

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)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1375

H.P. 1026

House of Representatives, March 5, 2001

**An Act to Establish Minimum Standards of Eligibility for the Property
Tax Exemption for Charitable Institutions.**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative GOOLEY of Farmington.
Cosponsored by Senator LEMONT of York and
Representatives: COTE of Lewiston, CRESSEY of Baldwin, DAVIS of Falmouth, GAGNE
of Buckfield, McNEIL of Rockland, MURPHY of Berwick, Senators: CATHCART of
Penobscot, MILLS of Somerset.

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

2
4 **Sec. 1. 36 MRSA §652, sub-§1, ¶A**, as amended by PL 1997, c.
668, §20, is further amended to read:

6 A. The real estate and personal property owned and occupied
8 or used solely for their own purposes by benevolent and
charitable institutions incorporated by this State. Such an
10 institution may not be deprived of the right of exemption by
reason of the source from which its funds are derived or by
12 reason of limitation in the classes of persons for whose
benefit such those funds are applied.

14 ~~For the purposes of this paragraph, "benevolent and~~
16 ~~charitable institutions" include, but are not limited to,~~
~~nonprofit nursing homes and nonprofit boarding homes and~~
18 ~~boarding care facilities licensed by the Department of Human~~
~~Services pursuant to Title 22, chapter 1665 or its~~
20 ~~successor, nonprofit community mental health service~~
~~facilities licensed by the Commissioner of Mental Health,~~
22 ~~Mental Retardation and Substance Abuse Services pursuant to~~
~~Title 34-B, chapter 3 and nonprofit child care centers~~
24 ~~incorporated by this State as benevolent and charitable~~
~~institutions. For the purposes of this paragraph,~~
26 ~~"nonprofit" means a facility exempt from taxation under~~
~~Section 501(e)(3) of the Code;~~

28 (1) To qualify for the tax exemption provided by this
30 paragraph, an institution must donate or render
32 gratuitously a substantial portion of its services.
This subparagraph is satisfied if the institution
benefits the community by actually providing any of the
following:

34 (a) Goods or services to all who seek them
36 without regard to their ability to pay for what
38 they receive, if all of the following apply:

40 (i) The institution has a written policy to
that effect;

42 (ii) The institution has published and
44 posted that policy in a reasonable manner; and

46 (iii) The institution provides uncompensated
48 goods or services equal to at least 75% of
the institution's net operating income and at
least 3% of the institution's total operating
50 expenses;

2 (b) Goods and services for fees that are based
3 upon the recipient's ability to pay for those
4 goods and services. The institution meets the
5 requirements of this division if the municipality
6 implements a written policy and written schedule
7 of fees in which:

8 (i) The institution consistently applies a
9 formula to all individuals requesting
10 consideration of reduced fees that is in part
11 based on individual or family income;

12 (ii) At least 20% of the individuals
13 receiving goods or services from the
14 institution do not pay a fee or pay a fee
15 that is substantially lower than the cost of
16 the goods or services provided by the
17 institution;

18 (iii) At least 10% of the individuals
19 receiving goods or services from the
20 institution, not including the individuals
21 described in subdivision (ii), receive a
22 reduction in fees of at least 10% of the cost
23 of the goods or services provided to them; and

24 (iv) Individuals receiving goods or services
25 from the institution do not pay a fee that is
26 equal to or greater than the cost of the
27 goods or services provided to those
28 individuals or the goods or services provided
29 to the individuals described in subdivision
30 (ii) are comparable in quality and quantity
31 to the goods or services provided to those
32 individuals who pay a fee that is equal to or
33 greater than the cost of the goods or
34 services provided to them;

35 (c) Wholly gratuitous goods or services to at
36 least 5% of those receiving goods or services
37 similar to those goods or services provided in
38 division (b) from the institution;

39 (d) Uncompensated goods or services that in the
40 aggregate are equal to at least 5% of the
41 institution's costs of providing goods or
42 services; or

43 (e) Goods or services at no fee or reduced fees
44 to nonprofit agencies or goods and services to
45 nonprofit agencies or goods and services to

2 individuals eligible for government programs, if
3 any of the following applies:

4 (i) The nonprofit agency is exempt from
5 income taxation pursuant to Section 501(c)(3)
6 of the Code and is licensed by the Department
7 of Human Services or the Department of Mental
8 Health, Mental Retardation and Substance
9 Abuse Services as a nonprofit nursing home,
10 nonprofit boarding home, nonprofit boarding
11 care facility or nonprofit child care center
12 pursuant to Title 22, chapter 1665 and Title
13 34-B, chapter 3;

14 (ii) The nonprofit agency receives 75% or
15 more of its gross operating revenue from
16 grants or fee-for-service payments by
17 government agencies and the aggregate amount
18 of the fee-for-service payments from
19 government agencies does not exceed 95% of
20 the nonprofit agency's costs of providing
21 goods or services to the individuals for whom
22 the fee-for-service payments are made; or

23 (iii) The nonprofit agency provides goods or
24 services to individuals with mental
25 retardation, to individuals who need mental
26 health services or to members of such an
27 individual's family or guardian in support of
28 those goods or services or to individuals who
29 are dependent, neglected or delinquent
30 children, as long as the institution performs
31 duties that would otherwise be the
32 responsibility of government and the
33 nonprofit agency is restricted in its ability
34 to retain revenue over expenses or voluntary
35 contributions by any one of the following
36 statutes or regulations or by contractual
37 limitations with any state agency: the
38 Social Security Act, Sections 1905(d) and
39 1915(c); 42 Code of Federal Regulations,
40 440.150 relating to intermediate care
41 facilities services; or 42 Code of Federal
42 Regulations, Part 483, Subchapter I, relating
43 to conditions of participation for
44 intermediate care facilities for the mentally
45 retarded.

2 For purposes of this division, "nonprofit agency"
3 means an entity exempt from taxation under Section
4 501(c)(3) of the Code.

6 (2) An institution may elect to average the applicable
7 data for its 5 most recently completed fiscal years for
8 the purposes of calculating any formula to meet any
9 quantitative standard in subparagraph (1).

10 (3) As used in this paragraph, unless the context
11 otherwise indicates, the following terms have the
12 following meanings.

14 (a) "Net operating income" means the amount of
15 funds remaining after all operating expenses
16 related to the provision of goods or services
17 associated with an institution's charitable
18 purpose are deducted from payments received for
19 providing those goods or services, as determined
20 in accordance with generally accepted accounting
21 principles applicable to the institution.

22 (b) "Total operating expenses" means the costs
23 related to the provision of goods or services
24 associated with an institution's charitable
25 purpose, as determined in accordance with
26 generally accepted accounting principles
27 applicable to the institution.

28 (c) "Uncompensated goods or services" means the
29 following:

30 (i) The full cost of all goods and services
31 provided by an institution for which the
32 institution has not received monetary
33 compensation or the difference between the
34 full cost and any lesser fee received for the
35 goods and services, including the cost of the
36 goods or services provided to individuals
37 unable to pay;

38 (ii) The difference between the full cost of
39 education and research programs provided by
40 or participated in by an institution and the
41 payments made to the institution to support
42 the education and research programs;

43 (iii) The difference between the full cost
44 of providing the goods or services and the
45 payments made to the institution to support
46 the education and research programs;

2 payment made to an institution under any
3 government program, including goods or
4 services provided to individuals covered by
5 Medicare or Medicaid;

6 (iv) The difference between the full cost of
7 the community services that an institution
8 provides or participates in and the payment
9 made to the institution to support those
10 community services;

11 (v) The reasonable value of any money,
12 property, goods or services donated by a
13 primary donor to an institution or the
14 reasonable value of the net donation made by
15 a secondary donor to a primary donor. As
16 used in this subdivision, "net donation"
17 means, in the case of a donation of money,
18 property, identical goods or services made by
19 a secondary donor, the difference between the
20 value of the donation made by the secondary
21 donor and the value of the donation made by
22 the primary donor, as long as the value is
23 positive; "primary donor" means an entity
24 that makes a donation of money, property,
25 goods or services to an institution of purely
26 public charity; and "secondary donor" means
27 an entity that receives a donation of any
28 money, property, goods or services from a
29 primary donor and then makes a donation back
30 to that primary donor within 3 years of
31 having received such a donation;
32

33 (vi) The reasonable value of volunteer
34 assistance donated by individuals who are
35 involved or assist in the provision of goods
36 or services by an institution. The
37 reasonable value of volunteer assistance,
38 computed on an hourly basis, may not exceed
39 the statewide average weekly wage as
40 calculated by the Department of Labor, Bureau
41 of Labor Standards; and
42

43 (vii) The cost of goods or services provided
44 by an institution licensed by the Department
45 of Human Services or the Department of Mental
46 Health, Mental Retardation and Substance
47 Abuse Services to individuals who are unable
48 to pay, as long as reasonable and customary

2 collection efforts have been made by the
3 institution.

4
5 **SUMMARY**

6
7 This bill provides a property tax exemption to a nonprofit
8 benevolent and charitable institution only if it donates or
9 renders gratuitously a substantial portion of its services. The
10 charitable organization can meet that standard in one of 5 ways.
11 The 5 alternative ways to meet the primary standard are:

12
13 1. The institution must provide goods and services to all
14 who seek them without regard to ability to pay;

15
16 2. The institution must provide goods and services for fees
17 that are based on the recipients' ability to pay;

18
19 3. The institution must provide wholly gratuitous goods and
20 services to least 5% of those receiving similar goods and
21 services from the institution;

22
23 4. The institution must provide uncompensated goods or
24 services that in the aggregate are equal to at least 5% of the
25 institution's cost of providing goods or services; or

26
27 5. The institution must provide goods or services at no fee
28 or a reduced fee to nonprofit agencies or individuals eligible
for government programs.