

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twentieth Legislature  
State of Maine

Volume 3

Second Regular Session (Continued)  
April 2, 2002 to April 24, 2002

Third Confirmation Session  
October 3, 2002

First Special Session  
November 13, 2002

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2003" (EMERGENCY)

H.P. 1746 L.D. 2220

Tabled - November 13, 2002, by Senator **MARTIN** of Aroostook

Pending - **ADOPTION OF COMMITTEE AMENDMENT "A" (H-1126) AS AMENDED BY SENATE AMENDMENTS "B" (S-630); "D" (S-623) AND "F" (S-634)** thereto, in **NON-CONCURRENCE**.

(In House, November 13, 2002, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1126)**.)

(In Senate, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED**, in concurrence. Committee Amendment "A" (H-1126) **READ**. On motion by Senator **ROTUNDO** of Androscoggin, Senate Amendment "B" (S-630) to Committee Amendment "A" (H-1126) **READ** and **ADOPTED**. Under unanimous consent, on motion by Senator **MARTIN** of Aroostook, Senate Amendment "C" (S-631) to Committee Amendment "A" (H-1126) **READ** and on motion by Senator **GOLDTHWAIT** of Hancock, **INDEFINITELY POSTPONED**. On motion by Senator **GAGNON** of Kennebec, Senate Amendment "F" (S-634) to Committee Amendment "A" (H-1126) **READ** and **ADOPTED**. On motion by Senator **GOLDTHWAIT** of Hancock, Senate Amendment "D" (S-632) to Committee Amendment "A" (H-1126) **READ** and **ADOPTED**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Aroostook, Senator Martin.

Senator **MARTIN:** Thank you, Mr. President, ladies and gentlemen of the Senate. I think that it is appropriate that I make a few comments based on where we are at this point. You have before you a proposed amendment, which I will not be offering at the request of the industry. I will say that part of the concern that has been expressed by many is that they believe that the department will do what they say they are going to do. The purpose of the amendment was to put into law the rules that the department is talking about being promulgated to carry out the intent of the legislation, which you have in the budget.

The budget presently contains a requirement that there be a 6% tax on the revenues of nursing homes. There is then an allocation of funds, which is placed in the budget to demonstrate that those funds become available for the various portions that occur within the industry. There is no guarantee that this will occur and if the department were not to promulgate the rules the way that they say that they are going to do it, then it is entirely possible that the tax would then be borne by the industry and by nursing homes in this state without getting the revenue which they claim and apparently has been promised to them. I, personally, and I've expressed this privately and publicly, feel that

throughout the past number of years it has not been unusual for the department to say that they are going to promulgate a rule and then chose to do something else. In the course of that, what it means, assuming that is what then takes place, is that assumptions are made by nursing homes who then do not have the money to carry them out.

I am presently involved in a case, for example, with a nursing home in Aroostook County, not in my hometown, where the money supposedly had been agreed upon to be used for salaries for those employees working on the floor and that it could be given in the form of a bonus for salaries. This was agreed to. Then subsequently, the Bureau of Audit in the department came in and said that this was in violation of what was supposed to have occurred. Then, of course, the nursing home was penalized for money that they had given the CNAs on the floor in the nursing home. I can recall that it was either \$36,000 or \$56,000, somewhere in that range, that they are now being required to pay back to the department. That's of grave concern to me and it leaves me, frankly, a little bit uptight as to whether or not that, in fact, will take place by the department. The industry, basically, is willing to take the assumption that it will occur. Of course, my personal feeling has been all along that if that's the assumption, why should we then do the 6% tax? That's the issue before us. Frankly, I am not going to offer the amendment only because the nursing home industry is willing to take the chance that maybe the department will do what they say.

Committee Amendment "A" (H-1126) as Amended by Senate Amendments "B" (S-630); "D" (S-623) and "F" (S-634) thereto, **ADOPTED**, in **NON-CONCURRENCE**.

Under suspension of the Rules, **READ A SECOND TIME**.

**PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1126) AS AMENDED BY SENATE AMENDMENTS "B" (S-630); "D" (S-623) AND "F" (S-634)** thereto, in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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On motion by Senator **MARTIN** of Aroostook, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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The following proceedings were conducted after 12:01 a.m., Thursday, November 14, 2002.

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Out of order and under suspension of the Rules, the Senate considered the following:

**ENACTORS**