1	L.D. 104
2	Date: (Filing No. S-)
3	STATE AND LOCAL GOVERNMENT
4	Reproduced and distributed under the direction of the Secretary of the Senate.
5	STATE OF MAINE
6	SENATE
7	125TH LEGISLATURE
8	FIRST REGULAR SESSION
9 10	COMMITTEE AMENDMENT " "to S.P. 46, L.D. 104, Bill, "An Act Regarding Audits of State Agency Expenditures To Recover Overpayments and Lost Discounts"
11 12	Amend the bill in section 1 in §1622 in subsection 1 by striking out all of paragraph A (page 1, lines 16 to 23 in L.D.) and inserting the following:
13	'A. "Overpayment" means a payment made to a vendor:
14	(1) In duplicate for a single invoice;
15	(2) In the amount of a discount available from the vendor that was not applied;
16	(3) For a late payment penalty that was improperly applied by the vendor;
17 18	(4) For shipping costs that were computed incorrectly or incorrectly included in an invoice;
19 20	(5) For any commodities billed at an amount higher than negotiated in a contract or master agreement;
21	(6) For a state tax imposed pursuant to Title 36; or
22	(7) For a good or service the vendor did not provide.'
23 24	Amend the bill in section 1 in §1622 in subsection 2 by striking out all of the first paragraph (page 1, lines 26 to 35 in L.D.) and inserting the following:
25	2. Recovery audits for certain overpayments. In addition to the audit authorized
26 27	pursuant to section 1621, at least once every 10 years the State Controller shall contract with one or more consultants to conduct recovery audits of payments made by state
28	agencies to vendors. The audits must be designed to detect and recover overpayments to
29	the vendors and to recommend improved state agency accounting operations. A state
30	agency shall provide the recovery audit consultant all information necessary for the audit.
31 32	Amend the bill in section 1 in §1622 in subsection 2 by striking out all of paragraph A (page 1, line 36 and page 2, lines 1 to 9 in L.D.) and inserting the following:

'A. A contract under this subsection:

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2 3 4 5	(1) May provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services; and
6 7 8	(2) To allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 180-day period after the date the payment was made.'
9 10	Amend the bill in section 1 in §1622 by striking out all of subsection 3 (page 2, lines 26 to 32 in L.D.) and inserting the following:
11 12 13 14 15 16 17	'3. Funds recovered and payments to consultants. The State Controller shall deposit all recovered money in a nonlapsing Other Special Revenue Funds audit recovery account within the Department of Administrative and Financial Services. From the audit recovery account, the State Controller shall make payment to a consultant that conducts a recovery audit under subsection 2 according to the negotiated contract and refund amounts in accordance with state or federal regulations. Any amounts not refunded or paid to the consultant must be identified in the report pursuant to subsection 4.'
18 19	Amend the bill in section 1 in §1622 in subsection 4 by striking out all of paragraph B (page 2, lines 40 and 41 and page 3, lines 1 and 2 in L.D.) and inserting the following:
20 21 22 23 24 25 26	'B. Not later than December 1st of each odd-numbered year, the State Controller shall issue a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters summarizing the contents of all reports received from a consultant contracted pursuant to subsection 2 during the state fiscal biennium ending June 30th of that year.'
27 28	Amend the bill in section 1 in \$1622 in subsection 5 in the first line (page 3, line 3 in L.D.) by striking out the following: "shall" and inserting the following: 'may'
29	SUMMARY
30 31	This amendment makes a number of changes to the bill requiring the State Controller to conduct recovery audits.
32 33	1. It adds to the definition of "overpayment" a commodity billed at an amount higher than negotiated in a contract or master agreement.
34	2. It requires recovery audits to be completed at least every 10 years.
35 36	3. It removes the exemption from the audit recovery process of a state agency that has a low proportion of its expenditures made to vendors.
37 38	4. It removes the section that would have allowed an audit recovery consultant to pursue judicial action on behalf of the State.
39	5. It changes the way an audit recovery consultant is paid by setting up an audit

recovery account out of which the consultant is paid.

1	6. It requires the State Controller to report to the Joint Standing Committee or
2	Appropriations and Financial Affairs and the Joint Standing Committee on State and
3	Local Government rather than the Legislature as a whole.
4	7. It makes rulemaking by the State Controller optional rather than mandatory.
5	FISCAL NOTE REQUIRED
5	(See attached)