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Date: (Filing No. S-)

TAXATION

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 279, L.D. 741, Bill, “An Act To Promote Fairness in the Sales Tax Exemption for Vehicles Used in Interstate Commerce”

Amend the bill by striking out all of section 1 and inserting the following:

Sec. 1. 36 MRSA §1760, sub-§41, as amended by PL 2011, c. 501, §1, is further amended to read:

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use by the purchaser as an instrumentality of interstate or foreign commerce" if it includes property without operating authority under 49 Code of Federal Regulations, Section 392.9a. For purposes of this subsection, property is "placed in use by the purchaser as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce.

B. For purposes of this subsection, personal property is not in use by the purchaser as an instrumentality of interstate or foreign commerce when carrying a bona fide payload that both originates and terminates within the State, unless the personal property is a bus with a capacity of at least 47 passengers that is engaged in

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1 transporting within the State a bona fide payload of travelers on an interstate or
2 foreign cruise that originates outside the State and terminates outside the State and
3 the transportation is provided pursuant to a contract between the interstate or foreign
4 cruise provider and the person providing the transportation.

5 C. The exemption provided by this subsection is not limited to instrumentalities
6 otherwise required to be exempt under the United States Constitution.'

7 **SUMMARY**

8 This amendment clarifies that it is the purchaser who places property for use in
9 interstate or foreign commerce.

10 **FISCAL NOTE REQUIRED**

11 **(See attached)**