

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

In Senate Chamber
 Wednesday
 February 11, 1987

ORDERED a committee be appointed to receive, sort and count votes for the Office of State Auditor of the State of Maine for the political years 1987 and 1988.

The Chair appointed:

Senators: PEARSON of Penobscot
 BRAUN of Knox
 BERUBE of Androscoggin
 Representatives: CARTER of Winslow
 PARENT of Benton
 CHONKO of Topsham
 FOSTER of Ellsworth

Senate called to Order by the President.

The CHAIRMAN: The members will form in the center aisle and cast their ballots for the two nominees. To supervise the procedures, the Sergeant-at-Arms will have two ballots to give each individual voter.

Prayer by Reverend William Stone of the Calvary Baptist Church in Newport.

REVEREND STONE: We thank the Almighty God for the rich heritage of this good State and for the evidences of Thy favor in the past, for the hand that hath made and preserved us as a nation. We thank Thee for the men and women, who by blood and sweat, toil and tears, forced on the anvil of their sacrifice all that we hold dear. May we never lightly esteem what they obtained at a great price. Grateful for rights and privileges, may we be conscious of duties and obligations. We thank Thee for the inspiration that breathes in the memory of Abraham Lincoln and we pray that something of the spirit that was His may be ours today. Like Him, may we be more concerned that we are on the right side and that Thou art on ours. In our hearts may there be, as there was in His, malice toward none and charity for all. Give to the people of Maine and to their leaders the old fashion simplicity of faith, the old fashion honesty, the old fashion love of country that sought to give rather than to get. We ask Thee not for tasks more suited to our strength, but for strength more suited to our tasks. May we so live that the sacrifices that have been made for our liberty shall not have been in vain. Now, today, we pray for the business of this day and for this Senate, Thy guidance and direction and blessing through our Saviour's name. Amen.

At this point, the Chair recognized in the rear of the House Chamber, State Auditor, Robert Norton. The Chair wished him the best, congratulated him and thanked him for his dedication to public service to the people of the State of Maine.

Reading of the Journal of Yesterday.

Having attended to the duties assigned to the Committee to receive, sort and cast votes, the Chair announced the votes as follows:

Total number of votes cast	173
Necessary for a choice	87
Rodney L. Scribner had	102
James Nicholson had	71

The Chairman declared that Rodney L. Scribner of Augusta duly elected State Auditor for the political years 1987 and 1988 for the State of Maine.

Out of order and under suspension of the Rules, on motion by Senator CLARK of Cumberland, the following Joint Order:

On motion of Senator DUTREMBLE of York, it was ORDERED, that the Secretary notify Rodney L. Scribner of Augusta of his election as State Auditor effective March 27, 1987.

Was Read and Passed.

On motion of Senator CLARK of Cumberland, it was ORDERED, that the Secretary inform the Governor of the State of Maine, John R. McKernan, Jr. of the election of Rodney L. Scribner of Augusta as State Auditor effective March 27, 1987.

Was Read and Passed.

S.P. 133
 ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 17, 1987, at 10 o'clock in the morning.

Which was READ and PASSED.

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

The purpose for which the Joint Convention was assembled having been accomplished, the Chair declared the same dissolved.

The Senate then retired to its Chamber amid the applause of the House, the members rising.

Out of order and under suspension of the Rules, on motion by Senator CLARK of Cumberland, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of the two Branches of the Legislature in the Hall of the House at 10:30, for the purpose of electing a State Auditor to fill a vacancy, effective March 27, 1987.

Which was READ and PASSED.

The Chair appointed the Senator from Cumberland, Senator CLARK, to deliver the message. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator CLARK of Cumberland reported she had delivered the message with which she was charged.

IN THE HOUSE

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Allen of Washington, Adjourned until Tuesday, February 17, 1987, at ten o'clock in the morning pursuant to Joint Order in memory of John P. Theriault.

THE PRESIDENT: The Chair at this time would like to thank the Senator from Cumberland, Senator Clark, and the Senator from York, Senator Dutremble, for presiding in my absence. The Chair expresses his appreciation. Thank you.

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Open Maine Libraries to Modern Information Technology"

H.P. 248 L.D. 321

Comes from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Simplify Certificate of Need Review for Transfers of Ownership of Nursing Home Facilities"

H.P. 253 L.D. 326

Comes from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

Senate at Ease

Senate called to order by the President.

Bill "An Act to Allow Reasonable Attorneys Fees for Court Appointed Counsel on Appeals by the State to any Federal Court"

H.P. 249 L.D. 322

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Wording of Initiative and People's Veto Referendum Questions"

H.P. 251 L.D. 324

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

On motion by Senator DUTREMBLE of York, Tabled Unassigned, pending REFERENCE.

RESOLUTION MAKING APPLICATION TO CONGRESS CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE A BALANCED FEDERAL BUDGET

H.P. 250 L.D. 323

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

On motion by Senator DUTREMBLE of York, Tabled 1 Legislative Day, pending REFERENCE.

Bill "An Act to Double the Property Tax Exemption for the Blind and Veterans"

H.P. 252 L.D. 325

Comes from the House referred to the Committee on TAXATION and ORDERED PRINTED.

Which was referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Pursuant to Public Law

Department of Conservation

The Department of Conservation, pursuant to Public Law 1985, c. 692, §3, ask leave to submit its findings and to report that the accompanying Bill "An Act Dealing with the Authority of Harbor Masters" (Emergency)

H.P. 254 L.D. 327

Be referred to the Joint Standing Committee on STATE AND LOCAL GOVERNMENT for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

COMMUNICATIONS

The Following Communication:

COMMITTEE ON HUMAN RESOURCES

ONE HUNDRED AND THIRTEENTH LEGISLATURE

February 10, 1987

The Honorable Charles P. Pray
President of the Senate of Maine
State House

Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 113th Maine Legislature, the Joint Standing Committee on Human Resources has had under consideration the nomination of Dr. H. Rollin Ives of Falmouth Foreside, as the Commissioner of the Department of Human Services.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 3
Representatives 9

NAYS: 0

ABSENT: 1 Rep. Pines of Limestone

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Dr. H. Rollin Ives of Falmouth Foreside, as the Commissioner of the Department of Human Services be confirmed.

Sincerely,
S/N. Paul Gauvreau
Senate Chair
S/Peter J. Manning
House Chair

Which was READ and ORDERED PLACED ON FILE.

Senate at Ease

Senate called to order by the President.

At this point, a message was received from the House of Representatives, borne by Representative DIAMOND of Bangor, informing the Senate that the House of Representatives concurs with the proposition for a Joint Convention, to be held in the Hall of the House, at 10:30, for the purpose of electing a State Auditor to fill a vacancy, effective March 27, 1987.

THE PRESIDENT: The Joint Standing Committee on HUMAN RESOURCES has recommended the nomination of Dr.

H. Rollin Ives of Falmouth Foreside as the Commissioner of the Department of Human Services be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on HUMAN RESOURCES be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 113th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Kerry.

Senator KERRY: Mr. President, Ladies and Gentlemen of the Senate. I would just like to comment, briefly, on the hearing of Dr. Ives. I fully intend to vote for Dr. Ives this morning as I think he acquitted himself very well before our Committee. I think that there were many hard questions asked of him. I think that it is also important that the people of the State of Maine and, in particular, this administration and the Senate prior to our vote, recognize that those who testified on behalf of Dr. Ives primarily were representatives of the health care provider industry. I think in recent memory, many of the previous administrators for the Department of Human Services or the Department of Mental Health and Corrections, many of these agencies that provide direct services to the most vulnerable of our society, and certainly of our State, and provide hundreds of millions of dollars of services to people. There was not one individual from the consuming community there. I think it was indicative of the fact this is a very important appointment and, secondly, I think it is very important that people recognize at a public hearing dealing with an important young nation of this matter we cannot often times determine what the Governor will do and what the goals and objectives of the administration will be. I think in fairness to Dr. Ives, he did a very good job and I would like to have one note of caution.

We must make sure that the consumers of health care services and many of the other services provided by the Department of Human Services pay attention to the needs of the consumers of this State. I think this is one point that was not brought up yesterday as resourcefully as it could have been, mainly because there were not persons there testifying on his behalf, in this particular community.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President and Members of the Senate. I would like to inform you all that among many question that were asked of Dr. Ives yesterday, were things that were brought out with the fact that he had met with many of the consumer groups and individuals representing those groups. I think that the Committee, in all, was very satisfied and was really taken by his background and, in fact, we felt he could get along with all sorts of people. He made it very clear to the Committee that his intentions were to work with not only providers through the Governor's office, but with the constituency that those providers took care of.

There are a couple of other things that were made clear at the hearing and questions have arisen of him divorcing himself for him former health care associates. That was brought out in Dr. Ives' testimony and by the Governor's office the fact that he no longer has any affiliation with any health care

provider. I think that the Committee was really very pleased with the caliber of the individual and I think in time, Senator Kerry will see that this person will listen to and take care of all other needs of the people of this State in good order.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President, Men and Women of the Senate. I hadn't plan to address this distinguished Body this morning regarding the nomination of Dr. Ives, but I do feel that it is incumbent upon me to respond briefly given the tenure of discussion of Dr. Ives' nomination. I think that it is fair to say and the entire Committee was very impressed with the integrity and the intellect of Dr. Ives. He presents himself as a person who is truly sensitive to the needs of the different communities which will be and are served by the Department of Human Services. It is certainly our role in this Body to articulate the needs of this advantage population which are served by the Department of Human Services. I think what the Senator from York, Senator Kerry was eluding to is the fact that the providers of health care are in a position to make their views known to this Legislative Body, and in fact have not refrained from doing that in the past several years. On the other hand, other populations do not have the same voice and it is important that we keep their needs and their interests in mind.

My perspective is that Dr. Ives comes to his position not with any given ideological biases or prejudices. In fact, he does present as a person with an open mind who honestly wants to hear the concerns of all the parties served by the Department of Human Services. I look forward to establishing a strong working relationship with Dr. Ives but I certainly think that in the discharge of our duties and our Committee, we have to be mindful to the sentiments expressed by the Senator from York. I am confident that Dr. Ives will work with us in addressing the needs of all persons served by the Department.

THE PRESIDENT: The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
 NAYS: Senators ANDREWS, BERUBE, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GAUVREAU, GILL, GOULD, KANY, KERRY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators BALDACCI, BLACK

No Senators having voted in the affirmative and 33 Senators having voted in the negative, with 2 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Dr. H. Rollin Ives, as Commissioner of the Department of Human Services, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

SENATE PAPERS

Bill "An Act to Provide Funds for Living in the Community Program for the Chronically Mentally Disabled"

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative HICKEY of
Augusta, Representative PARADIS of Augusta
Which was referred to the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED
PRINTED.

Sent down for concurrence.

Bill "An Act to Alter Implementation of
Requirement to Provide Rest Rooms in Restaurants"
(Emergency)

S.P. 126 L.D. 331

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative ARMSTRONG of
Wilton, Senator CLARK of Cumberland
Approved for Introduction by a Majority of the
Legislative Council pursuant to Joint Rule 27
Committee of BUSINESS LEGISLATION and ORDERED
PRINTED.

Which was under suspension of the Rules, READ
TWICE and PASSED TO BE ENGROSSED, without reference
to a Committee.

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

Bill "An Act to Require the Department of Human
Services to Reimburse Nursing Homes for the
Reasonable Costs of Recruiting, Training and
Retaining Qualified Nursing Staff"

S.P. 127 L.D. 332

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative BOUTILIER of
Lewiston, Representative HICKEY of Augusta
Which was referred to the Committee on HUMAN
RESOURCES and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Enhance the Penalties for
Engaging in Prostitution"

S.P. 125 L.D. 330

Presented by Senator GAUVREAU of Androscoggin
Cosponsored by: Representative HANDY of
Lewiston, Representative MACBRIDE of Presque Isle
Which was referred to the Committee on JUDICIARY
and ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Amend the State Employee
Collective Bargaining Act"

S.P. 128 L.D. 333

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative CLARK of
Millinocket

Bill "An Act to Amend the Municipal Public
Employees Labor Relations Law Regarding the
Negotiation of Union Security Clauses"

S.P. 129 L.D. 334

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative CLARK of
Millinocket

Bill "An Act to Amend the University of Maine
System Labor Relations Act"

S.P. 130 L.D. 335

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative CLARK of
Millinocket

Bill "An Act to Amend the State Employee
Collective Bargaining Act"

S.P. 131 L.D. 336

Presented by Senator BUSTIN of Kennebec

Cosponsored by: Representative CLARK of
Millinocket
Bill "An Act to Amend the Municipal Employees
Labor Relations Law"

S.P. 132 L.D. 337

Presented by Senator BUSTIN of Kennebec
Cosponsored by: Representative CLARK of
Millinocket

Which were referred to the Committee on LABOR and
ORDERED PRINTED.

Sent down for concurrence.

Bill "An Act to Establish a Presidential Primary
in Maine"

S.P. 123 L.D. 328

Presented by Senator KANY of Kennebec
Cosponsored by: Senator DUTREMBLE of York,
Representative MARTIN of Van Buren,
Representative HICHBORN of LaGrange
Which was referred to the Committee on LEGAL
AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Senator CLARK of Cumberland was granted unanimous
consent to address the Senate off the Record.

Senator PERKINS of Hancock was granted unanimous
consent to address the Senate off the Record.

On motion by Senator DUTREMBLE of York, RECESSED
until the sound of the bell.

After Recess

Senate called to order by the President.

At this point, the Senate retired to the Hall of
the House, where a Joint Convention was formed.

AFTER CONVENTION

IN SENATE

Senate called to order by the President.

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

ENACTORS

The Committee on Engrossed Bills reported as
truly and strictly engrossed the following:

Emergency

An Act to Alter Implementation of Requirement to
Provide Rest Rooms in Restaurants

S.P. 126 L.D. 331

This being an Emergency Measure and having
received the affirmative vote of 29 Members of the
Senate, with No Senators having voted in negative,
and 29 being more than two-thirds of the entire
elected Membership of the Senate, was PASSED TO BE
ENACTED and having been signed by the President, was
presented by the Secretary to the Governor for his
approval.

ORDERS OF THE DAY

On motion by Senator DUTREMBLE of York, the
Senate removed from the Unassigned Table the
following:

Bill "An Act Concerning the Wording of Initiative
and People's Veto Referendum Questions"

H.P. 251 L.D. 324

Tabled - February 11, 1987, by Senator DUTREMBLE of York.

Pending - REFERENCE

(In House, February 10, 1987, referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Senator BALDACCI of Penobscot was granted unanimous consent to address the Senate on the Record.

Senator BALDACCI: Thank you Mr. President and Members of the Senate. I was reading in this morning's newspaper, tucked away on the back pages, about Maine schools and the report that was published by the Secretary of Education, William Bennett. It talked about the recently past improvements, reforms, teachers certification and pay and how Maine had jumped from thirty-second to eleventh nationally in its high school graduation rate. Also, in how it improved in AST scores and SAT scores.

It was quite a good report card for the State of Maine. In noting in the Governor's address on his budget, and the lack of funds for education and the educational reforms that were passed, I hope the administration, as a matter of fact I would challenge the administration, to propose educational funding and reforms to maintain the momentum that we have gained in education. I am pretty proud of what we have been able to do in the last couple of years. I would hope that as a Member of the Legislature, I would welcome those reforms that were presented by the new Governor and any packages on education funding that would be proposed, because I think it is very important that we keep up the momentum that the State has already gained. By the report, I think that we can say that everybody has done a good job and we have to keep up the good work. Thank you Mr. President.

Off Record Remarks

The Adjournment Order having been returned from the House, READ and PASSED, in concurrence, on motion by Senator BRANNIGAN of Cumberland, ADJOURNED until Tuesday, February 17, 1987, at 10:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
17th Legislative Day
Tuesday, February 17, 1987

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Nathan Garnett, South Liberty Baptist Church, Liberty.

National Anthem by Maine Maritime Academy Band, Castine.

The Journal of Wednesday, February 11, 1987, was read and approved.

SENATE PAPERS

The following Communication:
The Senate of Maine
Augusta

February 11, 1987

The Honorable John L. Martin
Speaker of the House
113th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Human Resources, the Governor's nomination of Dr. H. Rollin Ives of Falmouth Foreside for appointment as the Commissioner of the Department of Human Services.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Provide Funds for Living in the Community Program for the Chronically Mentally Disabled" (S.P. 124) (L.D. 329)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Require the Department of Human Services to Reimburse Nursing Homes for the Reasonable Costs of Recruiting, Training and Retaining Qualified Nursing Staff" (S.P. 127) (L.D. 332)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Enhance the Penalties for Engaging in Prostitution" (S.P. 125) (L.D. 330)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Amend the State Employee Collective Bargaining Act" (S.P. 131) (L.D. 336)

Bill "An Act to Amend the State Employee Collective Bargaining Act" (S.P. 128) (L.D. 333)

Bill "An Act to Amend the Municipal Public Employees Labor Relations Law Regarding the Negotiation of Union Security Clauses" (S.P. 129) (L.D. 334)