

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

---

Legislative Document

No. 1742

---


H.P. 1230

House of Representatives, April 3, 1997

**An Act to Comprehensively Realign the Tax Structure of the State.**

---

Reference to the Committee on Taxation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative VIGUE of Winslow.  
Cosponsored by Senator GOLDTHWAIT of Hancock.

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

Sec. 1. 36 MRSA §652, as corrected by RR 1995, c. 2, §93, is amended to read:

§652. Property of institutions and organizations

~~The following property of institutions and organizations is exempt from taxation:-~~

1. Property of institutions and organizations. The following property of institutions and organizations is exempt from taxation:

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State, and none of these may be deprived of the right of exemption by reason of the source from which its funds are derived ~~or by reason of limitation in the classes of persons for whose benefit such funds are applied.~~

(1) Any such institution that is in fact conducted or operated principally for the benefit of persons who are not residents of Maine is entitled to an exemption not to exceed \$50,000 of current just value only when the total amount of any stipends or charges that it makes or takes during any tax year, as defined by section 502, for its services, benefits or advantages divided by the total number of persons receiving such services, benefits or advantages during the same tax year does not result in an average rate in excess of \$30 per week when ~~said~~ the weekly rate is computed by dividing the average yearly charge per person by the total number of weeks in a tax year during which ~~sueh~~ the institution is in fact conducted or operated principally for the benefit of persons who are not residents of Maine. No ~~sueh~~ institution that is in fact conducted or operated principally for the benefit of persons who are not residents of Maine and makes charges that result in an average weekly rate per person, as computed under this subparagraph, in excess of \$30 may be entitled to tax exemption. This subparagraph does not apply to institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research.

For the purposes of this paragraph, "benevolent and charitable institution" means an institution that advances a charitable purpose, donates or renders gratuitously a substantial portion of its services, benefits a substantial

2 and indefinite class of persons who are legitimate subjects  
3 of charity, relieves the government of some of its burden  
4 and operates entirely free from private profit motive.  
5 "Benevolent and charitable institutions" may include, but  
6 are not limited to, nonprofit nursing homes and nonprofit  
7 boarding homes and boarding care facilities licensed by the  
8 Department of Human Services pursuant to Title 22, chapter  
9 1665 or its successor, nonprofit community mental health  
10 service facilities licensed by the Commissioner of Mental  
11 Health, Mental Retardation and Substance Abuse Services,  
12 pursuant to Title 34-B, chapter 3 and nonprofit child care  
13 centers incorporated by this State as benevolent and  
14 charitable institutions. For the purposes of this  
15 paragraph, "nonprofit" means a facility exempt from taxation  
16 under Section 501(c)(3) of the Code;

17  
18 B. The real estate and personal property owned and occupied  
19 or used solely for their own purposes by literary and  
20 scientific institutions. If any building or part of a  
21 building is used primarily for employee housing, that  
22 building, or that part of the building used for employee  
23 housing, shall is not be exempt from taxation-;

24 C. Further conditions to the right of exemption under  
25 paragraphs A and B are that:

26  
27 (1) Any corporation claiming exemption under paragraph  
28 A must be organized and conducted exclusively for  
29 benevolent and charitable purposes;

30  
31 (2) A director, trustee, officer or employee of an  
32 organization claiming exemption is not entitled to  
33 receive directly or indirectly any pecuniary profit  
34 from the operation of that organization, excepting  
35 reasonable compensation for services in effecting its  
36 purposes or as a proper beneficiary of its strictly  
37 benevolent or charitable purposes;

38  
39 (3) All profits derived from the operation of an  
40 organization claiming exemption and the proceeds from  
41 the sale of its property are devoted exclusively to the  
42 purposes for which it is organized;

43  
44 (4) The institution, organization or corporation  
45 claiming exemption under this subsection shall file  
46 with the tax assessors upon their request a report for  
47 its preceding fiscal year in such detail as the tax  
48 assessors may reasonably require;

2 (5) An exemption is not allowed under this subsection  
in favor of an agricultural fair association holding  
4 pari-mutuel racing meets unless it has qualified the  
next preceding year as a recipient of the "Stipend  
Fund" provided in Title 7, section 62;

6  
8 (6) An exemption allowed under paragraph A or B for  
real or personal property owned and occupied or used to  
provide federally subsidized residential rental housing  
10 is limited as follows: Federally subsidized  
residential rental housing placed in service prior to  
12 September 1, 1993 by other than a nonprofit housing  
corporation that is acquired on or after September 1,  
14 1993 by a nonprofit housing corporation and the  
operation of which is not an unrelated trade or  
16 business to that nonprofit housing corporation is  
eligible for an exemption limited to 50% of the  
18 municipal assessed value of that property.

20 An exemption granted under this subparagraph must be  
revoked for any year in which the owner of the property  
22 is no longer a nonprofit housing corporation or the  
operation of the residential rental housing is an  
24 unrelated trade or business to that nonprofit housing  
corporation.

26  
28 (a) For the purposes of this subparagraph, the  
following terms have the following meanings.

30 (i) "Federally subsidized residential rental  
housing" means residential rental housing  
32 that is subsidized through project-based  
rental assistance, operating assistance or  
34 interest rate subsidies paid or provided by  
or on behalf of an agency or department of  
36 the Federal Government.

38 (ii) "Nonprofit housing corporation" means a  
nonprofit corporation organized in the State  
40 that is exempt from tax under Section  
501(c)(3) of the Code and has among its  
42 corporate purposes the provision of services  
to people of low income or the construction,  
44 rehabilitation, ownership or operation of  
housing.

46 (iii) "Residential rental housing" means one  
48 or more buildings, together with any  
facilities functionally related and  
50 subordinate to the building or buildings,

2 located on one parcel of land and held in  
common ownership prior to the conversion to  
4 nonprofit status and containing 9 or more  
similarly constructed residential units  
6 offered for rental to the general public for  
use on other than a transient basis, each of  
8 which contains separate and complete  
facilities for living, sleeping, eating,  
cooking and sanitation.

10  
12 (iv) "Unrelated trade or business" means any  
trade or business whose conduct is not  
14 substantially related to the exercise or  
performance by a nonprofit corporation of the  
16 purposes or functions constituting the basis  
for exemption under Section 501(c)(3) of the  
Code.

18  
20 (b) Eligibility of the following property for  
exemption is not affected by the provisions of  
22 this subparagraph:

24 (i) Property used as a nonprofit nursing  
home, boarding home or boarding care facility  
26 licensed by the Department of Human Services  
pursuant to Title 22, chapter 1665 or a  
community living facility as defined in Title  
28 30-A, section 4357, subsection 2, paragraph B  
or any property owned by a nonprofit  
30 organization licensed or funded by the  
Department of Mental Health, Mental  
32 Retardation and Substance Abuse Services to  
provide services to or for the benefit of  
34 persons with mental illness or mental  
retardation;

36  
38 (ii) Property used for student housing;

40 (iii) Property used for parsonages;

42 (iv) Property that was owned and occupied or  
used to provide residential rental housing  
44 that qualified for exemption under paragraph  
A or B prior to September 1, 1993; or

46 (v) Property exempt from taxation under  
48 other provisions of law; and

50 (7) In addition to the requirements of subparagraphs  
(1) to (4), an exemption is not allowed under paragraph

2 A or B for real or personal property owned and occupied  
or used to provide residential rental housing that is  
4 transferred or placed in service on or after September  
1, 1993, unless the property is owned by a nonprofit  
6 housing corporation and the operation of the  
residential rental housing is not an unrelated trade or  
8 business to the nonprofit housing corporation.

10 For the purposes of this subparagraph, the following  
terms have the following meanings.

12 (a) "Nonprofit housing corporation" means a  
nonprofit corporation organized in the State that  
14 is exempt from tax under Section 501(c)(3) of the  
Code and has among its corporate purposes the  
16 provision of services to people of low income or  
the construction, rehabilitation, ownership or  
18 operation of housing.

20 (b) "Residential rental housing" means one or  
more buildings, together with any facilities  
22 functionally related and subordinate to the  
building or buildings, containing one or more  
24 similarly constructed residential units offered  
for rental to the general public for use on other  
26 than a transient basis, each of which contains  
separate and complete facilities for living,  
28 sleeping, eating, cooking and sanitation.

30 (c) "Unrelated trade or business" means any trade  
or business whose conduct is not substantially  
32 related to the exercise or performance by a  
nonprofit organization of the purposes  
34 constituting the basis for exemption under Section  
501(c)(3) of the Code.

36  
38 E. The real estate and personal property owned and occupied  
by posts of the American Legion, Veterans of Foreign Wars,  
American Veterans of World War II, Grand Army of the  
40 Republic, Spanish War Veterans, Disabled American Veterans  
and Navy Clubs of the U.S.A., which shall be are used solely  
42 by those organizations for meetings, ceremonies or  
instruction, including all facilities appurtenant to such  
44 use and used in connection therewith. If any building shall  
is not be used in its entirety for those purposes, but shall  
46 be used in part for those purposes and in part for any other  
purpose, exemption shall is only be of the part used for  
48 those purposes.

50 ~~Further conditions to the right of exemption are that:~~

2           Further conditions to the right of exemption are that:

4           (1) No director, trustee, officer or employee of any  
6           organization claiming exemption shall may receive  
8           directly or indirectly any pecuniary profit from the  
          operation thereof, excepting reasonable compensation  
          for services in effecting its purposes or as a proper  
          beneficiary of its purposes;

10           (2) All profits derived from the operation thereof and  
12           the proceeds from the sale of its property are devoted  
14           exclusively to the purposes for which it is organized;  
          and

16           (3) The institution, organization or corporation  
18           claiming exemption under this subsection shall file  
20           with the tax assessors upon their request a report for  
          its preceding fiscal year in such detail as the tax  
          assessors may reasonably require.

22           F. The real estate and personal property owned and occupied  
24           or used solely for their own purposes by chambers of  
          commerce or boards of trade in this State.

26           Further conditions to the right of exemption are that:

28           (1) No director, trustee, officer or employee of any  
30           organization claiming exemption shall may receive  
32           directly or indirectly any pecuniary profit from the  
          operation thereof, excepting reasonable compensation  
          for services in effecting its purposes or as a proper  
          beneficiary of its purposes;

34           (2) All profits derived from the operation thereof and  
36           the proceeds from the sale of its property are devoted  
38           exclusively to the purposes for which it is organized;  
          and

40           (3) The institution, organization or corporation  
42           claiming exemption under this subsection shall file  
44           with the tax assessors upon their request a report for  
          its preceding fiscal year in such detail as the tax  
          assessors may reasonably require.

46           G. Houses of religious worship, including vestries, and the  
48           pews and furniture within the same; tombs and rights of  
          burial; and property owned and used by a religious society  
          as a parsonage to the value of \$20,000, and personal  
50           property not exceeding \$6,000 in value, but so much of any



2 parsonage as is rented is liable to taxation. For purposes  
of the tax exemption provided by this paragraph a parsonage  
4 ~~shall--mean~~ means the principal residence provided by a  
religious society for its clergyman whether or not located  
6 within the same municipality or place as the house of  
religious worship where the clergyman regularly conducts  
religious services.;

8  
H. Real estate and personal property owned by or held in  
10 trust for fraternal organizations, except college  
fraternities, operating under the lodge system ~~which--shall~~  
12 that must be used solely by fraternal organizations for  
meetings, ceremonials, religious or moralistic instruction,  
14 including all facilities appurtenant to such use and used in  
connection therewith. If any building ~~shall~~ is not be used  
16 in its entirety for such purposes, but ~~shall--be~~ is used in  
part for ~~sueh~~ those purposes and in part for any other  
18 purpose, exemption ~~shall--be~~ is of the part used for ~~sueh~~  
those purposes.

20 Further conditions to the right of exemption are that:

22  
24 (1) No director, trustee, officer or employee of any  
organization claiming exemption ~~shall~~ may receive  
26 directly or indirectly any pecuniary profit from the  
operation thereof, excepting reasonable compensation  
28 for services in effecting its purposes or as a proper  
beneficiary of its purposes;

30 (2) All profits derived from the operation thereof and  
the proceeds from the sale of its property are devoted  
32 exclusively to the purposes for which it is organized;  
and

34 (3) The institution, organization or corporation  
36 claiming exemption under this subsection shall file  
with the tax assessors upon their request a report for  
38 its preceding fiscal year in such detail as the tax  
assessors may reasonably require.;

40  
J. The real and personal property owned by one or more of  
42 the foregoing organizations and occupied or used solely for  
their own purposes by one or more other such organizations.;

44  
K. The real and personal property leased by and occupied or  
46 used solely for its own purposes by an incorporated  
benevolent and charitable organization, which is exempt from  
48 taxation under section 501 of the Internal Revenue Code of  
1954, as amended, and the primary purpose of which is the  
50 operation of a hospital licensed by the Department of Human  
Services, health maintenance organization or blood bank.;

2 L. Service charges.

4 (1) The owners of certain institutional and  
6 organizational real and personal property, which is  
8 otherwise exempt from state or municipal taxation under  
10 this section, except those properties enumerated under  
12 paragraph G, may-be are subject to service charges when  
14 these--charges that are calculated according to the  
16 actual cost of providing municipal services to that  
real property and to the persons who use that  
property. Service charges must also be applied to any  
improved property owned by the State that is exempt  
from taxation under section 651. These services shall  
include, without limitation:

18 (a) Fire protection;

20 (b) Police protection;

22 (c) Road maintenance and construction, traffic  
control, snow and ice removal;

24 (d) Water and sewer service provided to the  
26 tax-exempt entity and not otherwise recovered  
through user fees or other charges;

28 (e) Sanitation services provided to the  
30 tax-exempt entity and not otherwise recovered  
through user fees or other charges; and

32 (f) Any services other than education and welfare  
34 provided to the tax-exempt entity and not  
otherwise recovered through user fees or other  
36 charges.

38 Service charges levied pursuant to this paragraph may be  
applied only to improved tax exempt property, which is any  
parcel of land containing a building or other principal use  
structure that is exempt from taxation pursuant to this  
42 section.

44 (2)---The--establishment--of--service--charges--is--not  
46 mandatory,--but--rather--is--at--the--discretion--of--the  
48 municipality--in--which--the--exempt--property--is--located.  
The--municipal--legislative--body--shall--determine--those  
institutions--and--organizations--on--which--service--charges  
are--to--be--levied--by--charging--for--services--on--any--or--all  
50 of--the--following--classifications--of--tax--exempt--real  
property:

2 (a)---Residential---properties---currently---totally  
3 exempt-from-property-taxation,--yet-used-to-provide  
4 rental---income,---This---classification---shall---not  
5 include-student-housing-or-parsonages.

6  
7 If-a-municipality-levies-service-charges-in-any-of-the  
8 classifications-of-this-subparagraph,--that-municipality  
9 shall-levy-these-service-charges-to-all-institutions  
10 and---organizations---owning---property---in---that  
11 classification.

12  
13 (3) With respect to the determination of service  
14 charges, appeals shall must be made in accordance with  
15 an appeals process to be provided for by municipal  
16 ordinance. Appeals concerning the assessed value of  
17 any property against which a service charge is levied  
18 must be undertaken in accordance with subchapter VIII.

19  
20 (4) The collection of unpaid service charges shall  
21 must be carried out in the same manner as provided in  
22 Title 38, section 1208.

23  
24 (5) Municipalities shall use the revenues accrued from  
25 service charges to fund,--as-much-as-possible,--the-costs  
26 of---those---services reduce the municipality's tax  
27 commitment as provided in section 709-C.

28  
29 (6) The total service charges levied by a municipality  
30 on any-institution-and-organization-under-this-section  
31 shall-not-exceed-2%--of-the-gross-annual-revenues-of-the  
32 organization,---To-qualify-for---this---limitation---the  
33 institution---or---organization---shall---file---with---the  
34 municipality---an---audit---of---the---revenues---of---the  
35 organization-for-the-year-immediately-prior-to-the-year  
36 which---the---service---charge---is---levied,---The---municipal  
37 officers-shall-abate-the-service-charge-amount-that-is  
38 in-excess-of-2%--of-the-gross-annual-revenues a tax  
39 exempt entity under this section may not exceed the  
40 lesser of 1.5% of the tax exempt entity's annual  
41 receipts or 50% of the amount that would have been  
42 assessed as taxes on the property concerned if it were  
43 not exempt from taxation. To qualify for this  
44 limitation, the tax exempt entity must file with the  
45 municipality a report of the annual receipts of the  
46 entity for the year immediately prior to the year for  
47 which the service charge is levied. The municipal  
48 officers shall abate the service charge amount that is  
49 in excess of the applicable limitation. For the  
50 purposes of this subparagraph, "annual receipts" means

2           any streams of income received in the most recent  
4           fiscal year by the tax exempt entity from any source,  
6           including receipts of goods and services provided at  
8           the exempt property. "Annual receipts" does not  
10           include amounts received by a tax exempt entity in the  
12           form of governmental or corporate grants, private  
          charitable donations, or trust or endowment earnings to  
          the extent all receipts in those categories are  
          actually spent to provide tangible and direct services  
          to those people benefiting from the services provided  
          by the organization.

14           (6-A) A municipality may establish a payment schedule  
          that is annual, semi-annual or quarterly.

16           (7) Municipalities shall adopt any necessary  
18           ordinances to carry out the provisions of this  
          paragraph regarding service charges.

20           (8) Any service charges calculated under this  
22           paragraph must be phased in as follows:

24                   (a) For the tax year commencing April 1, 1998,  
                  the municipality may charge 35% of the total  
                  service charge calculated;

26                   (b) For the tax year commencing on April 1, 1999,  
28                   the municipality may charge 70% of the total  
                  service charge collected; and

30                   (c) For the tax year commencing April 1, 2000,  
32                   and for each tax year after that date, the  
34                   municipality may charge 100% of the total service  
                  charge calculated.

36           ~~An--organization--or--institution--that--desires--to--secure~~  
38           ~~exemption--under--this--section--shall--make--written--application--and~~  
          ~~file--written--proof--of--entitlement--for--each--parcel--to--be~~  
40           ~~considered--on--or--before--the--first--day--of--April--in--the--year--in~~  
          ~~which--the--exemption--is--first--requested--with--the--assessors--of--the~~  
42           ~~municipality--in--which--the--property--would--otherwise--be--taxable.~~  
          ~~If--granted,--the--exemption--continues--in--effect--until--the--assessors~~  
44           ~~determine--that--the--organization--or--institution--is--no--longer~~  
          ~~qualified,--Proof--of--entitlement--must--indicate--the--specific--basis~~  
46           ~~upon--which--exemption--is--claimed.~~

48           Sec. 2. 36 MRSA §652-A is enacted to read:

50           §652-A. Application schedules

2        An organization or institution that desires to secure  
4        exemption under section 652 shall make written application and  
6        file written proof of entitlement for each parcel to be  
8        considered on or before April 1st in the year in which the  
10       exemption is first requested with the assessors of the  
       municipality in which the property would otherwise be taxable and  
       every 3 years after. If granted, the exemption continues in  
       effect until the assessors determine that the organization or  
       institution is no longer qualified. Proof of entitlement must  
       indicate the specific basis upon which exemption is claimed.

12       Any organization or institution that is established as exempt  
14       pursuant to section 652 on or before January 1, 1998, must  
16       reapply for continuing exemption according to the following  
       schedule:

18       1. Exempt for 5 years or less. If exempt status was  
20       conferred for 5 years or less on January 1, 1998, the  
       organization must reapply for continuing exemption on or before  
       April 1, 1998 and every 3 years after.

22       2. Exempt for more than 5 and less than 10 years. If  
24       exempt status was conferred for a period of more than 5 years but  
26       less than 10 years on January 1, 1998, the organization must  
       reapply for continuing exemption on or before April 1, 1999, and  
       every 3 years after.

28       3. Exempt for 10 years or more. If exempt status was  
30       conferred for a period of 10 years or more on January 1, 1998,  
32       the organization must reapply for continuing exemption on or  
       before April 1, 2000 and every 3 years after.

34       **Sec. 3. 36 MRSA c. 105, sub-c. IV-B is enacted to read:**

36                    **SUBCHAPTER IV-B**

38                    **MAINE RESIDENT HOMESTEAD PROPERTY TAX EXEMPTIONS**

40        **§681. Definitions**

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

44        1. Homestead. "Homestead" or "Homestead estate" as the  
46        same meaning as in section 6201, subsection 5.

48        2. Permanent residence. "Permanent residence" means that  
50        place where a person has a true, fixed and permanent home and  
       principal establishment to which, whenever absent, the person has  
       the intention of returning. A person may have only one permanent

2 residence at a time, and once a permanent residence is  
established in another state or country, it is presumed to  
continue until the person shows that a change has occurred.

4  
6 3. Permanent resident. "Permanent resident" means a person  
who has established a permanent residence as defined in  
subsection 2.

8  
10 4. Real estate used and owned as a homestead. "Real estate  
used and owned as a homestead" means real property less any  
portion of that real property used for commercial purposes.

12  
14 §682. Permanent residency; factual determination by municipal  
assessor

16 Establishment of a permanent residence in this State is a  
factual determination to be made initially by the municipal  
18 assessor. Although any one factor is not conclusive of the  
establishment or nonestablishment of permanent residence, the  
20 following are relevant factors that may be considered by the  
municipal assessor in making a determination as to the intent of  
22 a person claiming a homestead exemption to establish a permanent  
residence in this State:

24  
26 1. Formal declarations. Formal declarations of the  
applicant;

28 2. Informal statements. Informal statements of the  
applicant;

30  
32 3. Place of employment. The place of employment of the  
applicant;

34 4. Previous permanent residency. The previous permanent  
residency by the applicant in a state other than this State or in  
36 another country and the date out-of-state residency was  
terminated;

38  
40 5. Voter registration. The place where the applicant is  
registered to vote;

42 6. Driver's license. The place of issuance of a driver's  
license to the applicant;

44  
46 7. License tag. The place of issuance of a license tag on  
any motor vehicle owned by the applicant;

48 8. State of Maine income tax returns. The residence  
claimed on the State of Maine income tax return filed by the  
50 applicant;

2        9. Maine motor vehicle excise tax. The place of payment of  
the motor vehicle excise tax of the applicant; or

4        10. Military residency. The applicant's residency as a  
6 matter of record with any branch of the Armed Forces of the  
United States.

8        **§683. Exemption of homesteads**

10        1. Exemption. Twenty thousand dollars of the just value of  
12 the homestead estates of residents in this State, except for  
assessments for special benefits, is exempt from taxation.

14        2. Exempt value adjustments. Beginning in the year 2002  
16 and every 3 years after, the State Tax Assessor shall increase  
the dollar amount of the homestead exemption by the same  
18 cumulative percentage that the equalized median value of all  
homestead estates within the State, as determined by the State  
20 Tax Assessor, has increased over the previous 3-year period. The  
State Tax Assessor shall certify the amount of the increase on or  
22 before April 1st to the municipal assessors of each municipality.

24        3. Applicability. The exemption provided in this section  
applies only to those parcels classified and assessed as  
26 owner-occupied residential property or only to the portion of  
property classified and assessed as owner-occupied residential  
28 property.

30        4. Exemptions in addition to other exemptions. The  
exemptions provided in sections 653 and 654 are in addition to  
32 the homestead exemption.

34        5. Determination of local assessed value. In determining  
the local assessed value of the homestead exemption, the  
36 municipal assessor shall multiply the value of the exemption as  
provided by this section by the ratio of current just value upon  
38 which the assessment is based as furnished in the municipal  
assessor's annual return to the State Tax Assessor.

40        **§684. Forms; application**

42        1. Forms. The Bureau of Taxation shall furnish to the  
44 municipal assessor of each municipality a sufficient number of  
printed forms to be filed by taxpayers claiming to be entitled to  
46 the exemption and shall prescribe the content of those forms by  
rule.

48        2. False filing. Any person who knowingly gives false  
50 information for the purpose of claiming a homestead exemption as

provided for in this chapter commits a Class E crime. Any person who claims a homestead exemption under this chapter who is the recipient of a homestead exemption in another state for the tax year in question or any period of the tax year in question commits a Class E crime.

**3. Reapplication.** Any municipality, at the request of the municipal assessor and by majority vote of its governing body, may waive the requirement that an annual application be made for exemption for property within the municipality after an initial application is made and exemption granted, except that reapplication is required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner or when the applicant for the homestead exemption ceases to use the property as a homestead. In its deliberations on whether to waive the annual application requirement, the governing body shall consider the possibility of fraudulent homestead exemption claims that may occur due to the waiver of the annual application requirement. The owner of any property granted an exemption who is not required to file an annual application shall notify the municipal assessor promptly when the use of the property changes so as to change the exempt status of the property. Any property owner who fails to notify the municipal assessor is subject to the provisions of section 688. This subsection applies only to exemptions requested pursuant to this section.

#### **§685. Homestead exemptions; approval; refusal; hearings**

The municipal assessors of the municipalities of the State and the chief assessors of the primary assessing areas, as soon as practicable after April 1st of each tax year, shall consider carefully all new applications for exemption under this subchapter that have been filed on or before April 1st of that year and, if the claim is found to be in accordance with law, shall identify the exemption granted to each taxpayer in the municipal valuation. If, after due consideration, the municipal assessor finds that the applicant is not entitled under law to the exemption, the municipal assessor shall immediately make out a notice of disapproval that includes the reasons for disapproval. A copy of this notice must be served on the applicant by the municipal assessor either by personal delivery or by certified mail. Taxpayers may appeal the determination of the local assessors under the provisions of subchapter VIII.

With respect to exemptions previously granted, the municipal assessor shall remove from the homestead exemption rolls an owner who no longer qualifies for the exemption. Such an owner must be notified of removal in a written notice sent by regular mail to the owner's last known address. The notice must state the reason



or reasons for removal and inform the owner that the owner has 30 days to appeal the assessor's decision to the municipal board of assessment review or, where no such board exists, to the county commissioners.

#### **§686. State reimbursement**

Municipalities granting exemptions under this section have a valid claim against the State and are entitled to recover 100% of the taxes lost by reason of these exemptions. The reimbursement required by this section must be initiated by submission of the municipal valuation return, pursuant to section 383, which must include a declaration of the value of exempt property in that municipality established pursuant to section 683. The municipal valuation return is deemed a claim for all reimbursement to which the municipality is entitled by this section. The Treasurer of State shall pay to the municipalities the appropriate reimbursement by December 15th of that tax year or within 30 days of receiving the municipal valuation return, whichever comes later.

#### **§687. Contingent; repeal**

If for any reason the revenues necessary to fully fund the municipal reimbursement required by section 686 are not appropriated by the Legislature and as a result one or more municipalities are not fully reimbursed for all property tax revenues lost by implementation of this subchapter, for the next tax year following such a reimbursement failure, if the failure is verified by the State Tax Assessor, the homestead exemption program established by this subchapter is repealed.

#### **§688. Lien imposed on property of person claiming exemption although not permanent resident**

1. **Notification of payment and interest due.** When it is determined that any person has improperly received a homestead exemption pursuant to section 683 for any year or years within 10 years immediately prior to the date of determination, the State Tax Assessor shall notify that person by certified mail that the property is subject to the payment of all taxes previously found exempt, plus interest as prescribed under section 505, subsection 4.

2. **Recording of tax lien certificate.** After the expiration of 60 days from the date of notification, and within 30 days, the State Tax Assessor shall record in the registry of deeds of the county where the real estate is situated a tax lien certificate signed by the State Tax Assessor, or bearing the assessor's facsimile signature, setting forth the amount of improperly

2 exempted tax, a description of the real estate on which the tax  
3 is assessed and an allegation that a lien is claimed on the real  
4 estate to secure payment of the tax, that a demand for payment of  
5 the tax has been made in accordance with this section and that  
6 the tax remains unpaid. When the undivided real estate of a  
7 deceased person has been assessed to the deceased person's heirs  
8 or decedents without designating any of them by name, it is  
9 sufficient to record in the registry a tax lien certificate in  
10 the name of the heirs or decedents without designating any of  
11 them by name.

12 3. Delivery to each record holder of mortgage. At the time  
13 of the recording of the tax lien certificate in the registry of  
14 deeds, the State Tax Assessor shall send by certified mail,  
15 return receipt requested, to each record holder of a mortgage on  
16 the real estate, to the mortgagor's last known address, a true  
17 copy of the tax lien certificate. The cost paid by the taxpayer  
18 is \$13 in addition to the fees for recording and discharging the  
19 lien as established by Title 33, section 751. Upon redemption,  
20 the State Tax Assessor shall prepare and record a discharge of  
21 the tax lien mortgage. The lien described in section 552 is the  
22 basis of this tax lien mortgage procedure.

24 4. Creation of mortgage to the State. The filing of the  
25 tax lien certificate in the registry of deeds in accordance with  
26 this section creates a mortgage on the real estate to the State  
27 and has priority over all other mortgages, except municipal tax  
28 lien mortgages, liens, attachments and encumbrances of any  
29 nature. The filing of the tax lien certificate gives to the  
30 State all the rights to a mortgage, except that the mortgagee  
31 does not have the right of possession of the real estate until  
32 the right of redemption has expired.

34 5. Payments during redemption period. Payments accepted  
35 during the redemption period do not interrupt or extend the  
36 redemption period or affect the foreclosure procedures.

38 6. Foreclosure. If the mortgage, with interest and costs,  
39 is not paid within 12 months of the date on which the certificate  
40 was filed in the registry of deeds as provided in this section,  
41 the mortgage is considered foreclosed and the right of redemption  
42 expired.

44 7. Inventory. The filing of a tax lien certificate in the  
45 registry of deeds is sufficient notice of the existence of the  
46 mortgage. The State Tax Assessor, when the State acquires title  
47 to any real estate, shall cause an inventory to be made of that  
48 real estate. The inventory must contain a description of the  
49 real estate, the amount of accrued taxes by years and any  
50 information necessary in the administration and supervision of

the real estate. The State Tax Assessor shall report annually to the Legislature no later than 15 days after the Legislature convenes. The report must contain a copy of the inventory of real estate then owned by the State and any recommendations the State Tax Assessor may make regarding the disposition of the real estate.

**8. Sale of foreclosed property.** The State Tax Assessor, after authorization by the Legislature, shall sell and convey any real estate acquired pursuant to this section. The State Tax Assessor, for all sales, except sales to the former owners of the real estate, shall give public notice of the proposal to sell the real estate, ask for competitive bids and sell to the highest bidder and the State Tax Assessor may reject any bid. No sales of the real estate may be made by the State Tax Assessor except by authorization of the Legislature.

The supervision, administration, utilization and vindication of the right of the State in any real estate acquired pursuant to this section are vested in the State Tax Assessor until the title is conveyed or otherwise disposed of by the Legislature.

**9. Satisfaction of claims.** Following the sale by the State Tax Assessor of real property acquired through the tax lien certificate procedure outlined in this subchapter, all claims of the State evolving from the homestead property tax exemption are satisfied, as well as any tax delinquencies relative to the property in question in the municipality where located. The residual amount resulting from the sale of the property must be returned to the former owner or to the owner's heirs.

**Sec. 4. 36 MRSA §709-C** is enacted to read:

**§709-C. Service charges**

The assessors shall deduct from the total amount required to be assessed an amount equal to the amount of service charges to be levied under section 652 for the municipal fiscal year.

**Sec. 5. 36 MRSA §1752, sub-§1-E** is enacted to read:

**1-E. Construction services.** "Construction services" are services provided in this State to the general public by a person engaged in the activity of building. The activity of building pertains to any building, highway, road, railroad, excavation, manufactured building or other structure and involves any act of construction, alteration, repair, substantial maintenance, addition to, subtraction from, improvement, movement or demolition, or the construction of scaffolding or other structures or work related to the activity of building.

2 "Construction services" include, but are not limited to, the  
3 services typically provided by building contractors, road and  
4 driveway contractors, concrete contractors, excavators,  
5 carpenters, masons, electricians, plumbers, roofers, siding  
6 applicators and house painters.

7 **Sec. 6. 36 MRSA §1752, sub-§5-C** is enacted to read:

8 **5-C. Legal services.** "Legal services" are professional  
9 services provided by an attorney-at-law and that attorney's  
10 support staff.

11 **Sec. 7. 36 MRSA §1752, sub-§11, ¶A,** as enacted by PL 1989, c.  
12 871, §5, is amended to read:

13 A. "Retail sale" includes:

14 (1) Conditional sales, installment lease sales and any  
15 other transfer of tangible personal property when the  
16 title is retained as security for the payment of the  
17 purchase price and is intended to be transferred later;  
18 and

19 (2) Sale of products for internal human consumption to  
20 a person for resale through coin-operated vending  
21 machines when sold to a retailer whose gross receipts  
22 from the retail sale of tangible personal property  
23 derived through sales from vending machines are more  
24 than 50% of the retailer's gross receipts. The tax  
25 must be paid by the retailer to the State; and

26 (3) The value of any taxable service defined under  
27 subsection 17-A to the extent the taxable service is  
28 provided in this State and only if the relationship  
29 between the provider and the recipient of the taxable  
30 service is not an employment relationship with respect  
31 to the provision of the service.

32 **Sec. 8. 36 MRSA §1752, sub-§14, ¶A,** as enacted by PL 1987, c.  
33 497, §24, is amended to read:

34 A. "Sale price" includes:

35 (1) Services which that are a part of a retail sale;  
36 and

37 (2) All receipts, cash, credits and property of any  
38 kind or nature and any amount for which credit is  
39 allowed by the seller to the purchaser, without any  
40 deduction on account of the cost of the property sold,  
41

2 the cost of the materials used, labor or service cost,  
interest paid, losses or any other expenses.

4 When a taxable service is provided for a fee that is  
6 contingent on an ultimate award, settlement or similar  
8 financial result and the fee is a certain percentage of that  
ultimate award or settlement, the fee that is ultimately  
provided is deemed to include both the sale price and the  
applicable tax.

10  
12 **Sec. 9. 36 MRSA §1752, sub-§14, ¶B,** as amended by PL 1989, c.  
871, §6, is further amended to read:

14 B. "Sale price" does not include:

16 (1) Discounts allowed and taken on sales;

18 (2) Allowances in cash or by credit made upon the  
return of merchandise or with respect to fabrication  
20 services pursuant to warranty;

22 (3) The price of property returned or fabrication  
services rejected by customers, when the full price is  
24 refunded either in cash or by credit;

26 (4) The price received for labor or services used in  
installing or applying or repairing the property sold  
28 or fabricated, if separately charged or stated;

30 (5) Any amount charged or collected, in lieu of a  
gratuity or tip, as a specifically stated service  
32 charge, when that amount is to be disbursed by a hotel,  
motel, restaurant or other eating establishment to its  
34 employees as wages;

36 (6) The amount of any tax imposed by the United States  
on or with respect to retail sales, whether imposed  
38 upon the retailer or the consumer, except any  
manufacturers', importers', alcohol or tobacco excise  
40 tax;

42 (7) The cost of transportation from the retailer's  
place of business or other point from which shipment is  
44 made directly to the purchaser, provided that those  
charges are separately stated and the transportation  
46 occurs by means of common carrier, contract carrier or  
the United States mail;

48 (8) The fee imposed by Title 10, section 1169,  
50 subsection 11;

2 (9) The fee imposed by section 4832, subsection 1; or

4 (10) The lead-acid battery deposit imposed by Title  
38, section 1604, subsection 2-B; or

6  
8 (11) With respect to any fee for a taxable service,  
10 any portion of that fee representing direct  
12 reimbursement charged to the recipient of the taxable  
14 service for commodities or services previously paid by  
the person providing the service, as long as any tax on  
those commodities or services, if any tax applies, has  
been previously paid.

16 **Sec. 10. 36 MRSA §1752, sub-§17-A, ¶G,** as amended by PL 1993,  
c. 701, §4, is further amended to read:

18 G. Rental of video tapes and video equipment; and

20 **Sec. 11. 36 MRSA §1752, sub-§17-A, ¶H,** as amended by PL 1995,  
c. 281, §14 and affected by §42, is further amended to read:

22 H. Rental or lease of an automobile; and

24 **Sec. 12. 36 MRSA §1752, sub-§17-A, ¶¶I to L** are enacted to read:

26 I. Amusement and recreational services. For the purposes  
28 of this paragraph, "amusement and recreational services"  
30 include all services provided in this State to the general  
32 public or through private clubs that involve exchanging a  
right of access to any amusement, recreational, exhibitve,  
cultural or athletic activity for any user fee, price of  
admission, gate fee or equivalent form of remuneration;

34 J. Personal services. For the purposes of this paragraph,  
36 "personal services" are services provided in this State to  
38 the general public by a person of specialized skill, talent  
40 or experience. Personal services characteristically provide  
42 attendant care to the recipient of the service; or care,  
maintenance or repair services to the recipient's real or  
personal property. "Personal services" include, but are not  
limited to, such services as:

44 (1) Personal attendant services, including, but not  
46 limited to, barbering, beautician, manicure, tattooing,  
body piercing, massage, reflexology, tanning and  
exercise or fitness services;

48 (2) Laundering and dry cleaning services;

- 2           (3) Painting, papering and interior decoration  
          services;
- 4           (4) Jewelry, camera, watch and gun cleaning and repair  
6           services;
- 8           (5) Pet grooming and kennel services;
- 10          (6) Musical instrument tuning and repair services;
- 12          (7) Swimming pool installation, repair, cleaning and  
14          maintenance services;
- 16          (8) Radio, television and sound system repair services;
- 18          (9) Furniture, rug and upholstery cleaning and repair  
          services;
- 20          (10) Locksmith services;
- 22          (11) Personal property and self-storage services,  
24          including storage and mooring services for  
          noncommercial watercraft;
- 26          (12) Services related to the washing, cleaning,  
28          polishing, lubrication, painting or detailing of motor  
          vehicles;
- 30          (13) Disinfection and pest extermination or control  
          services;
- 32          (14) Landscaping, lawn care, grounds maintenance and  
34          tree removal services;
- 36          (15) Photography and photographic studio services;
- 38          (16) Printing, imprinting, painting or lettering  
40          tangible personal property for persons who furnish  
          tangible personal property for that service;
- 42          (17) Any fabrication, printing or production of  
44          tangible personal property by special order when  
          tangible personal property is not intended for resale;
- 46          (18) Repair services for noncommercial watercraft;
- 48          (19) Dance instruction and dance studio services;
- 50          (20) Dating, escort and personal introduction services;

- 2           (21) Flower or balloon delivery services and services  
4           similarly provided as a demonstration of personal  
            appreciation;
- 6           (22) Limousine services;
- 8           (23) Taxidermy services;
- 10          (24) Flight instruction services; and
- 12          (25) Antique or art auctioning or dealership services.

14          "Personal services" do not include construction services;

16          K. Business services. For the purposes of this paragraph,  
18          "business services" are any services provided in this State  
20          to business consumers except those services that constitute  
22          an integral or inseparable component of any activity of the  
24          business consumer involving the manufacturing, fabrication,  
            processing or manipulation of tangible personal property  
            such that the business service is targeted to the unique  
            needs of the business consumer and nontransferable across a  
            range of business activities. "Business services" include,  
            but are not limited to, such services as:

- 26                   (1) Motor vehicle parking, other than metered space,  
28                   in a lot or garage having 30 or more spaces;
- 30                   (2) The service of leasing or renting tangible  
32                   personal property;
- 34                   (3) Employment agency services of any kind, except  
36                   when the services are provided to an employer whose  
                    place of business is located in another state;
- 38                   (4) Credit collection or credit reporting services;
- 40                   (5) Secretarial, stenographic or editing services;
- 42                   (6) Building maintenance, janitorial or cleaning  
                    services, including window cleaning services;
- 44                   (7) Office moving and installation services;
- 46                   (8) Document and record preservation and storage  
48                   services;
- 50                   (9) Telephone answering services;



- 2                   (10) Private investigation, patrol, building alarm and  
                  security and armored car services;
- 4                   (11) Management consulting, advertising, information  
                  and public relations services;
- 6                   (12) Tax preparation services;
- 8                   (13) Financial accounting, financial management and  
10                  investment counseling services;
- 12                  (14) Office and business machine repair services;
- 14                  (15) Sign construction and installation services;
- 16                  (16) Food catering and institutional food preparation  
                  and delivery services; and
- 18                  (17) Photocopying and document preparation and  
20                  delivery services.

22                  "Business services" do not include construction services; and

24                  L. Licensed professional services. For the purposes of  
                  this paragraph, "licensed professional services" are  
26                  services provided in this State to the general public by  
                  persons holding a certificate, license, registration or  
28                  other formal permission to perform, provide or practice the  
                  service in this State, and that certificate, license,  
30                  registration or other formal permission is  
                  characteristically granted only when the practitioner has  
32                  obtained advanced education or specialized training.  
                  Professional services include, but are not limited to, such  
34                  services as:

- 36                  (1) Lobbying services;
- 38                  (2) Architectural and design consulting services;
- 40                  (3) Legal services;
- 42                  (4) Surveying and professional engineering services,  
                  including geological and hydrogeological consulting  
44                  services, and consulting services related to the  
                  science of soil analysis and subsurface engineering;
- 46                  (5) Arbitration services;
- 48                  (6) Appraisal services; and
- 50

(7) Accounting, financial investment and financial management services.

"Licensed professional services" do not include those services provided by health care practitioners.

**Sec. 13. 36 MRSA §1760, sub-§14 is repealed.**

**Sec. 14. 36 MRSA §1760, sub-§24** is amended to read:

**24. Funeral services.** Sales of basic funeral services, not exceeding \$2,500 in value, that are provided for the disposition or interment of a deceased human body.

**Sec. 15. 36 MRSA §1760, sub-§34,** as repealed and replaced by PL 1981, c. 163, §4, is repealed.

**Sec. 16. 36 MRSA §1760, sub-§78 is enacted to read:**

**78. Certain legal services.** Legal services provided on a pro bono basis, all legal services provided by court appointment and all legal services provided to a client without substantial assets of any kind whose household income from all sources is less than 200% of the federal poverty level during the period 6 months prior to the initiation of the legal service or during the period 6 months subsequent to the initiation of the legal service as such a determination can be reasonably calculated, whichever analysis yields the lesser income.

**Sec. 17. Annual review.** The joint standing committee of the Legislature having jurisdiction over taxation matters shall annually monitor all additional sales tax revenues collected, as well as the total annual cost of reimbursing the municipalities of the State, as provided for in this Act. By the first day of January 1999 and every year thereafter, the committee shall report to the full Legislature on the amount collected and the full amount of reimbursement for the last fiscal year. Any such revenue collections in excess of the reimbursement obligation must be used to reduce the tax burden on citizens of the State and the joint standing committee having jurisdiction over taxation matters is authorized to report out legislation to accomplish the reduction in the tax burden.

**Sec. 18. Referendum for ratification; submission at statewide election; form of question; effective date.** This Act must be submitted to the legal voters of the State of Maine at a statewide election held on the Tuesday following the first Monday of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations

to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor passage of legislation to comprehensively realign the tax structure of the State?"

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal votes are cast in favor of the Act, the Governor shall proclaim that fact without delay, and the Act takes effect 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

## SUMMARY

The bill makes the following changes to the tax laws.

1. It imposes stricter standards that must be met in order for an organization to qualify for an exemption as a benevolent and charitable institution, so that only those organizations whose primary purpose and actual function is predominantly charitable in nature qualify for an exemption.

2. It expands the existing service charges statute in the following ways: Service charges are applied to all improved exempt property except churches, federal property and municipal and quasi-municipal property; the service charge, as is the case with existing law, is the equivalent of the full mil rate minus any portion of the mil rate attributable to education or welfare costs, except that municipal costs for services that are financed by user fees are not attributable to the special mil rate; service charges are phased in over a 3-year period; and the service charge may not exceed the lesser of 1.5% of the organization's annual receipts or 50% of the amount that would have been assessed as taxes if the organization were not exempt.

3. It provides a schedule for all existing properties currently exempt under the law to reapply for eligibility under

2 the new standards of eligibility in a phased-in manner over the  
next 3-year period.

4 4. It specifies that revenues derived from service charges  
must be used to reduce the municipal assessment in the same  
6 fashion as funds received under the municipal revenue-sharing  
program.

8 5. It creates the Maine resident homestead property tax  
10 exemption. Under this exemption, a person who qualifies as a  
permanent resident and who is the owner of property that is used  
12 for that person's permanent residence is entitled to a \$20,000  
exemption on a portion of the just value of that residence. The  
14 amount of the exemption must be adjusted by the State Tax  
Assessor every 3 years to reflect increases in the equalized  
16 median value of homestead property, statewide, over time. An  
application process and an appeals process is established to  
18 administer the homestead exemption. The bill provides that  
municipalities are entitled to 100% reimbursement for all  
20 property tax revenue that is lost to the homestead exemption.  
The State's failure to provide 100% reimbursement results in the  
22 repeal of the homestead exemption.

24 6. It expands the definition of "taxable services" for  
purposes of the imposition of sales tax to include amusement and  
26 recreational, business, personal and professional services.  
Under this bill, the provision of those services is subject to  
28 the 6% sales tax. The term "construction services" is also  
defined for the purpose of distinguishing nontaxable construction  
30 services from taxable personal or business services.

32 7. It eliminates the sales tax exemption for sales of  
short-term publications. It also limits the exemption on funeral  
34 services and repeals the exemption on coin-operated vending  
machine sales. It also amends the law by creating an exemption  
36 for certain legal services provided to low-income clients.

38 8. It requires the joint standing committee of the  
Legislature having jurisdiction over taxation matters to annually  
40 review the additional sales tax revenue collected under this Act,  
as well as the annual cost of reimbursing municipalities as  
42 required by this Act. Any such revenue collected in excess of  
the reimbursement obligation must be used to reduce the tax  
44 burden on Maine citizens.

46 The bill also requires that this legislation be submitted to  
the voters for ratification by statewide referendum.