that statement. Jim Libby said that there is a big difference between developing a fee with respect to property that is currently taxable but is being converted to exempt status versus suddenly imposing a fee on all currently exempt properties. The implementation of a fee on taxable properties proposed for exemption is something that can be planned for in the financing process. The imposition of a fee on property already exempt, however, imposes new and unplanned costs.

Given the possibility of some support for a limited service charge authority applied prospectively to newly established or converted tax exempt facilities, the Task Force debated how to structure the proposals to be voted on.

The first vote, unanimously supported, was the determination that a proposal to apply a tax to a broad array of tax exempt nonprofit organizations for the purpose of generating approximately $100 million which would be collected by the state, either on a temporary basis or as a matter of permanent policy, was infeasible and undesirable.

Sawin Millett asked the Task Force how it wanted to proceed in the effort to identify what proposal it might consider feasible and desirable.

Rep. Carey recommended an amendment to the proposal on the table. The authorizing statute should establish the presumptive methodology for determining the value of the municipal services provided to the nonprofits as the method in Waterville's ordinance. A municipality would be authorized, however, to establish an alternative methodology for a particular type of service if it could demonstrate the alternative method was more accurate. Rep. Carey said that he hoped the Task Force could develop a unanimous recommendation and perhaps some sort of "going forward" approach could lead to that result.

The Task Force discussed exactly what a "going forward" or prospective approach would entail. One version is that the service charge authority would only apply to previous taxable properties that are converted to exempt status. Another version would also focus only on those properties but it would not involve the application of annual service charges. Instead, a one-time fee to cover that type of transfer would be applied. A third version would allow service charges to be applied to any newly created exempt property (provided the income threshold applied), whether it was a previously taxable property or new construction.

Senator Millett said that if the service charge could be applied to newly constructed exempt property, consideration should be given to the community's involvement with tax increment financing. Why would a community provide a TIF for some construction because of its contribution to economic development and also impose a service fee on other construction, which is also contributing to economic development? The observation led to a discussion about the TIF projects that have been authorized in Lewiston over the last 10 year period.

Sawin Millett asked the Task Force whether it wanted to take up the decision tree outlined in the agenda which would potentially amend various components of the service charge proposal on the table.

Sen. Flood said that he was trying to develop a proposal that could get unanimous support, and suggested a guided recommendation to the Appropriations Committee rather than a specifically detailed proposed amendment to statute. Brenda Peluso said that she would like to be helpful but had concerns even with the going-forward approach. It was not clear to her why an existing exempt institution should be treated differently than a newly established exempt institution.

Jim Libby clarified his proposal regarding previously taxable properties converted to tax exempt status. His proposal was not to impose annual service charges on those facilities. It was, instead, to allow a one-time transfer fee to be applied.

Sen. Flood suggested the Task Force consider a one-paragraph narrative that would give some guidance to the Appropriations Committee. He did not think it would be helpful to report to the Appropriations Committee that the Task Force failed to offer a recommendation because it could not develop the perfect solution.

Sen. Millett said that she was having trouble identifying the problem the Task Force is trying to solve. If the problem is that some nonprofits place an especially high demand on local services, maybe the development of a utilization threshold is something the Task Force could further consider.

Arthur Blank wondered whether within the charge given to the Task Force, it could recommend providing additional general resources to the service center communities so that they would not be under the financial pressures they are experiencing.

A cost-shifting discussion ensued, with various Task Force members describing how the service charge costs, if applied against the nonprofits, would end up being transferred to the recipients of the nonprofits' services. In response, it was pointed out that with respect to medical services, there is already a great deal of cost shifting going on, and the whole point of the local option authority to impose the service charge would be for a local determination of whether the service costs are being appropriately borne by the property taxpayers. There is nothing in the proposal that generates additional costs. It boils down to a "who pays" question. Arthur Blank said that levying the public charge on the hospitals is a very inefficient way to deliver financial resources to the host municipalities.

Joe Grube repeated a suggestion made at an earlier meeting that a more efficient administrative system to calculate the service charge would be along the lines of the Open Space "current use" tax system. Under that system, an entity's tax obligation is reduced by various percentages depending on the level of commitment to permanent open space protection. In this case, various measures of the nonprofit's contributions could trigger proportionate levels of tax reduction.

Brenda Peluso described a different approach taken by a working group focused on the same issue in 1996. The consensus recommendation of that working group was to improve the levels of intergovernmental financing (education funding, revenue sharing, Tree Growth reimbursement, location option taxation, etc.) that was distributed to service center communities where tax exempt property tends to be concentrated.

Sen. Flood put a proposed recommendation of the Task Force on the table for consideration. This recommendation would follow the Task Force's first finding, which is that the $100 million temporary tax on nonprofits collected by the state is neither feasible nor desirable. As eventually presented to the Task Force in written form, the proposed recommendation was:

"The Task Force further suggests guidance to the Appropriations Committee and Taxation Committee going forward on this matter to utilize the following discussion parameters:

In further discussion of any impositions of taxation or service costs applicable to non-profit entities, we suggest that those deliberations be limited under Title 36 solely to consideration of locally applied (actual cost) service charges on nonprofits; giving necessary consideration of supportable thresholds such as size (as determined by annual local revenue or annual local income), caps on assessment, appropriate offsets, and/or consideration of other impacts to communities and the nonprofit entities. Such determinations would require more time than the Task Force currently has, but it is our hope that this guidance provides helpful direction to the Appropriations and Taxation Committees in the Second Session of the 126th Legislature."

The vote in support of the recommendation was 6-3 (Peluso, Libby and Blank dissenting). (Representative Knight was polled for his vote.)

Sawin Millett thanked the Task Force members for all their efforts and indicated that a final report would be drafted and circulated to Task Force members for their final review and edits.

Attachment 4

Nonprofit Tax Exemption Standards Survey
Responses from Municipal Leagues

Maine Municipal Association
August 2013

The information found in this document was obtained from the tax exempt property survey conducted by the Maine Municipal Association on July 24, 2013. Municipal leagues from across the nation were asked to provide information on how their states: (1) determine which nonprofit institutions qualify for tax exempt status; (2) whether there is any degree of municipal control over the determination of eligibility for tax exempt status; (3) whether the exempt institution enjoys a full or partial exemption; and (4) whether there is an enforceable authority to impose a service charge or required payment in lieu of taxes (PILOT) on tax exempt institutions.

This report presents those finding in three sections. The first section of the report provides a quick one-page overview of the results. The second section consolidates and summarizes all of the results into a single table. The third section of the report provides the verbatim responses and includes additional documents and resources.

If you have question about this report, please contact Kate Dufour at kdufour@memun.org or 1-800-452-8786.

Survey Results at a Glance

	Generally Broad Exemption Criteria	Limited or No Local Control	Generally 100% Exemption	Financial Contributions
Alabama	√	√	?	?
California	3-part test	√	√	Limited fee authority.
Connecticut	√	√	√	Required in some cases.
Florida	√	√	√	Limited fee authority.
Illinois	√	√	√	Required in some cases.
Iowa	√	√	√	Voluntary
Kentucky	√	√	√	Voluntary
Maine	√	√	√	Voluntary
Maryland	√	√	Some discretion.	Voluntary
Massachusetts	√	√	√	Voluntary
Nevada	√	√	Term set by statute.	Voluntary
New Hampshire	Charitable defined.	Authority over charitable.	√	Voluntary
N. Carolina	√	√	Limited use of partial exemptions	Voluntary
N. Dakota	√	√	√	Required in some cases.
Oregon	√	√	√	Voluntary
Pennsylvania	5-part test.	√	√	Voluntary
Tennessee	√	√	√	Voluntary
Texas	√	√	√	Voluntary
Vermont	3-part test	√	√	Required in some cases.
Washington	√	√	√	Required in some cases.
Wisconsin	√	√	√	Voluntary

Tax Exempt Nonprofits – Municipal League Survey Results

	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
Alabama	Most of our municipalities have the county collect ad valorem taxes for them and the county and state determine the classification of the property for tax purposes.	Little or no input into classifications.	I don't know of any partial exemptions.	I don't know of any PILOTs.
California	Article XIII, section 3 (e) and (f) of the California Constitution exempt the "buildings, land, equipment and securities used exclusively for educational purposes by a nonprofit institution of higher education" and the "buildings, land on which they are situated, and equipment used exclusively for religious worship". In additon, Article XIII, section 4(b) gives the State Legislature broad authority to exempt from property taxation "property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities: (1) that are organized and operating for those purposes; (2) that are nonprofit; and (3) no part of whose net earning inures to the benefit of any private shareholder or individual. The Legislature has used this broad authority to adopt statutes found in the Taxation Code.	There is no municipal, local or regional control over the determination of eligibility for tax exempt status. There are no categories of exempt property that require or may be made subject to final approval. Approval of tax-exempt status is vested in state government. Tax-exempt charitable status is patterned primarily after federal law. However, application for tax-exempt status must be made to the California Franchise Tax Board.	All exempt institutions enjoy 100% exemption for the qualifying property that they use in furtherance of their tax-exempt purpose. Therefore, if a non-profit corporation owns one acre of land, but only uses ½ of the land in furtherance of its tax-exempt purpose, only ½ of the land is exempt from property taxation.	There is no authority in California to impose a service charge or require payment in lieu of taxes on tax exempt institutions. There is authority in California to impose fees on non-profit corporations (and individuals and businesses generally) that are calculated in accordance with California Article XIII C, section 1. These fees may: (1) defray the cost of services provided; (2) pay for the government's regulatory costs; (3) pay for a benefit provided to the corporation; and (4) defray the cost of the impact of development activities of the non-profit corporation. In addition, a local government may impose an assessment based upon the costs of providing certain public improvements; and a property-related fee for the costs of certain property-related services. However, neither the assessment nor the fee may be based upon the value of the property assessed or charged.

	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
Connecticut	Some property tax exemptions are defined better than others. Exemption applies generally to governmental, scientific, educational, literary, historical, and charitable properties.	The board of assessors can determine if part of the property of a tax exempt organization is subject to the property tax. The organization has the right to appeal the determination. Municipalities also have the option to exempt the property of certain businesses.	Generally, it is 100%. There are some special cases, such as a 50% exemption on some farming activities.	Local PILOTs are voluntary; however, Connecticut has an extensive state PILOT program. It reimburses municipalities for part of the revenue lost on state-owned property, as well as college and hospital property. In addition, there is a state PILOT for towns that have housing authorities. The payment percentages are 100% for correctional facilities, 100% for any town in which 50% of all town property is state-owned real property, 65% for the CT Valley Hospital facility, and 45% for all other property. Payment is made only for real property.
Florida	Florida statues outline specific criteria for determining whether a property is entitled to the charitable, religious, scientific or literary exemption. Entities in these categories include religious, literary, charitable, scientific, sewer water /waste water systems, educational, hospitals, nursing homes, homes for special services, and other organizations.	The property appraiser is an elected official under the state constitution whose primary responsibility is to appraise all property within the county at fair market value. The property appraiser also determines the properties entitled to an agricultural classification, as well as administering all exemptions. If a property owner disagrees with the assessment of their property, the Value Adjustment Board (VAB) hears appeals regarding denied exemptions, petitions related to assessment, and appeals concerning ad valorem tax deferrals. The VAB membership includes 2 county commissioners, 1 member of the county school board and 2 citizens. There are some instances of statutory authorization to adopt local ordinances for additional ad valorem tax exemptions, i.e., historic preservation, low income seniors, and economic development, but the property appraiser makes the determination.	Only those portions of property used predominately for charitable, religious, scientific, or literary purposes are exempt, therefore you can have a property that is partially exempt. This has actually been an issue of concern for the members of the Florida League, as there are some religious and charitable organizations that are operating for-profit businesses and still receiving the full exemption. Incidental use of property does not impair the exemption of an otherwise exempt property.	Local governments (counties, municipalities, or special districts) can levy property for non-ad valorem assessments. These assessments are calculated on a unit basis, rather than on value. They are based on an improvement of services to the property such as drainage, fire, etc. Properties that are exempt from ad valorem taxation can still be required to pay a special assessment that benefits the property. There is no statutory authority for a municipality to receive a payment in lieu of taxes on tax exempt nonprofit charitable and educational institutions.

	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
Illinois	Illinois Department of Revenues makes final determination, but county officials first make a recommendation.	No municipal approval.	Generally, it is 100%. There are rules for special types of property such as farmland, open space, etc.	Voluntary. The only significant PILOT payments are from state universities to municipalities for fire protection.
Iowa	Iowa responses mirror Illinois's.	No municipal approval.	Generally, it is 100%.	Voluntary.
Kentucky	Exemption criteria are found within Section 170 of the Kentucky Constitution. Generally, property of charitable institutions and nonprofit educational institutions are included within the constitutional exemption.	None.	Yes, except that an exemption may be lost pursuant to KRS 132.195 when any real or personal property is leased or possession is otherwise transferred for purposes of generating a profit.	No.
Maine	The two major nongovernment tax exempt categories in Maine are "charitable organizations" and "literary and scientific". Neither is defined particularly well in statute; the definitions have been honed-out more clearly in case law. Generally speaking, a 501(c)(3) designation by the IRS will likely establish eligibility for exempt status in Maine, as will any accredited educational institution that provides a degree or other form of educational credential.	Municipal assessors determine eligibility according to the standards laid out in statute and case law. There is no local authority to disapprove or limit eligibility for an otherwise qualifying property.	Nearly all exempt institutions in Maine enjoy a 100% exemption for their qualifying property. (There are occasionally circumstances where some real estate owned by a charitable corporation or educational institution is not used solely for its charitable or educational mission, in which case that particular property is not eligible for the exemption.) A small statutory exception to the 100%-exemption rule is property that was formerly for-profit low income housing that converts to non-profit status. For any conversion occurring after 1993, the converted non-profit housing is only eligible for a 50% exemption.	All PILOTs are purely voluntary, and are the exception rather than the rule. (A more common approach on the part of a few of the larger exempt institutions is to deliberately not apply for exempt status for certain properties they own even though the property would clearly qualify. That is their act of contribution.) There is also a miniscule "service charge" authority which applies only to low income housing that is 100% exempt from taxation. Under that statute, a municipality can assess a service fee to cover municipal services provided (public safety, public works, etc.) not to exceed 2% of the exempt property's gross revenue.

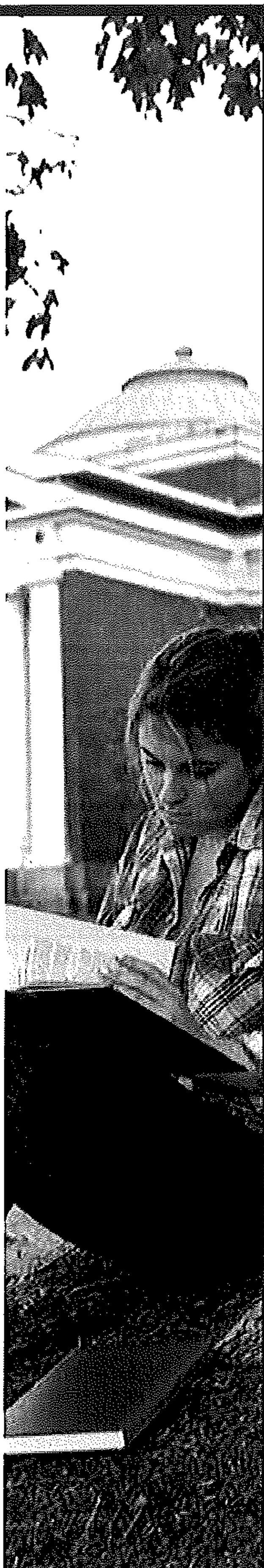
	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
Maryland	Exemption applies generally to governmental, scientific, educational, literary, historical, and charitable properties.	There is little local control over exemptions. Municipal governments have discretion to provide property tax credits.	Local governments have discretion to exempt all or a potion of tangible personal property taxes not already exempted under state law.	Purely voluntary.
Massachusetts	While the law does not set out particularly clear criteria for qualification for tax-exempt status, practice and court cases over time have provided some level of clarity. The charitable organization exemption includes colleges, universities, schools, hospitals, museums and cultural facilities. The state's Division of Local Services provides cities and towns with educational material on exemptions and helpful guidance.	Generally, there is no discretion at the local level beyond processing the application to ensure that the qualifying criteria have been met.	There are no partial exemptions.	There is no authority in Massachusetts to impose a service charge or a PILOT payment. The City of Boston has a flexible and very successful voluntary PILOT program based in part on the unique political and legal leverage the City has relative to local charitable institutions. MMA has filed legislation to enable other cities and towns to use the Boston structure, but on a mandatory basis.
Nevada	Exemption applies generally to governmental, scientific, educational, literary, historical, and charitable properties.	There is little municipal input or control over exemptions.	Terms of exemptions are set by statute.	No, and I have not heard of any institution paying taxes they are not require to pay.
New Hampshire	Criteria are established in statute, but are subject to further definition by case law. The exemption applies to religious, educational and charitable organizations.	The board of selectmen or board of assessors is the assessing authority. As the assessing authority, the municipality has the final control over the determination of the status of charitable organizations, but not religious or educational.	The property must be owned by an exempt organization and used for an exempt purpose.	Purely voluntary.

	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
North Carolina	There are statutory criteria for all nonprofit exemptions. Some are clearer than others. The hospital exemption in particular has been subject to some judicial interpretation that allows it to apply to almost all property owned by a hospital (including separate doctor's offices), regardless of whether it is part of the main hospital building.	No.	There are partial exemptions for continuing care retirement facilities based on the percent of revenue devoted to charity care.	No.
North Dakota	Exemption applies generally to governmental, scientific, educational, literary, historical, and charitable properties.	Local approval is needed for temporary tax exempt status for new residential construction (two years), improvements to commercial and residential property (up to five years), and new businesses (up to five years).	100% exemptions or negotiated PILOT.	PILOTs are made by the ND Game and Fish Department and the board of university and school lands. Other PILOTs are negotiated.
Oregon	Exemption applies generally to governmental, scientific, educational, literary, historical, and charitable properties.	None.	100%.	No.
Pennsylvania	Exemption provided to "purely charitable" social service, educational, religious and medical organizations. The institution must also (1) operate entirely free from profit; (2) donate or render gratuitously a substantial portion of its services; (3) provide benefits to a substantial and indefinite class of persons who are legitimate subjects of charity; and (4) help relieve government burden.	No.	100%.	No.

	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
Tennessee	Real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one or more of the exempt purposes for which the institution was created or exists is exempt from property taxes. An entity has to apply with the state board of equalization for exemption. The statute contains criteria for approval and denial of the application. That statute has been interpreted over 100 times in case law.	No, the applicant applies directly to the state board of equalization. The applicant or the local assessor may appeal this decision.	The statute allows for a prorated exemption where not all of the property is used for tax-exempt purposes.	There is no statutory authority to require a nonprofit, charitable or religious group to make a PILOT.
Texas	Texas Tax Code provides a property tax exemption for "qualified charitable organizations" if they are organized exclusively to perform "religious, charitable, scientific, literary, or educational purposes" and engaged exclusively in performing one or more of a list of 24 possible functions. In addition, there are other criteria for specific charitable organizations, including organizations constructing or rehabilitating low–income housing engaged primarily in performing charitable functions, and youth development associations. Criteria are relatively clear, but broad.	Generally, no. However, a city does have the ability to approve or deny a property tax exemption for an organization constructing or rehabilitating low income housing.	The exempt entities receive a 100% exemption.	There is no statutory authority for a city to receive a payment in lieu of taxes on exempt institutions. Occasionally, a local taxing unit my receive a PILOT pursuant to an economic development agreement where property taxes are otherwise abated as an incentive, but there is no such authority for statutory property tax exemptions for nonprofit charitable and educational institutions.

	Criteria	Municipal Control	Full/Partial Exemption	PILOT Enforceability
Vermont	Most fall under 32 VSA 3802 (2) which is "real and personal estate granted, sequestered or used for public, pious or charitable uses". This is further defined by a serious of court decisions, culminating in *American Fly Fishing Museum v. Town of Manchester* which applies a three-part test to determine eligibility; (1) unconditionally dedicated to public use; (2) benefits an indefinite class of persons; and (3) owned and operated on a not-for-profit basis.	No application necessary and no local approval required for statutorily mandated exemptions. The law does not say that local listers (our assessing officials) have the ability to accept or deny applications – the properties are either exempt or not under the definitions given in the statutes.	General rule is 100%, but some are for a specific appraisal amount (e.g., $10,000 of value of property owned by a disabled veteran). Some allow for exemption "in whole or part" for charitable and fraternal organizations.	Voluntary, except state buildings and Agency of Natural Resources land for which a PILOT is made by the state. Long story about where the money comes from to pay the state PILOT.
Washington	Some definitions are clearer than others. Generally applies to governmental, scientific, educational, literary, historical, and charitable properties.	No, definitions and exemptions are in statutes and applications for exemptions are administered by the state Department of Revenue. In addition, property taxes are administered by county assessors and treasurers on behalf of the taxing jurisdictions. Exemption granted based on actual use despite local opposition and attempted local land use regulation.	Some have partial exemptions, e.g., senior housing depending on the number of qualifying low income residents.	State imposes leasehold excise tax with a local option component that again applies to some nonprofits. Otherwise, PILOTs are voluntary (except for some state institutions for municipal fire services).
Wisconsin	The Legislature has granted dozens of property tax exemptions. The criteria are often not clear, and we have lots of litigation with property owners who claim their property is exempt.	No municipal controls at all.	All exemptions are 100%. The Wisconsin Supreme Court has interpreted the "uniformity" clause in the state constitution to forbid partial property tax exemptions.	No mandatory PILOTs; purely voluntary. Some municipalities have been able to negotiate PILOTs, but the pattern is spotty at best. Wisconsin has no coherent "policy" for granting property tax exemptions. Our process is a mess.

Attachment 5



Partners in Prosperity

The Maine Nonprofit Sector Impact

January 2013

A report detailing the economic impact of the Maine nonprofit sector, written by the Maine Association of Nonprofits with generous support from the Maine Community Foundation, the Unity Foundation, and Healey & Associates.

HEALEY & ASSOCIATES

Maine Community Foundation

UNITY FOUNDATION

MANP
Maine Association of Nonprofits

About the Maine Association of Nonprofits

Since 1994, MANP has developed into the critical resource for the tools, knowledge, and connections nonprofits need to be effective and well-run.

With a growing statewide membership of almost 800 nonprofits and 130 for-profit organizations, MANP advances the public profile of Maine nonprofits by highlighting their vital contribution to the quality of life in our state; connects people, organizations and resources from all sectors to foster collaborative problem solving that increases the collective impact of Maine nonprofits; and strengthens Maine nonprofits by providing opportunities for volunteer and professional leaders to learn and share the knowledge and skills they need to thrive.

It is our honor to support and serve the organizations that promote the values and ideals that attract so many to our quality of life.

www.NonprofitMaine.org

About the Maine Community Foundation

Marking its 30th anniversary in 2013, the Maine Community Foundation works with donors and other partners to strengthen Maine's economy and communities and improve the quality of life for all Maine people. The community foundation brings special focus to three areas: leadership—mobilizing people and resources to effect positive change for Maine; education—increasing post-secondary degree and credential attainment rates; and place—helping communities and the environment flourish.

Known for its innovative grant programs, financial strength, and prudent investment strategies, the community foundation is a public charity incorporated in Maine and governed by a statewide volunteer Board of Directors. With assets totaling $300 million, the foundation has awarded nearly $175 million in grants and scholarships since its founding.

www.MaineCF.org

About the Unity Foundation

The Unity Foundation was established as a public grantmaking foundation in 2000 by the late Bert G. Clifford of Unity, Maine. Bert and Coral Clifford wanted to build the capacity of well-managed nonprofit organizations to fulfill their missions to arts/culture/recreation, community/economic development, education, the environment, and youth. The Unity Foundation remains committed to the dream of its founder, Bert G. Clifford, who passed away in August 2001. His vision of supporting high-performance, mission-driven nonprofits that demonstrate "best practices" in administration and management remains our guiding principle.

Jumpstart Our Youth, a program advancing youth philanthropy in Maine intended to build and strengthen communities, highlights Unity Foundation's commitment to collaborative partnerships. The program supports 4,000 middle and high-school students each year in making philanthropic choices to support their local communities throughout Maine. Unity Foundation's partners are Jobs For Maine's Graduates, the Maine Community Foundation and UniTel, Inc.

www.UnityFdn.org

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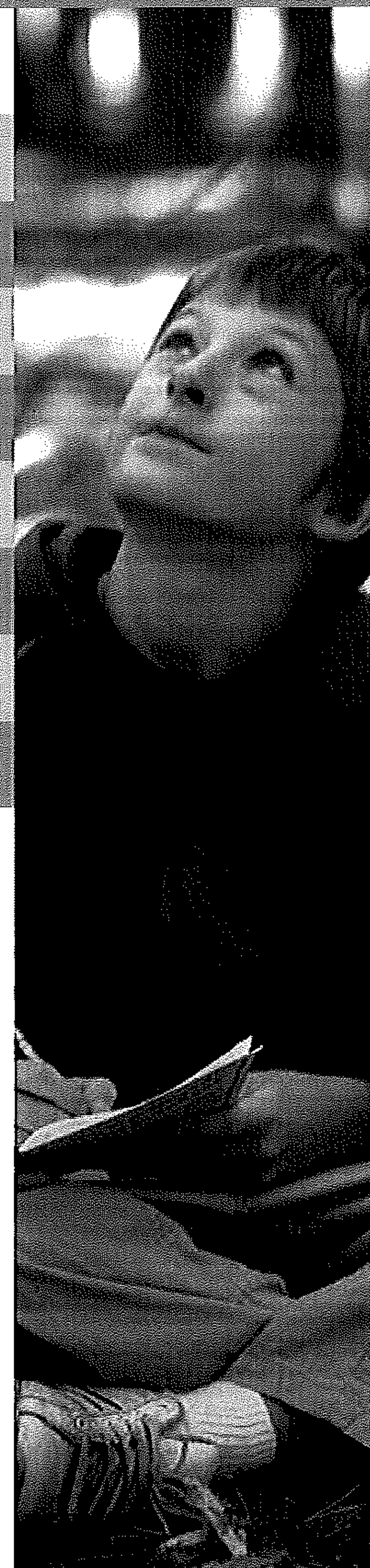


MANP extends deep appreciation to DeAnn Lewis of South Portland for her contributions in gathering and writing the case studies included in this report, and to our partners and sponsors:

Nonprofits Matter

The future prosperity of Maine will depend on advancing creative solutions to address community challenges, connecting people to opportunities, and strengthening our social fabric through broader civic engagement. Advancing, connecting and strengthening—this is the daily work of an often overlooked part of Maine's economic engine: the nonprofit sector.

Nonprofits matter. Scratch the surface of why people love Maine and you'll find a strong network of nonprofit organizations delivering on their mission. Maine's nonprofits protect the environment, care for our most vulnerable citizens, support arts and culture, educate our children, develop community leaders, and sustain our spirit, all while also investing significant financial and human resources in communities throughout the state. Maine's nonprofit community is one of the most robust and vibrant in the country, playing a significant role in the state's reputation as a great place to live and raise a family.

For example, Maine nonprofits:

- support the growth of our future citizens and community leaders by investing in early care and education, and connecting youth to service and work opportunities
- promote economic development by counseling small businesses, providing education and job training, and investing in community economic development
- inspire and nurture us through the arts, while contributing to the Creative Economy
- weave a strong safety net by providing physical and mental health services to those most in need
- protect the environment by preserving open space, fighting for clean air and water, and promoting sustainable development

A healthy and engaged nonprofit sector is essential to both maintaining and improving the quality of life in our state, and Maine citizens have continued to place their trust in the responsiveness, performance and quality of services provided by nonprofits. The Maine Association of Nonprofits, the Maine Community Foundation, and the Unity Foundation are pleased to present this report as a way to foster a broader awareness and appreciation of the significant impact of this sector on Maine's people and the economy.

Scott Schnapp
Executive Director
MANP

Meredith Jones
President
Maine Community Foundation

Lawrence Sterrs
President, CEO
Unity Foundation

Maine nonprofit organizations benefit us all as resources for community-building, fostering civil society, and building economic prosperity.

Community Builders

Building and preserving local public structures such as libraries, clinics, open space, and emergency + health care facilities.

Partnering with government to provide social services for our most vulnerable residents.

Improving and shaping the quality of life in local communities.

Civil Society Cultivators

Engaging citizens in their communities through volunteerism and democratic process.

Developing future leaders by providing opportunities for people to come together to address community challenges.

Economic Stimulators

Employing a significant portion of the workforce, including underemployed citizens.

Serving as the foundation of Maine's creative economy, which attracts businesses to communities.

Conserving the natural resources that are the cornerstone of Maine's economy and quality of life.

Health Promoters

Caring for the mental and physical well-being of Mainers of all ages.

Preserving access to Maine's wild places and ensuring a healthy environment by promoting bio-diversity, consumer product safety, clean air and clean water.

The Economic Impact: Creating Jobs

During 2011, Maine nonprofits employed 1 in 7 Maine workers, making it the largest employer in the state. The nonprofit sector provides job opportunities to workers with a broad range of educational backgrounds, interests, and experience levels, from new workers and those seeking a career change to highly skilled, experienced and educated workers. p. 23

In 2010, Maine reporting public charities added $9.3 billion to the Maine economy through wages paid, retail and wholesale sales, and professional services contracted. This accounts for 18.3% of the State's Gross Product, which is greater than the manufacturing and construction industries combined. p. 22

The Total Impact: Vibrant Communities

Economic impact is fairly easy to measure, and later sections of this report detail this impact, but the full impact of Maine's nonprofits cannot be measured simply by the numbers of people it employs, volunteers it mobilizes, or its contribution to the State's Gross Product. The full impact is measured by lives changed and communities enriched. On the following pages we provide case studies that exemplify our assertion that Maine's nonprofits are Partners in Prosperity.

What's in a Name?

The nonprofit sector is the collective name used to describe institutions and organizations in American society that are neither government nor business. Other names often used include the not-for-profit sector, the third sector, the independent sector, the philanthropic sector, the voluntary sector, or the social sector.

This report focuses on a unique category of nonprofits, those classified by the Internal Revenue Service (IRS) as 501(c)(3)organizations. These organizations are further classified by the IRS as either **public charities** (sometimes called charitable nonprofits) or **private foundations**. They are exempt from federal income tax and are able to receive tax deductible contributions from individuals and businesses. These 501(c)(3) organizations must operate "exclusively for religious, charitable, scientific, or educational purposes" and serve the common good. By law, 501(c)(3)s may not distribute profits to individuals or businesses.[5]

In 2010, the most recent data available, of the almost 10,000 nonprofit organizations in Maine registered with the IRS, **5,977 were classified as public charities** and **523 were classified as private foundations**. These numbers do not include the many churches or small associations and nonprofit corporations that don't register with the IRS.

Figure 1

Snapshot of the Maine 501(c) Nonprofit Sector, 11/2010

Types of Tax-Exempt Organizations	Maine Nonprofits Registered with IRS*	Maine Nonprofits Filing Annual IRS Form 990, 990-PF and 990-EZ Report
Under IRC Subsection 501(c)(3)	6,500	3,022
Private Foundations	523	403
Public Charities*	5,977	2,619
Under Other IRC 501(c) Subsections	3,173	956
501(c)(4) social welfare	550	186
501(c)(5) labor/agricultural	266	91
501(c)(6) business leagues	446	234
All other 501(c) organizations	1,911	445

SOURCE: IRS Business Master Files (BMF), NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012.11/2010 BMF data may not match other figures in this report

*Does not include all religious congregations that meet the requirements of IRC section 501(c)(3), which are automatically considered tax-exempt and not required to register with the IRS or file Forms 990. Religious congregations that do register and file are included.

Terms in this Report

From this point forward, the term **nonprofit** will be used to refer to those classified by the IRS as 501(c)(3) organizations.

The 6,500 **registered nonprofits** are those organizations that applied for and received tax-exempt status under IRS code 501(c)(3) (generally those with over $5,000 in gross receipts.)

Reporting nonprofits are the 3,022 nonprofits and foundations that file tax returns that include financial information (Form 990, Form 990-EZ and Form 990-PF.)

These are generally organizations with annual gross receipts greater than $50,000, though some smaller nonprofits choose to file one of these forms as well.

In this report, many charts pertain specifically to **reporting public charities**, and not to private foundations or public charities that do not file financial information.

Key Findings

▶ Most Maine public charities (56%) are small – very small. Their annual income is less than $50,000, yet the sector mobilizes approximately 350,000 volunteers every year who donate almost 40 million hours of service to their communities.[1]

▶ One Maine nonprofit, by efficiently leveraging volunteers, interns and technology, helped almost 1,500 men and women in all regions of the state achieve greater economic security, including increased earnings, additional educational enrollments, and an unprecedented 97% survival rate for start-up enterprises. p. 10

▶ Nonprofits have a significant presence in every county and community in the state, from the most populous, Cumberland, to the least, Piscataquis.

▶ Last year, one nonprofit received 38 million pounds of donated used goods, diverting 71% of the goods from the landfill into resale, which funded 1,700 jobs and programs that helped close to 50,000 individuals in Maine, New Hampshire and Vermont lead independent lives. p. 9

▶ At an average cost of $2,500 per youth, one nonprofit is using Functional Family Therapy (FFT), a well-studied and effective treatment model, and saving taxpayers as much as $16,250 per at-risk adolescent through reduction in crime, substance abuse, and other negative behaviors. p. 8

$9.3 billion per year contributed by nonprofits to the Maine economy

through wages paid, retail + wholesale sales + professional services contracted[2]

▶ Every dollar spent by one Maine nonprofit to provide quality early childhood care is estimated to create long-term economic benefits of $16 in increased earnings, reduced crime, and lower costs for special education and welfare programs. p. 8

▶ During 2011, Maine nonprofit organizations tax-exempt under IRS section 501(c)(3) organizations provided 86,209 jobs, employing 1 in 7 Maine workers, making the nonprofit sector the largest employer in the state.[3]

▶ Nonprofit, for-profit and public partners invested over $6 million in the development of a 37-unit affordable housing property in Portland which created jobs and revenue for local workers and building materials suppliers, . while also generating an estimated $2.2 million in spending at stores in the local economy. The project now provides energy-efficient affordable housing and increased tax revenues to both the city of Portland and the state of Maine. p. 11

▶ Maine nonprofit hospitals continue to be vital economic engines in many communities, accounting for fifty-three cents out of every dollar expended by reporting Maine nonprofits. p. 15

▶ Spending by nonprofit arts and culture organizations in one Maine city totaled $26.5 million during 2010; audiences added an additional $22.6 million in event-related spending, all of which employs artists, creates jobs in many related industries, and generates revenue for local and state government. p. 10

In 2011, Maine nonprofits paid $3.5 billion in taxable wages[4]

▶ Last year, one Maine nonprofit raised nearly $1 million for grants and provided over 13,569 volunteer hours, valued at almost $230,000, to help Acadia National Park attract and serve more visitors who spend $186 million annually, generating more than 3,100 jobs and creating more than $79 million in wages. p. 11

▶ The 327 foundations registered in Maine granted over $126 million in 2009. That is approximately $41 million more than the 5% of assets required by federal law. p. 18

▶ At a cost of $308 per student, one nonprofit helps to lift low literacy levels which annually cost the US $230 billion in increased health care costs, $225 billion in lost productivity and tax revenue due to unemployment and underemployment, and contribute to higher rates of incarceration. p. 9

Early Investments Yield Dramatic Long-Term Gains

The Impact

The long term benefit of quality early childhood care is dramatic. The rate of return for starting early is greater than initiating the investment at any other stage of life. Child and Family Opportunities (CFO) provides quality early childhood education and forms partnerships with families to help them problem-solve and access available resources. CFO's Ready by 21 program pulls together resources from schools and many other organizations and funding sources to help children reach adulthood with the education, training, and personal skills needed to be healthy, successful adults.

The Story Behind the Impact

As a grantee for federal funding for quality early childhood education, as well as a recipient of local grants and some state and private funding, Child and Family Opportunities provides quality early childhood education programs to over 350 children per year in Hancock and Washington Counties, through 11 child care centers in 10 towns. In the 2010-2011 program year the organization served 442 children, 76% coming from families living at or below the poverty level or who otherwise qualified for assistance through State or private subsidy. Every dollar spent on these programs provides an immediate return in spending through salaries paid, purchase of goods and services, and by providing parents with the ability to work or attend school to increase earnings. The long-term return for every dollar spent is estimated to be as high as $16 by the time a child reaches the age of 40. The returns come in the form of higher earnings, better health, lower crime rates, and less use of public programs such as welfare.

FMI: p. 21 + www.ChildAndFamilyOpp.org

Less Crime, Brighter Outlook for Youth + Families

The Impact

At risk youth who complete Functional Family Therapy (FFT) at Spurwink Services have a recidivism rate lower than those who receive no treatment or juvenile court probation services only (up to 74%.) Other positive impacts of FFT include less at-risk behavior by the youths' siblings, and improved conflict resolution skills for entire families. On average, this highly effective, short-term treatment is thousands of dollars less expensive than equivalent juvenile detention intervention or residential treatment.

The Story Behind the Impact

Functional Family Therapy (FFT) is an evidence-based family treatment model that is family-focused and targets the behavior of youth between the ages of 10 and 19 who are displaying at-risk behaviors, most of whom are referred to the program by the Department of Corrections. One factor of the program's success is its ability to engage and motivate youth and families to take part in therapeutic services. Spurwink's FFT program served 169 families in 2012; clients reported improvement in overall family functioning, including conflict resolution, supervision ability, parenting skills, and communication skills.

National FFT research shows that not only are recidivism rates lower for those who receive this treatment, but also shows that the significantly fewer crimes committed were much less severe. FFT also reduces the future need for more restrictive higher cost services such as juvenile detention or residential treatment services; future incidences of problems; and the likelihood of younger children in the family needing social services. For all of these reasons, every dollar spent on FFT has the potential of saving society $7.50 in costs for correctional and other services.

FMI: p. 21 + www.Spurwink.org

Used Goods Sustain Better Lives

The Impact

Goodwill Industries of Northern New England (GNNE) helps to sustain the earth by selling donated goods through its 26 retail stores and Buy the Pound Outlet and Recycling Center. The revenue from sales impacts people's ability to work by funding brain injury, community support, residential and workforce programs. Last year, GNNE's social enterprise model allowed them to employ 1,700 people in Maine, New Hampshire and Vermont and convert 71% of the 38 million pounds of donations (including over two million pounds of computer equipment and 100% of donated textiles) into sources of revenue that enabled them to serve close to 50,000 individuals.

The Story Behind the Impact

Goodwill Industries of Northern New England has become a nationwide leader in sustainability among Goodwill organizations, finding new and creative ways to divert the 38 million pounds of goods donated each year to useful ends. These goods are made available at low cost to over two million shoppers who visit their retail stores each year.

The proceeds from retail sales and recycling operations are used to support programs aimed at helping all people achieve their fullest potential and participate and contribute to all aspects of life. Last year, 342 low-income, at-risk youth received mentoring, education guidance and job search skills; 250 individuals receiving Temporary Assistance for Needy Families (TANF) participated in financial planning and loan services to find, purchase and maintain a car for employment; and 170 women and young adults with prior involvement with the criminal justice system received mentoring to support education and career goals. In addition, over one thousand individuals were served through GNNE's brain injury, community support and residential programs.

FMI: p. 21 + www.GoodWillNNE.org

Higher Literacy Lifts Health of Businesses + Community

The Impact

Through Literacy Volunteers of Bangor (LV-Bangor), 277 volunteers donated more than 16,000 hours of service at a community value of $265,000 to help improve literacy for 238 adults over the past year. By mobilizing a large pool of skilled volunteers, LV-Bangor is able to serve adults who want to improve their reading, writing, and/or English speaking abilities for just over $300 per student. This small investment in Bangor area residents increases literacy, which helps communities be healthier and Maine businesses be more productive, profitable and sustainable.

The Story Behind the Impact

When literacy within a community is improved, lots of other areas improve, too. For example, securing appropriate healthcare hinges on having the skills to read and fill out medical and health insurance forms, communicate with healthcare providers, and follow basic instruction and medical advice. Low literacy adds an extra $230 billion to the country's annual health care costs, while improved literacy helps people be healthier and reduce individual, insurer, employer and government health care costs.

Businesses do better when literacy improves, as well. Increased profitability, improved sustainability, and greater employability of Maine residents all result. Low literacy costs an estimated $225 billion per year nationally in non-productivity and lost tax revenue due to unemployment, and among those with the lowest literacy rates, unemployment is higher than average. Improved literacy also benefits immigrant communities. Every 1% increase in the English literacy rate of speakers of other languages yields a 1.5% permanent increase in the GDP.

LV-Bangor helped improve the literacy of 238 adults last year, 53% of whom are learning English as another language. Thanks to over 16,000 volunteer hours, valued at $265,000, the services have an actual cost of $308 per student, and are provided free of charge.

FMI: p. 21 + www.LVBangor.org

Building a Prosperous Creative Economy

The Impact

Local Portland nonprofit arts and culture organizations are a significant industry that generates $49.2 million in total economic activity, supporting 1,535 full-time equivalent jobs, generating $35.4 million in household income to local residents, and delivering $5 million in local and state government revenue. In addition to the hard currency spent in the city, an estimated value of over $3 million in volunteer time and in-kind donations was contributed to increase the amount and quality of experiences that attract people to the city, 32% of whom live outside of the county in which the events took place.

The Story Behind the Impact

Nonprofit arts and culture organizations employ people locally, purchase goods and services from within the community, and market and promote their regions. Arts events within the community keep residents and their discretionary spending close to home, and attract visitors who spend additional money on lodging, parking, restaurant dinners, and local retail stores. In 2010, $26.5 million in spending by these organizations was added to by $22.6 million in event-related spending by audiences, to generate a total of $49.2 million in economic activity.

The volunteerism and in-kind contributions show the extent of local support for these organizations. According to Americans for the Arts, during 2010, a total of 1,766 volunteers donated a total of 67,645 hours to the City of Portland's surveyed nonprofit arts and culture organizations, a donation of time with an estimated value of $1,444,897. In-kind contributions of products and services, with an aggregate value of $1,687,926, were received from a variety of sources including corporations, individuals, local and state arts agencies, and government.

FMI: p. 21 + www.PortlandArts.org

Fostering Prosperity for Small Businesses + Individuals

The Impact

As part of its mission of helping women succeed in the Maine economy and achieve economic security for themselves and their families, Maine Centers for Women, Work, and Community (WWC) provided training and individual assistance at no charge to 1,476 individuals and awarded $7,680 in mini-grants in FY2012. A 2010 survey of WWC-assisted micro businesses showed a 60% business start-up rate and a 97% survival rate after one year among those with an existing business. WWC services target displaced homemakers, single parents, older workers in transition, unemployed and dislocated workers and are provided at no cost to participants. Additionally, initial data from a study of 2009-10 program graduates shows a trend line of increased earnings and additional educational enrollments within 12 – 16 months after training.

The Story Behind the Impact

WWC provides training and individual assistance in the areas of career development and educational attainment, small business and entrepreneurship development, asset development and financial education, and leadership development and civic engagement. Services are provided out of nine centers and eight outreach sites in six regions by a staff of twenty, augmented by work study students, interns and community volunteers.
To reach more individuals throughout the state, saving time and energy in travel for rural residents, the WWC has also developed on-line training in career planning and money management.

WWC-awarded mini-grants of $7,680, funded through private philanthropy, to 32 businesses. These grants were matched by an additional $1,920 in individual contributions to pay for marketing tools and collateral leading to additional revenues for web-developers, graphic designers, printers, sign makers and distributors, among other small enterprises. Four individuals were assisted in leveraging $335,000 in loans to start or expand their ventures from private and non-profit lenders. 62 individuals saved an average of $1,200 each for business expenses, home ownership or education in Family Development Accounts, which match individual savings 4 to 1 through funding from public and private investors.

FMI: p. 21 + www.WomenWorkAndCommunity.org

Green Lofts Produce Jobs, Affordable Homes + More Revenue for City

The Impact

Nonprofit developer Avesta Housing, along with public and private funding partners, including the nonprofit Genesis Community Loan Fund, used the economic development tool of bonding to help complete the Oak Street Lofts in Portland. The Green Affordable Housing Bond, proposed to the State Legislature by the Maine Affordable Housing Coalition, was passed in 2009 to accomplish three specific goals: 1) create jobs in the hard-hit construction sector, 2) increase the energy efficiency of Maine's aging housing stock, and 3) build safe, quality homes that low and moderate income Mainers can afford. The resulting Oak Street Lofts project is an example of how all three of these goals have been met, while at the same time generating millions of dollars of revenue into the local economy.

The Story Behind the Impact

The development of Oak Street Lofts required 332 construction workers who were paid total salaries of $1.4 million, at a time when Maine's construction sector was experiencing an unemployment rate of 19.4% - nearly three times the state average. Total local spending on construction was $4.1 million, including $2.3 million in spending for local materials. Economic models estimate that this project also generated $2.2 million in spending at stores in the local economy from the construction phase alone.

The City of Portland was paid $53,000 in municipal fees through the development process, and will annually receive an additional $30,000 in property tax revenue over those received from the surface parking lot that used to occupy the parcel. The construction of the building also generated another $250,000 in state income and sales taxes and other fees.

Oak Street Lofts, now managed by Avesta, has been certified LEED Platinum by the US Green Building Council, becoming the first affordable multifamily building in Maine to achieve this distinction. Annual projected fuel and electricity costs average $400 less per unit, or $15,000 for the building, than the cost of comparable apartments.

FMI: p. 21 + www.AvestaHousing.org

Inspiring Millions

The Impact

Friends of Acadia, which is an independent organization devoted to preserving, protecting and promoting stewardship of Acadia National Park and its surrounding communities, leverages private contributions, public funds, and significant volunteer labor to help Acadia National Park provide the outdoor experience that draws ever-increasing numbers of visitors to the area. These visitors spend about $186 million annually, generating more than 3,100 jobs and creating more than $79 million in labor income.

The Story Behind the Impact

Friends of Acadia (FOA) helped Acadia National Park stretch its limited resources last year by providing nearly $1 million in grants to Acadia and partner entities, including Downeast Transportation, to fund jobs and park-enhancing projects in the local area. FOA also led 2,865 volunteers to contribute a total of 13,569 hours of work to help keep the Park in good condition. The Island Explorer bus system, which FOA has helped plan and support financially, has carried more than 4.3 million riders since its inception, providing much-needed transportation to work for local youth and Mount Desert Island residents; as well as a car-free way for visitors to enjoy the Park. By helping to restore and maintain Acadia's 125 miles of hiking trails and 45 miles of carriage roads, funding youth initiatives, and supporting the Island Explorer bus system, FOA helps preserve the Park and continue to inspire millions of visitors each year.

FMI: p. 21 + www.FriendsOfAcadia.org

Nonprofit Employ

Recent nonprofit employment trends in Maine demonstrate that the nonprofit sector remains a major economic engine in the state and confirm an earlier finding of the Johns Hopkins Center for Civil Society Studies (JHCCSS) that nonprofit organizations are a counter-cyclical force in the economy, actually adding workers in times of economic downturn. The new Maine data draw on the state's Quarterly Census of Employment and Wages (QCEW) for 2008 and 2011.

1 IN 7 Maine workers is employed by a Maine nonprofit

That's over 86,000 Maine workers

Nonprofit employment grew 4.1 percent since 2008, while overall employment declined by 3.8 percent during the same time period, countering some of the painful job losses during the economic downturn.

As a result of this growth, Maine's nonprofit workforce grew to 86,209 jobs by the end of 2011. This represented 14.9 percent of all jobs in Maine (or about 1 out of every 7 jobs) and 17.9 percent of total private employment in the state (or about 1 out of every 6 private jobs.)

This workforce makes Maine's nonprofit sector the largest industry in the state in terms of employment. In fact, Maine's nonprofits employ nearly 15 times as many workers as the state's agriculture industry (which includes fishing), 15 percent more workers than the state's manufacturing & construction industries combined, and nearly 1/3 more workers than all of the state's local governments (see Figure 2).

Growth has not been uniform across mission areas. Nonprofits providing social services shed almost 800 jobs, while hospital, other health care providers, and educational institutions maintained their percentage of the overall employment. The one area of outstanding nonprofit employment growth, adding over 3,000 jobs, seems to be in the Professional & Business Services category which includes scientific research organizations.

Maine's nonprofit sector generated almost $3.5 billion in wages in 2011, or almost 16 percent of the state's total payroll. These wages translated into an estimated $200 million of personal income tax revenue for Maine's state and local governments and over $398 million in federal tax revenues.

Nonprofit organizations are active in a range of fields in Maine. Hospitals account for the bulk of nonprofit jobs (37 percent), followed by social assistance (13.5 percent), nursing and residential care (12.5 percent), educational services (10.9 percent), and ambulatory health services (9.3 percent) (see Figure 3).

ment in Maine

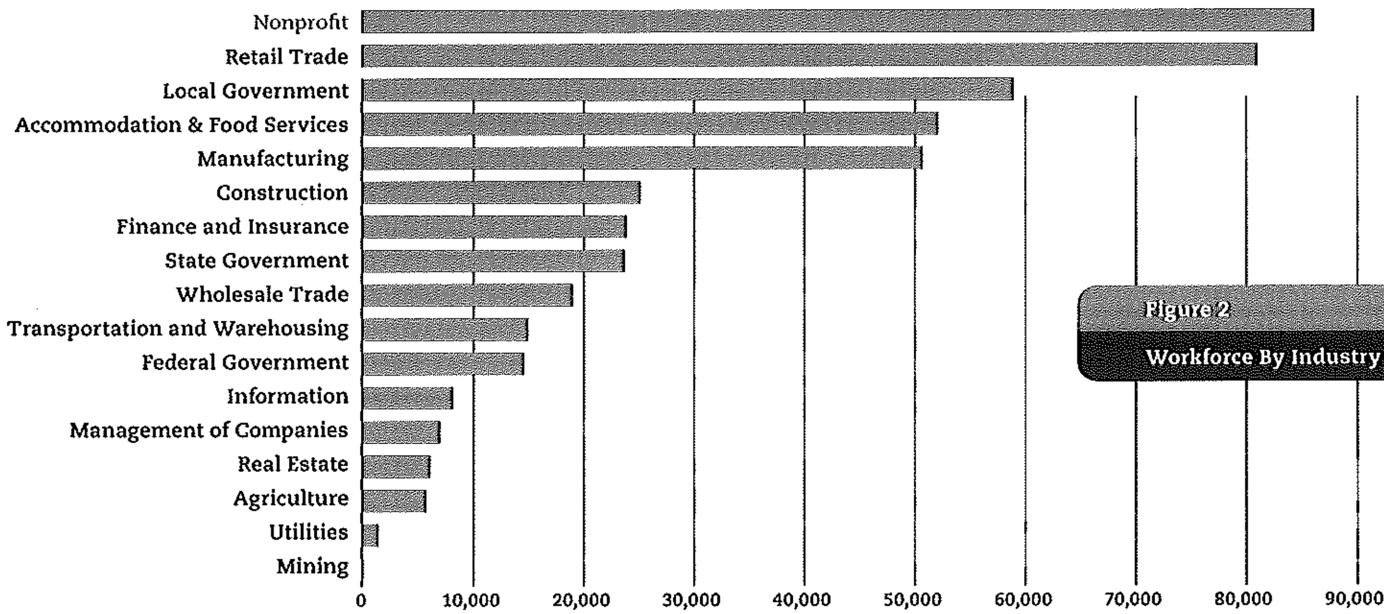
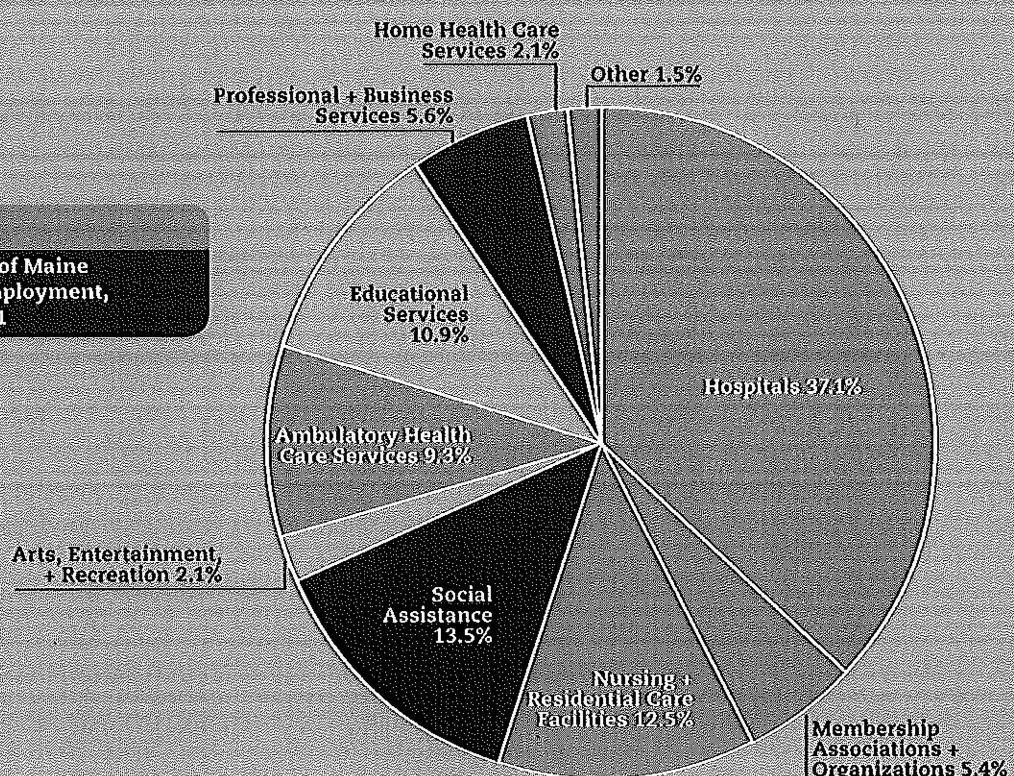


Figure 2

Workforce By Industry

Figure 3

Distribution of Maine Nonprofit Employment, by Field, 2011



Source: Data drawn from Maine Department of Labor, Quarterly Census of Employment & Wages (QCEW) for 2011 using the IRS Exempt Organizations Master File for c3 Nonprofits in Maine.

By the Numbers

Most Maine Public Charities are Small Businesses

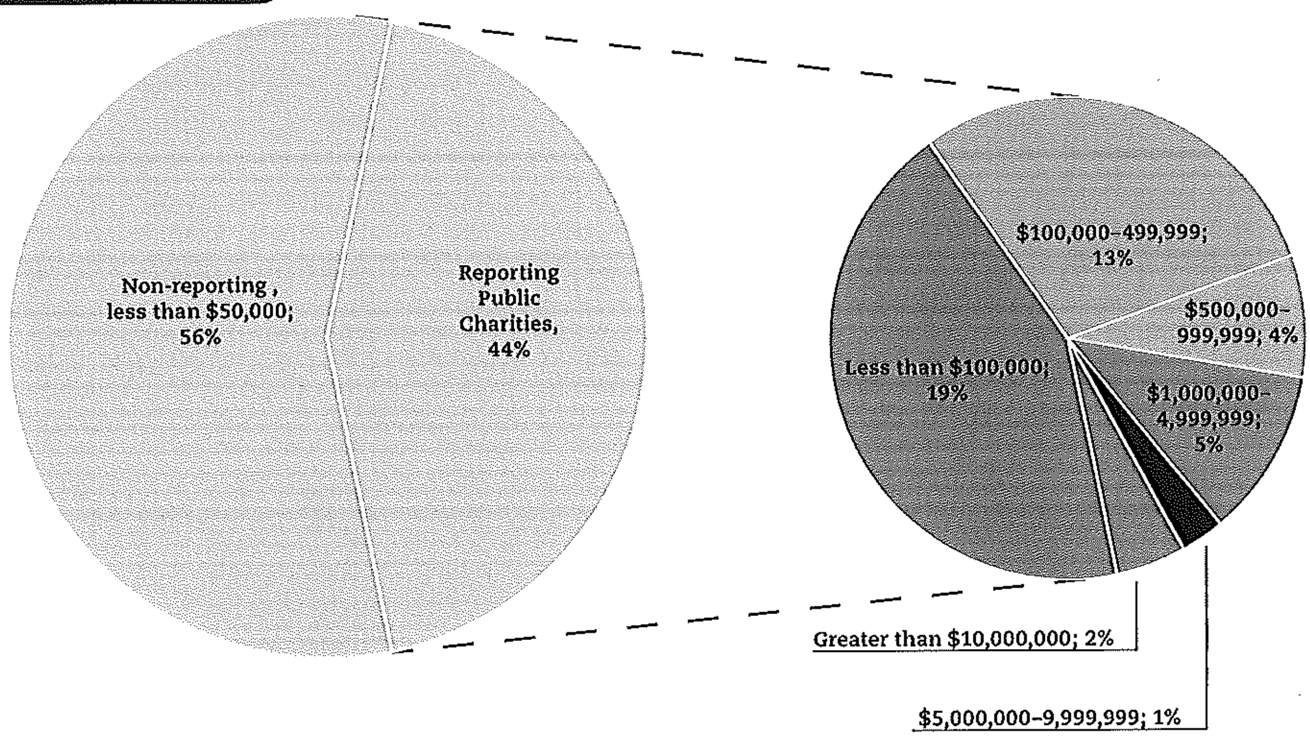
97% of public charities are small with annual budgets under $5 million

88% are very small, with annual budgets under $500,000

Furthermore, 56% are so small that annual financial reporting is not required, with annual budgets under $50,000

Figure 4
Public Charities by Expenditure Level, 2010

Percent of Total Public Charities



SOURCE: NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012

Nonprofits are a big part of Maine's small business community (75% have budgets under $100k)

The 2010 IRS filings of 2,600 reporting public charities (the 44%) were analyzed by the National Center of Charitable Statistics. Those findings are found in the following pages.

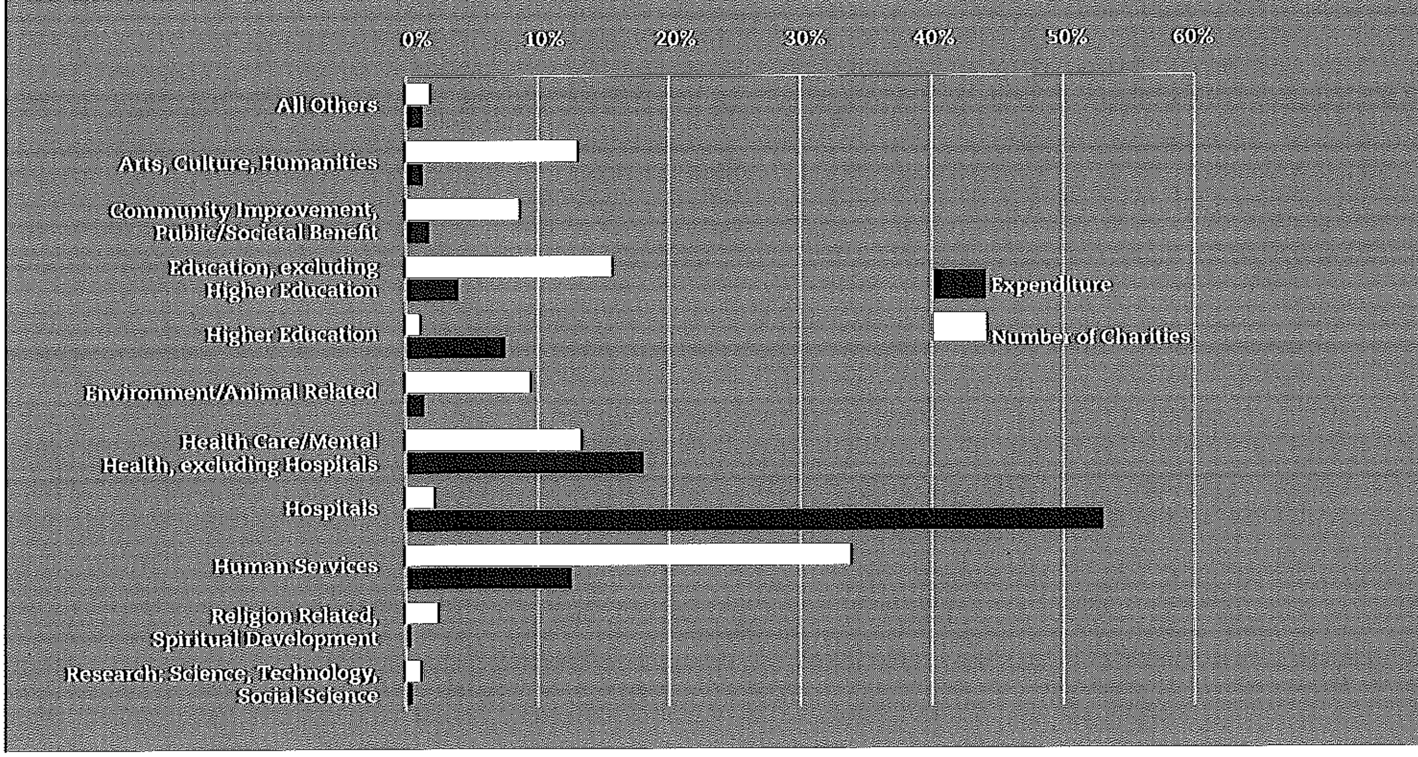
In figure 5 below, the white bars correspond to the percent of the 2,600 reporting public charities that fall in each classification and the navy blue bars correspond to the percent of the $9.3 billion in total expenditures each group adds to the Maine economy.

Human service organizations provide hot meals and transportation to the elderly, counseling for youth, housing for families, and hundreds of other services important to the quality of life in each Maine community. They comprise 34% of the 2,600 reporting public charities, yet are only responsible for 12% of the $9.3 billion in expenditures, showing that most of these organizations are small and community-based.

Hospitals are vital economic engines. They are located in every county in Maine. Although they represent less than 2% of the 2,600 reporting public charities, hospitals are responsible for 53% of the sector's $9.3 billion impact on the Maine economy.

Figure 5

Number+Expenditures of Reporting Public Charities in Maine by Field, 2010



SOURCE: NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ © 2012

Sources of

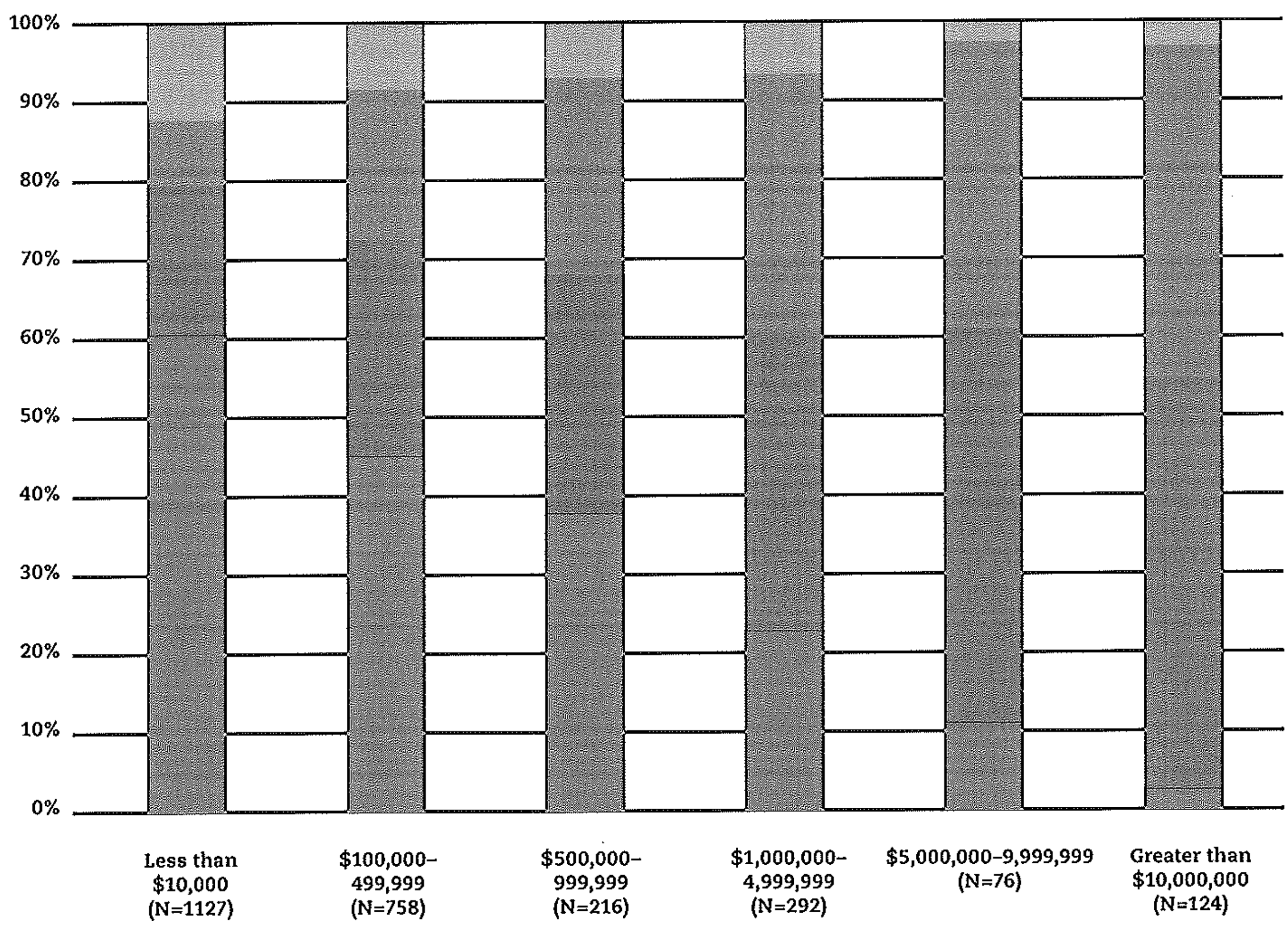
As you can see from Figures 6 and 7, nonprofit revenue sources vary significantly by budget size and sub-sector.

Because nonprofits attract significant private funding, they are able to augment the government's impact on the issues of our times.

A relatively small number of large, complex nonprofits have the capacity to manage complicated processes attached to public dollars. A majority of nonprofits receive very little funding from government sources.

Figure 6

Sources of Revenue by Organization Size



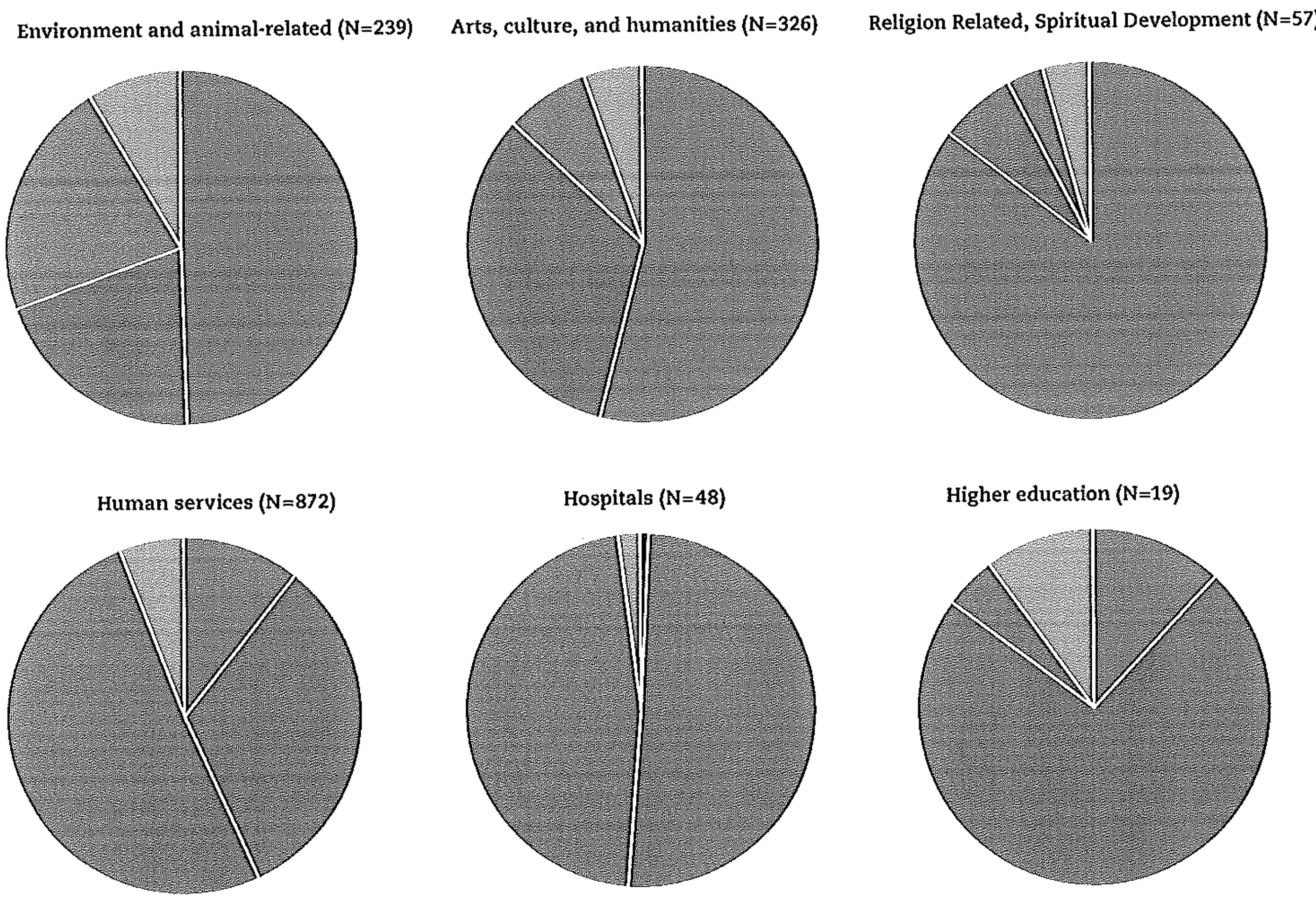
Source: NCCS calculations of IRS Statistics of Income Division Exempt Organizations Sample (2008); Urban Institute, National Center for Charitable Statistics, Core Files (2010); American Hospital Associtiion (AHA) 2010 survey; and the National Health Accounts, produced by CMS.

Nonprofit Revenue

- Individual & Foundation Giving
- Fees for Goods & Services (Private)
- Government (Grants and Fees for Goods and Services)
- Other Income

Figure 7

Sources of Revenue by Select Sub-Sectors



Source: NCCS calculations of IRS Statistics of Income Division Exempt Organizations Sample (2008); Urban Institute, National Center for Charitable Statistics, Core Files (2010); American Hospital Associtíon (AHA) 2010 survey; and the National Health Accounts, produced by CMS.

Philanthropy in Foundations

Nonprofits partner with the government, private individuals and the philanthropic community to provide enrichment and services that can't or won't be provided by the free market. This section of the report looks at foundation and individual giving in Maine.

In order to ensure their ongoing financial stability while maintaining their charitable purposes, most foundations must grant 5% of assets annually. Maine foundations exceeded that requirement by over $41 million in 2009; however, this translates to 7.4% of assets which lags behind the US average of 8.5% of assets.

Giving by the top 10 foundations amounts to 83.5% of total Maine foundation giving.

Figure 8

Overview of Maine Foundations, circa 2009

Foundation Type	Number of Foundations	Assets	Total Giving*
Independent	280	$ 1,329,603,996	$ 90,380,944
Corporate	15	$ 134,203,721	$ 18,281,801
Community	2	$ 185,852,400	$ 15,780,267
Operating	30	$ 63,981,759	$ 2,275,408
Total in Maine	327	$ 1,713,641,876	$ 126,718,420
Total in United States	76,545	$ 590,188,365,000	$ 50,388,584,000
Maine as % of U.S.	0.43%	0.29%	0.25%

* Includes grants, scholarships, and employee matching gifts.

Due to rounding, figures may not add up. The search set includes all active private and community grantmaking foundations located in the state. Only grantmaking operating foundations are included.

SOURCE: The Foundation Center, foundationcenter.org/findfunders/statistics/ © 2011

Figure 9

Top 10 Maine Foundations by Total Giving, circa 2009

Foundation Name	Total Giving*	Foundation Type
The Oak Foundation USA	$42,716,398	Independent
Maine Community Foundation Inc	$13,567,282	Community
TD Charitable Foundation	$12,362,914	Corporate
Harold Alfond Foundation	$10,269,723	Independent
Libra Foundation Owen W Wells Trustee	$8,863,218	Independent
Vincent B Welch Foundation	$6,028,908	Independent
Elmina B Sewall Foundation	$5,810,650	Independent
Maine Health Access Foundation Inc	$2,331,889	Independent
Davis Family Foundation	$2,225,217	Independent
Hannaford Charitable Foundation	$1,736,552	Corporate
Total	$105,912,751	

*Basis for reporting total giving for 501(c)(3) Private Foundations filing Form 990PF is greater of book or cash value.

SOURCE: NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012

Maine

Almost 70% of Maine taxpayers do not itemize their taxes [6] and therefore do not receive a tax deduction for their charitable contributions, so it is difficult to quantify their generosity. This is typical for the rest of the country as well. For those who do itemize, we have the following information:

Maine median income lags behind the U.S. and the rest of New England, resulting in a lower average charitable giving per itemizer.

Maine and the rest of New England continue to lag behind the national average for charitable giving.

Figure 10

Average Charitable Contribution of Itemizers, 2010

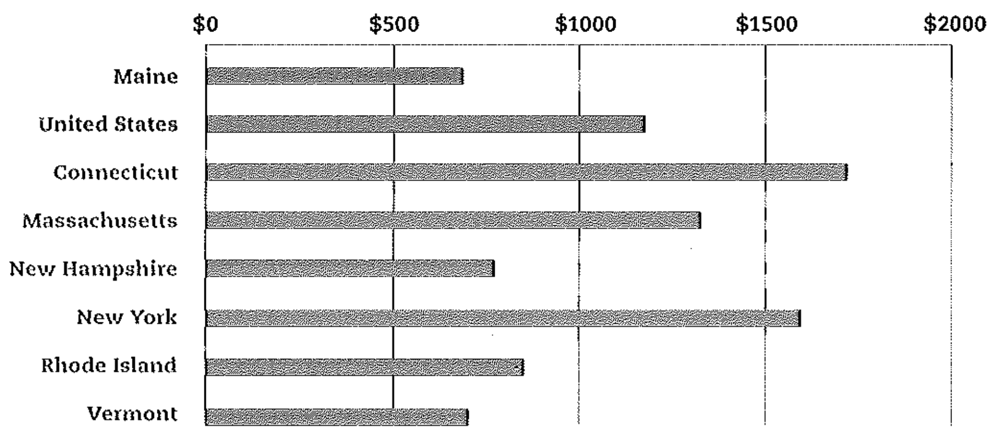
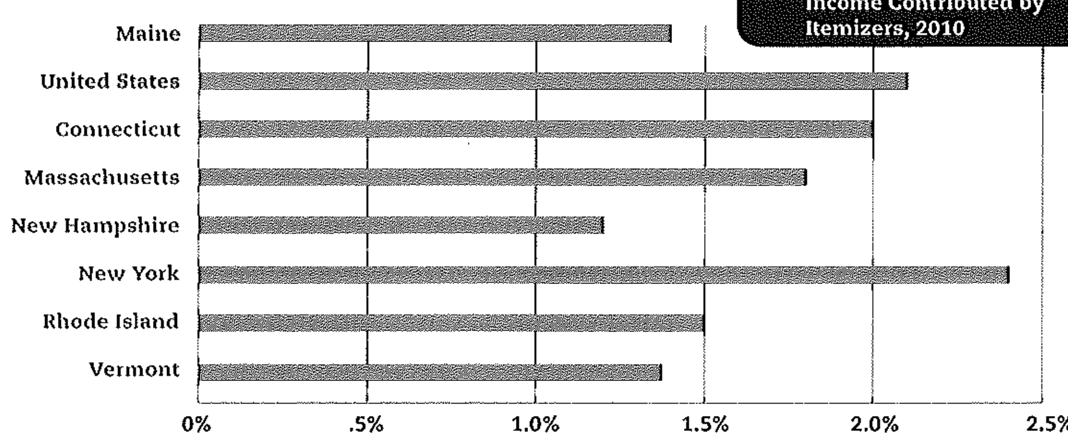


Figure 11

Average Percent of Income Contributed by Itemizers, 2010



SOURCE: IRS Statistics of Income Tax Stats - Historical Table 2, http://www.irs.gov/uac/SOI-Tax-Stats---Historic-Table-2

Conclusion

Adding Up the Impact

Maine has one of the most robust nonprofit sectors in the country[7] supported by one of the smallest philanthropic communities,[8] proving that Maine's nonprofits are strong, innovative and efficient partners in prosperity. However, nonprofits are not immune to the downward pressures on public spending and it is critical that we continue to nurture the important role nonprofits play in our economy and our lives.

John W. Gardner, American writer (1933 – 1982), wrote, "The [nonprofit] sector enhances our creativity, enlivens our communities, nurtures individual responsibility, stirs life at the grassroots, and reminds us that we were born free."

The lingering economic downturn has underscored the importance of this sector of the economy that rarely strays from the local communities where they began. These mostly small and local organizations provide counter-cyclical employment, resources to areas and individuals hard hit by the economic downturn, and opportunities for residents to come together and create solutions to the pressing issues facing our communities. We count on these local organizations to be there for us, but since our last report, we are beginning to see evidence of the stress under which this sector is working.

For example, social service organizations, providing critical supports to those in need and who rely heavily on government funding, shed almost 800 jobs between 2008 & 2011. As policy makers work to turn the economy around, we need Maine's nonprofit community to remain a strong part of the solution.

If it weren't for the innumerable public structures and resources created by Maine's nonprofit sector, would all of Maine's residents be able to attain as high a quality of life? This report demonstrates that nonprofits play a critical role in ensuring prosperous communities with strong social fabric. When nonprofits partner with government, business and engaged individuals in pursuit of a common goal, everyone profits.

For More Information

Maine Association of Nonprofits (www.NonprofitMaine.org)

Maine Community Foundation (www.MaineCF.org)

Unity Foundation (www.UnityFdn.org)

National Center for Charitable Statistics at the Urban Institute (www.NCCS.Urban.org)

The Foundation Center (www.FdnCenter.org)

Maine Department of Labor (www.Maine.gov/labor/labor_stats/index.html)

Additional Sources

Case Study Sources

Early Investments Yield Dramatic Long-Term Gains › Making Maine Work: Investments in Young Children = Real Economic Development, January 2012, a joint publication of the Maine Chamber of Commerce and the Maine Development Foundation; Interview with Doug Orville, CFO Executive Director, Child and Family Opportunities, conducted by DeAnn Lewis, 9/25/12; Interview with Rachel Nobel, Administrative Support and Development Manager, Child and Family Opportunities, conducted by DeAnn Lewis, 10/24/12.

Fostering Prosperity for Small Businesses + Individuals › Interview with Eloise Vitelli, Director of Program and Policy Development, ME Centers for Women, Work and Community, conducted by DeAnn Lewis, 10/19/12.

Used Goods Sustain Better Lives › Interview with Michelle Smith, Communications Manager, and Jane Driscoll, VP of Public Affairs, Goodwill Industries of Northern New England, conducted by DeAnn Lewis, 10/24/12.

Higher Literacy Lifts Health of Businesses + Community › Interview with Mary Marin Lyon, Executive Director, Literacy Volunteers Bangor, conducted by DeAnn Lewis, 10/22/12; http://www.proliteracy.org/the-crisis/adult-literacy-facts.

Building a Prosperous Creative Economy › Arts and Economic Prosperity IV: In the City of Portland, © 2012 Americans for the Arts, 1000 Vermont Avenue NW, 6th Floor, Washington, DC 20005.

Less Crime, Brighter Outlook for Youth + Families › Interview with Sonia Garcia, Director – Clinical Business Development and Marketing, Spurwink, conducted by DeAnn Lewis, 11/09/12; Return on Investment: Evidence-Based Options to Improve Statewide Outcomes – April 2012 Update, Washington State Institute for Public Policy; Foundations of Functional Family Therapy Clinical Training Manual, http://www.colorado.edu/cspv/blueprints/modelprograms/FFT.html.

Green Lofts Produce Jobs, Affordable Homes + More Revenue for City › From a Run-Down Parking Lot....to Oak Street Lofts. So What Does This Mean for the Local Economy? Avesta, 2012; Interview with Bill Floyd, Executive Director, Genesis Community Loan Fund, conducted by DeAnn Lewis, 9/28/12; Information provided by Jane Irish, Director of Development, Genesis Community Loan Fund, 10/15/12.

Inspiring Millions › Interview with David MacDonald, President, Friends of Acadia, conducted by DeAnn Lewis, 10/12/12; Corporation for National and Community Service, 2010 Volunteering in America.

Endnotes

1 See Corporation for National & Community Service, Volunteering and Civic Life in America 2011; www.nationalservice.gov.

2 See U.S. Department of Commerce, Bureau of Economic Analysis; Gross Domestic Product By State, www.bea.gov & NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012.

3 Data drawn from Maine Department of Labor, Quarterly Census of Employment & Wages (QCEW) for 2011 & 2008.

4 Ibid.

5 For more information about the history, structure, and purpose of the nonprofit sector, visit www.NonprofitMaine.org/all_about_nonprofits.asp.

6 See IRS statistics of Income, http://www.irs.gov.

7 See the bottom two lines of Figure 12 in Supporting Data.

8 See The Foundation Center, Fiscal Data of Grantmaking Foundations by Region and State, 2010, http://foundationcenter.org/findfunders/statistics/gm_financial.html.

Credits

Photos: Cover: Goodwill Hinckley, P 2: Cultivating Community, P 3+4: Ferry Beach Ecology School, P 20: Goodwill Hinckley

Design: Jodie Lapchick, Lapchick+Co.

Figure 12

Reporting Public Charities in Maine by County, 2010

County	2010 Population	Number of Reporting Charities	2010 Public Charities/ 1000 People	Expenditures	Assets	Expenditures as a % of Gross State Product
Androscoggin	107,702	130	1.21	$969,590,938	$1,284,476,599	1.9%
Aroostook	71,870	107	1.49	$433,150,436	$234,923,970	0.9%
Cumberland	281,674	746	2.65	$2,649,389,828	$4,718,828,555	5.2%
Franklin	30,768	57	1.85	$122,127,272	$135,687,438	0.2%
Hancock	54,418	192	3.53	$452,406,174	$1,167,948,395	0.9%
Kennebec	122,151	232	1.90	$1,069,919,953	$1,801,323,748	2.1%
Knox	39,736	157	3.95	$214,865,144	$370,595,443	0.4%
Lincoln	34,457	108	3.13	$172,360,546	$345,603,854	0.3%
Oxford	57,833	93	1.61	$192,411,249	$245,868,824	0.4%
Penobscot	153,923	223	1.45	$1,707,552,745	$1,365,860,379	3.4%
Piscataquis	17,535	24	1.37	$46,156,721	$46,894,291	0.1%
Sagadahoc	35,293	56	1.59	$62,673,208	$273,477,019	0.1%
Somerset	52,228	52	1.00	$162,535,557	$219,415,129	0.3%
Waldo	38,786	75	1.93	$136,019,484	$191,148,112	0.3%
Washington	32,856	88	2.68	$132,533,905	$151,274,469	0.3%
York	197,131	260	1.32	$753,574,626	$943,153,361	1.5%
Maine Totals	1,328,361	2,600	1.96	$9,277,267,786	$13,496,479,586	18.3%
US Totals	308,745,538	366,086	1.19	$1,454,800,000,000	$2,708,900,000,000	5.5%

SOURCE: NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012 and US Census Bureau Data.

Figure 13

Reporting Public Charities in Maine by Expenditure Level, 2010

Expenditure Level	Number of Reporting Public Charities	Assets	Expenditures	% of Reporting Public Charities	% of Total Reported Assets	% of Total Reported Expenditures
Less than $100,000	1,130	$265,266,603	$50,933,825	43.5%	2.0%	0.5%
$100,000 - $499,999	760	$659,005,755	$179,155,098	29.2%	4.9%	1.9%
$500,000 - $999,999	215	$388,848,208	$154,255,553	8.3%	2.9%	1.7%
$1,000,000 - $4,999,999	295	$1,460,241,458	$671,348,757	11.3%	10.8%	7.2%
$5,000,000 - $9,999,999	76	$989,300,003	$532,717,481	2.9%	7.3%	5.7%
Greater than $10,000,000	124	$9,733,817,559	$7,688,857,072	4.8%	72.1%	82.9%
Total	2,600	$13,496,479,586	$9,277,267,786	100.0%	100.0%	100.0%

SOURCE: NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012

Data

Figure 14

Number, Expenditures, and Assets of Reporting Public Charities in Maine by Field, 2010

Type of Charitable Nonprofit	#	% of Total	Expenditures	% of Total Expenditures	Assets	% of Total Assets
Arts, Culture, Humanities	334	12.8%	$101,554,650	1.1%	$358,488,394	2.7%
Education, excluding Higher Education	403	15.5%	$356,529,324	3.8%	$1,101,400,995	8.2%
Higher Education	20	0.8%	$682,636,814	7.4%	$3,016,361,757	22.3%
Environment / Animal Related	238	9.2%	$115,457,914	1.2%	$572,275,568	4.2%
Health Care/Mental Health, excluding Hospitals	341	13.1%	$1,658,855,381	17.9%	$1,767,881,611	13.1%
Hospitals	50	1.9%	$4,917,056,572	53.0%	$4,409,439,451	32.7%
Human Services	875	33.7%	$1,154,590,186	12.4%	$1,430,097,668	10.6%
Community Improvement, Public/Societal Benefit	218	8.4%	$145,574,958	1.6%	$615,034,907	4.6%
Research: Science, Technology, Social Science	23	0.9%	$27,800,958	0.3%	$43,190,597	0.3%
Religion Related, Spiritual Development	56	2.2%	$17,673,461	0.2%	$99,576,466	0.7%
All Others	42	1.6%	$99,537,568	1.1%	$82,732,172	0.6%
Total	2,600	100%	$9,277,267,786	100.0%	$13,496,479,586	100.0%

SOURCE: NCCS Data Web, National Center for Charitable Statistics, http://nccsdataweb.urban.org/ ©2012

Figure 15

Nonprofit Employment in Maine, by County, in Comparison to Total Employment, 2011

County	Total Nonprofit Employment 501(c)(3)	Total Employment	Nonprofit Employment as % of Total Employment	Total Nonprofit Wages 501(c)(3)	Total Wages	Nonprofit Wages as % of Total Wages
Androscoggin	8,548	47,196	18.1%	$378,965,076	$1,693,909,347	22.4%
Aroostook	4,098	28,225	14.5%	$150,304,023	$899,623,866	16.7%
Cumberland	24,408	169,033	14.4%	$1,022,218,744	$7,277,549,602	14.0%
Franklin	1,585	10,863	14.6%	$61,109,657	$373,366,675	16.4%
Hancock	4,441	21,998	20.2%	$193,526,774	$742,598,689	26.1%
Kennebec	10,223	57,702	17.7%	$397,090,113	$2,128,152,634	18.7%
Knox	2,575	16,486	15.6%	$96,167,226	$551,481,064	17.4%
Lincoln	2,068	10,764	19.2%	$64,949,237	$325,974,361	19.9%
Oxford	2,362	16,212	14.6%	$77,020,474	$531,854,734	14.5%
Penobscot	10,944	68,257	16.0%	$500,745,769	$2,416,860,643	20.7%
Piscataquis	705	5,548	12.7%	$17,968,692	$163,519,900	11.0%
Sagadahoc	815	15,100	5.4%	$21,807,493	$664,182,849	3.3%
Somerset	2,144	16,882	12.7%	$76,126,544	$592,974,753	12.8%
Waldo	1,827	10,584	17.3%	$66,199,471	$341,163,298	19.4%
Washington	1,629	10,225	15.9%	$61,581,870	$319,478,016	19.3%
York	7,729	66,144	11.7%	$305,325,459	$2,493,102,140	12.2%
Unassigned or Statewide	108	8,463	1.3%	$1,729,860	$526,117,409	0.3%
Grand Total for the State	86,209	579,682	14.9%	$3,492,836,482	$22,041,909,980	15.8%

Source: Data drawn from Maine Department of Labor, Quarterly Census of Employment & Wages (QCEW) for 2011 using the IRS Exempt Organizations Master File for c3 Nonprofits in Maine.

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Attachment 6

Economic Crisis Assessment

Part ??

Sec. ____. 36 MRSA c. 722 is enacted to read:

CHAPTER 722

ECONOMIC CRISIS ASSESSMENT

§ 4921. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Gross receipts. "Gross receipts" means the total amounts the nonprofit organization received from all sources during its tax year, without subtracting any costs or expenses.

2. Located in the State. "Located in the State" has the same meaning as that term has for purposes of section 5206-D, subsection 11, paragraph D.

3. Nonprofit organization. "Nonprofit organization" means any organization:

A. Exempt from federal income tax under the Code, section 501(a); and

B. That has gross receipts greater than or equal to $200,000 and total assets greater than or equal to $500,000 at the end of the taxable year.

4. Value. "Value" means the cost or other basis of all land, buildings and equipment held at the end of the tax year reduced by the reported total amount of accumulated depreciation as determined by the assessor in accordance with the Code.

5. Other terms. Any other terms used in this chapter have the same meaning as when used in a comparable context in the laws of the United States relating to federal tax-exempt organizations, unless different meanings are clearly required.

§ 4922. Economic crisis assessment

For tax years beginning in 2012 and 2013, an assessment is imposed for each calendar year or fiscal year on every nonprofit organization that has land, buildings or equipment located in the State at the end of the tax year. If the value of the land, buildings and equipment located in the State and included in the nonprofit organization's total assets for federal reporting purposes is more than $250,000, the assessment is 2% of the value in excess of $250,000.

§ 4923. Assessment due date; filing of return and payment of assessment

1. Date due. The economic crisis assessment return required by this section must be filed on or before the 15th day of the 5th month following the due date of the nonprofit organization's federal tax-exempt organization return without regard to any extension and any assessment due under this chapter is due at the same time.

2. Return required. Every nonprofit organization, as defined by section 4921, subsection 3, that has land, buildings or equipment located in the State must file an economic crisis assessment return with the State Tax Assessor on such forms as may be required by the assessor whenever an economic crisis assessment is due.

3. Persons required to file return. The economic crisis assessment return of a nonprofit organization must be made and filed by an officer of the nonprofit organization.

§ 4924. Administration

Except as provided by this chapter, the assessment is to be administered and enforced as though it was imposed under Part 8.

Sec.__. Appropriations and allocations. The following appropriations and allocations are made to carry out the purposes of this Part.

Revenue Services, Bureau of 0002

Initiative: Provides funding for computer programming design and development of the new tax type for purposes of the Maine Revenue Integrated Tax System and associated data capture processing systems.

GENERAL FUND	2013-14	2014-15	2015-16	2016-17
All Other	$120,000	$0	$0	$0
GENERAL FUND TOTAL	$120,000	$0	$0	$0

Sec.__. Retroactivity. This Part that enacts the Maine Revised Statutes, Title 36, chapter 722 applies retroactively to tax years beginning on or after January 1, 2012.

FISCAL NOTE

	2013-14	2014-15	2015-16	2016-17
General Fund	$100,000,000	$100,000,000	$0	$0

SUMMARY

This Part enacts a temporary two-year economic crisis assessment on certain nonprofit organizations. The assessment applies to tax years beginning in 2012 and 2013 and is equal to 2% of the value of the organization's Maine land, buildings and equipment exceeding $250,000. Assessment returns and payments are due the 15th day of the 5th month following the due date of the nonprofit organization's federal tax-exempt organization return. For example, the Maine return and payment due date is October 15, 2013 for an organization whose tax year begins January 1, 2012.

Attachment 7

Municipal Service Charge Impact Survey Results

Prepared by the Maine Municipal Association
12/9/2013

On behalf of the members of the Nonprofit Tax Review Task Force, the Maine Municipal Association sent a survey to municipal officials in ten communities with much higher concentrations of tax exempt property than the average Maine municipality. The communities invited to participate in the survey included Augusta, Bath, Biddeford, Brunswick, Caribou, Lewiston, Presque Isle, Rockport, Sanford and Waterville. The survey instrument is attached.

Six municipalities responded to the survey with some data. The data submitted by the participants varied as these municipal officials were provided only one week to generate information for which records may not have been organized in a way to easily calculate a nonprofit service charge. However, the data nonetheless provides valuable information about the type of nonprofits impacted, calculation of the municipal service charge according to the formula suggested, and municipal input regarding the draft proposal.

In order to calculate the service charge impact, participants were asked to identify all charitable, educational and fraternal non-profit organizations in the community generating revenues in excess of $500,000. As a proxy for the revenue data, respondents were encouraged to use the income data reported on the IRS 990 form.

The respondents then determined the municipal service charge by: (1) calculating the square footage of the qualifying nonprofit as a percentage of the total square footage of all buildings in the municipalities; and (2) multiplying that result by the budgeted cost of fire and police protection, road maintenance and construction, traffic control, snow and ice removal and sanitation services, if sanitation services were actually provided to the property. Finally, the participants were instructed to calculate the maximum service charge as 2% of gross annual revenue, and to adjust the calculated service charge accordingly, if necessary.

It is important to note that in many cases the income of the entire nonprofit organization is reported, rather than the income of the properties located in each community. The inability to generate more local level income data has an impact on both the identification of the qualifying nonprofit organization and on the service charge cap calculation.

What follows are the results of that survey effort.

Nonprofits Subject to Service Charge. In five of the respondent municipalities, it is estimated that 69 nonprofit organizations would be subjected to the service charge, with charitable organizations accounting for 85% of the total.

Nonprofits Subjected to Service Charge

	Charitable	Educational	Fraternal
Bath	4	2	-
Caribou	23	1	1
Lewiston	19	2	-
Presque Isle	7	-	-
Rockport	16	4	2
Total	69	9	3
% of Total	85%	11%	4%

Service Charge Impact. As shown in spreadsheet in Attachment 1, the participating municipal officials determined that the service charges assessed on nonprofit organizations would range in value from \$731 to \$580,471, with an average assessment of \$39,299. The following averages apply according to income category:

\$500,000- \$10 million of income:	\$ 8,806
\$10-\$20 million of income:	\$ 20,040
\$20 - \$50 million of income:	\$ 29,927
Over \$50 million of income:	\$280,337

In almost every case, the calculated municipal costs are less and often substantially less than the 2%-of-income cap. One town official had the following observations about the proposed service charge calculation.

Taking the nonprofit's square footage and dividing that into the town's total square footage, and then calculating that against the cost of some municipal services is a lawyer's heyday in waiting. There's really no need to perform mathematical contortions; nonprofits benefit from all municipal services. Unlike the obvious services such as snow removal or traffic control, many municipal services are performed in the background. The assessor maintains everyone's property records, nonprofits included; the town clerk performs all types of transactions from the registration of motor vehicles to the management of elections – nonprofits and their employees use all of these services; the work of the Finance department is vital but not visible; the work of all departments, whether evident and observable or not, benefits resident non-profit organizations. The calculated cost of municipal services for the current fiscal year (2013/14) is \$3.05/\$1,000 of assessed value. When including county services, the cost rises to \$3.93. This figure is 31% of the community's current mil rate of \$12.69. Nonprofits should contribute the full cost of municipal and county government and be exempt from the school portion. This is more than fair.

Direct Contributions. When asked if municipalities had information about the nonprofit's direct contributions to the municipality and or the residents of the municipality, municipal officials had the following information to offer.

- Information provided by Opportunity Enterprises, "Our agency provides home and community support services to adults with cognitive and intellectual impairments in the Lewiston area. We have been in business for 5 ½ years, steadily growing and expanding. One of the tenets of our philosophy is that since our consumers' services are funded by MaineCare and thus taxpayers, the consumers therefore should give back to the communities that allow them to live as independently as possible. That being said, more than 90% of the individuals we serve engage in some sort of volunteer work in the communities in which they live. We have consumers volunteering at Senior Plus delivering meals to seniors, at the Humane Society, at the local library, at daycares reading to children, at several nursing homes, at a local farm, in schools, cleaning at a museum, handing out announcements for local theater, participating in walks and other fund-raisers, at food banks and pantries, and at various fairs and festivals. On an average week it is estimated that our consumers in this area provide over 100 hours of service to their community. They take pride in being an active, participating member of their community. As a private, non-profit that benefits from the kindness of others we can certainly appreciate what that means to the other organizations in the area. I hope this information will be helpful."

- Information provided by New Beginnings. "Organization measures success by providing stable housing outcomes. Work with homeless children and children at risk."

- Information provided by Androscoggin Home Health. "Volunteer subsidized support $45,312."

- The determination of the direct benefit would be at best subjective.

- What is particularly interesting about this question is that when considering an organization's application for exemption as a benevolent & charitable institution municipalities are not permitted to ask how the organization contributes to its host community, yet here we are being asked to place a value on their contribution to the host community. The conundrum highlighted here is the disconnect between our being forced[1] to award an exemption that is wholly expensed by our municipality but for which the community is not permitted to require any in-kind contribution to the community. The justification for this is that nonprofits contribute to the community at-large. This justification is fine for federal 501 (c) 3 and state nonprofit designations, but is an unfair burden at the local level. You cannot measure the contribution of a furniture making school to its host community, for example, because there is none beyond what any other business contributes. On the other hand, while it may not be possible to measure, in dollars, the contribution made by the local animal shelter, there is no doubt the shelter is making a substantial contribution to its host community. This, in my mind, is where the discussions have taken a wrong turn. A distinction needs to be made between charities and nonprofits, between accredited degree-conferring academic institutions and special interest/hobby schools, and between hospitals that do not turn away people without insurance from medical facilities that send people to the hospital rather than provide treatment. The academic

[1] "Forced" by statute and ensuing case law

degree educational facility (private and public grade schools[2] and colleges), the charitable hospital and public charities should not be asked to pay taxes or service charges. All other non-profits should pay the municipal and county portion of their property taxes. Of the 16 Benevolent & Charitable institutions (B&C's) in Rockport, 4 are unquestionably charities: an animal shelter, a workshop for people with mental development issues, Habitat for Humanity and Penobscot Bay Medical Center. Of these, only one, the hospital, is dependent on a daily receipt of municipal services (police) for which a service fee would be justified, but for which any fee calculated would be cancelled out by the worth of their contribution to community. Maybe the host community should be permitted to bill neighboring communities for police assistance when it's the neighboring community's citizen whose actions require the police call. But that is a different issue. No public charities should be taxed or made to pay a service charge. Of Rockport's remaining B&C's, three are land trusts, with a fourth being a close approximation of a land trust; four others are historical organizations (none of which would reach the $250,000 threshold); then there is the YMCA, an art museum and a shelter/school for wards of the state. This final entry, Harbor Schools of Maine, would be considered a charity by their mission, but because they do no fundraising and are now cutting back their activities due to state funding cutbacks they are more accurately described as a nonprofit. A nonprofit may or might not engage in fundraising activities, while a charity does. If Harbor Schools was a charity, they would react to the state funding cutback with a fundraising campaign. Instead they are closing one of their facilities. This makes them clearly a nonprofit, rather than a charity, and I believe provides an excellent example of the delineation between the two types of nonprofits.

- Calculation of non-profit contribution to the community is difficult to measure.

General Comments.

- The proposal to only charge those with revenue over $500,000 is not a good idea. I would say that the majority of the nonprofits that our police/fire departments have to provide services to are the ones that make less than that. There is one that had 200 police/fire calls this year alone. That number only increases from year-to-year. If we are going to charge nonprofits it should be across the board, or those with revenue that are actually small amounts. There are some nonprofits that are residential in nature. They utilize the full gamut of city services, and should be paying the same amount as taxpayers. Places like the VFW, Legion, etc., should only be charged for police, fire and road maintenance.

- The Task Force's goal of producing $100 million in new revenues from non-profits is achievable if reasonable distinctions can be made in statute. I recommend that a line be drawn between charities and other non-profits, with both entities being clearly defined in statute. Charity is already defined in 36 M.R.S.A. §652, though I've taken a liberty here by offering a slightly edited version of that definition: A charity is a corporation that is organized and conducted exclusively for charitable purposes. I would add to that, a charity provides a public service to all in need of that service, without regard to race or religion. A charitable public service is defined as one which provides a necessity of life such as food, shelter and safety. Charities should be 100% exempt. All other nonprofits can apply for exemption from the schools portion of

[2] Public schools should be exempt as all Maine residents already pay to support the schools through property taxes. Any tax required of the schools would only be passed onto those same people.

their property taxes. The Legislature created the Open Space, Farmland and Tree Growth current use programs for the preservation of open spaces and farmland, and for the production of wood-producing forests. Open Space and Farmland program goals do not differ from those of the land trusts. These programs offer extremely generous value reductions in exchange for meeting program goals of preservation and public access. Land trusts should be excluded from the benevolent & charitable exemption in favor of participation in these programs. The parameters for the programs should be examined and modified to exclude abusive behavior (such as tree growth property in shoreland zones). BETE and BETR should be limited to Maine-based corporations and businesses. BETR benefits should end after year 12. Although I'm not in favor of the following idea, it may make sense to reduce the state BETR reimbursement to 50%. The loss can be divided between the towns and participating businesses at 25% each and should be phased in. We, not the nonprofits, should be who decides if an organization is contributing something of value to our community, and whether or not the community wants whatever it is the nonprofit has to offer. Solutions such as these are straightforward and therefore would not be difficult to calculate. They depend on real numbers that exist in every municipality's property records.

- One question I had was would the $500,000 gross revenue threshold need to be verified every year or would there be something like a three year average?

- (From Biddeford) We have approximately 14 properties that appear to qualify for this service charge.

Attachment 1 - Service Charge Calculation

Municipality	Organization	Income	Cap	Service Charge Assessment
Bath	Elmhurst*	$ 3,770,150	$ 75,403	$ 6,797
Bath	Habitat 4 Humanity*	$ 1,090,950	$ 21,819	$ 5,510
Bath	Hyde School	$ 11,372,200	$ 227,444	$ 99,185
Bath	Maine Maritime Museum	$ 1,674,400	$ 33,488	$ 43,398
Bath	Midcoast Maine Community Action	$ 5,941,750	$ 118,835	$ 16,903
Bath	Tedford*	$ 1,595,200	$ 31,904	$ 5,417
Caribou	Aroostook County Action Program*	$ 15,205,288	$ 304,106	$ 3,640
Caribou	Aroostook Mental Health Services, Inc*	$ 16,705,041	$ 334,101	$ 2,616
Caribou	Catholic Charities of Maine*	$ 28,985,045	$ 579,701	$ 11,506
Caribou	Central Aroostook Association*	$ 6,114,398	$ 122,288	$ 1,931
Caribou	Maine Winter Sports Center*	$ 1,670,855	$ 33,417	$ 1,520
Caribou	Northern Maine General Hospital	$ 11,381,182	$ 227,624	$ 1,508
Caribou	Pines Health Services*	$ 16,986,000	$ 339,720	$ 3,353
Lewiston	Bates College	$ 127,723,600	$ 2,554,472	$ 580,471
Lewiston	Central Maine Medical Center	$ 283,260,050	$ 5,665,201	$ 343,367
Lewiston	St. Mary's Regional Medical Center	$ 158,217,200	$ 3,164,344	$ 137,548
Lewiston	Androscoggin Home Health	$ 6,057,550	$ 121,151	$ 16,674
Lewiston	Area IV Mental Health	$ -	$ -	$ 2,249
Lewiston	Community Partners Incorporated	$ 3,300,000	$ 66,000	$ 3,985
Lewiston	Goodwill Industries	$ 1,600,000	$ 32,000	$ 5,726
Lewiston	Greater Andros Humane Society	$ 781,100	$ 15,622	$ 4,668
Lewiston	J F Murphy Homes	$ 10,400,000	$ 208,000	$ 19,990
Lewiston	New Beginnings Incorporated	$ 2,679,600	$ 53,592	$ 17,175
Lewiston	Opportunity enterprises	$ 750,000	$ 15,000	$ 2,469
Lewiston	Sand Castle Pre School	$ 1,511,800	$ 30,236	$ 6,177
Lewiston	Support Solutions	$ 1,696,600	$ 33,932	$ 4,155
Lewiston	Tri-County Mental Health	$ 20,505,750	$ 410,115	$ 26,061
Lewiston	YWCA	$ 714,250	$ 14,285	$ 13,189
Lewiston	Alternative Services-Northeast Inc	$ -	$ -	$ 1,443
Lewiston	Colby Bates Bowdoin Edu (Public TV)	$ -	$ -	$ 11,806
Lewiston	St. Mary's d'Youville Pavilion	$ 24,033,750	$ 480,675	$ 52,213
Lewiston	North American Family Inst.	$ -	$ -	$ 1,735
Lewiston	Relatives & Friends for Support	$ -	$ -	$ 3,009
Lewiston	St. Andre Home Incorporated	$ -	$ -	$ 6,921
Presque Isle	Aroostook Mental Health Center, Inc.	$ -	$ -	$ 6,069
Presque Isle	Aroostook Area on Aging	$ 3,068,000	$ 61,360	$ 982
Presque Isle	Aroostook County Action Program	$ 15,205,300	$ 304,106	$ 9,987
Presque Isle	Central Aroostook ARC	$ 6,114,400	$ 122,288	$ 9,911
Presque Isle	Personal Services of Aroostook	$ 2,357,500	$ 47,150	$ 731
Presque Isle	Presque Isle Housing Authority	$ -	$ -	$ 59,289
Presque Isle	The Aroostook Medical Center	$ 216,648,100	$ 4,332,962	$ 59,964
		Average Service Charge		**$ 39,299**

* Income is for the organization as a whole, rather than for the portion of the organization located in the community.