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TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 448, L.D. 590, Bill, “An Act To Require Review of Certain Changes to Sales Tax Policy Application or Practice prior to Implementation”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 36 MRSA §141, sub-§4 is enacted to read:

4. Audit assessment limitation. Notwithstanding the other provisions of this Title, after an audit of a taxpayer, the assessor may assess additional sales and use taxes against the taxpayer only if the law imposing the tax had been in effect for more than 90 days when the tax was first due and the assessor determines that the nonpayment or underpayment of taxes was the result of:

A. A taxpayer's intentional disregard of the sales and use tax law or a taxpayer's fraud with the intent to evade tax liability;

B. A mathematical error in the calculation of taxes paid or owed by the taxpayer; or

C. An underpayment or nonpayment of taxes when at least a majority of taxpayers currently pay taxes on the same types of sales or uses or the taxpayer has previously demonstrated awareness of the obligation to pay the tax.

For the purpose of this subsection, "additional sales and use taxes" means taxes assessed on sales or uses that have not been previously assessed against the taxpayer for the same types of sales or uses.

If the assessor determines that a tax has not been paid or has been underpaid and the assessor is unable to assess additional sales and use taxes, interest or penalties because none of the conditions described in paragraphs A to C have been met, the assessor may submit draft legislation to the joint standing committee of the Legislature having jurisdiction over taxation matters or propose major substantive rules to clarify the situations in which the additional sales and use tax is due.'

COMMITTEE AMENDMENT

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SUMMARY

This amendment, which is the minority report, replaces the bill and provides that the State Tax Assessor may assess additional sales and use taxes as a result of nonpayment or underpayment only if the tax has not been recently in effect, if there has been fraud with the intent to evade taxes, if there has been a mathematical error in the calculation of taxes owed, if a majority of taxpayers in similar situations currently pay taxes on the same types of sales or uses or if the taxpayer has previously demonstrated awareness of the obligation to pay the tax. The amendment also authorizes the assessor to submit legislation or to propose major substantive rules to clarify tax obligations.

FISCAL NOTE REQUIRED

(See attached)