

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Second Legislature
State of Maine

Volume II

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May 26, 2005 – June 17, 2005

Second Special Session

July 29, 2005

Second Regular Session

January 4, 2006 - April 6, 2006

Pages 737-1487

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
SECOND REGULAR SESSION
12th Legislative Day
Wednesday, February 1, 2006

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

Prayer by Reverend Paul D. Basham, Chair, Augusta Clergy Association.

National Anthem by Honorable Emily Ann Cain, Orono.

Pledge of Allegiance.

The Journal of yesterday was read and approved.

SENATE PAPERS

The following Joint Resolution: (S.P. 767)

JOINT RESOLUTION RECOGNIZING HEALTHY COMMUNITIES AND PLANNED APPROACH TO COMMUNITY HEALTH COALITIONS

WHEREAS, health is the result of much more than just medical care. People are healthier when they live in nurturing environments and are involved in the life of their communities; and

WHEREAS, Maine citizens have formed Healthy Communities and Planned Approach to Community Health ("PATCH") coalitions across the State to improve the health of their communities; and

WHEREAS, the Healthy Communities and PATCH coalitions are a broad and sharing network of interrelated groups of citizen volunteers consisting of individuals, families, businesses, schools, churches, health care providers, governments and others with similar concerns and values on health and community issues; and

WHEREAS, Maine is a leader in establishing a network of healthy communities largely due to the effectiveness of the volunteer leaders and organizations in meeting local health needs; and

WHEREAS, the dedication and efforts of the citizen volunteers deserve our highest support and encouragement; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-second Legislature now assembled in the Second Regular Session, take this opportunity to honor the ideals and accomplishments of the Healthy Communities and PATCH coalitions; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Department of Health and Human Services, Maine CDC in token of the esteem in which we hold the citizen volunteers of the Healthy Communities and PATCH coalitions.

Came from the Senate, **READ** and **ADOPTED**.
READ and **ADOPTED** in concurrence.

The following Joint Order: (S.P. 764)

ORDERED, the House concurring, that the Joint Standing Committee on Education and Cultural Affairs shall review the existing law and rules governing the criteria used by the State Board of Education in reviewing and approving secondary school construction projects, including, but not limited to, the Maine Revised Statutes, Title 20-A, section 15905, subsection 2 and the State Board of Education's Chapter 61: Rules for Major Capital School Construction Projects; and be it further

ORDERED, that based on its review the Joint Standing Committee on Education and Cultural Affairs may report out a bill

to the Senate to amend the law governing the criteria necessary to approve secondary school construction projects, including, but not limited to, altering the threshold number of pupils necessary to consider and approve such projects.

Came from the Senate, **READ** and **PASSED**.
READ and **PASSED** in concurrence.

Non-Concurrent Matter

Joint Order Directing the Joint Standing Committee on Legal and Veterans Affairs to Report a Bill Regarding Tribal Commercial Track and Slot Machines in Washington County

(H.P. 1377)

READ and **PASSED** in the House on January 12, 2006.

Came from the Senate **FAILING** of **PASSAGE** in **NON-CONCURRENCE**.

Representative RICHARDSON of Brunswick moved that the House **ADHERE**.

Representative CLOUGH of Scarborough **REQUESTED** a roll call on the motion to **ADHERE**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

At this point, a message came from the Senate borne by Senator Brennan of Cumberland, of that Body, proposing a Joint Convention of both branches of the Legislature to be held in the Hall of the House at 11:00 in the morning for the purpose of extending to the Honorable Leigh I. Saufley, Chief Justice of the Supreme Judicial Court, the Justices of the Supreme Judicial Court, and members of the Judiciary, an invitation to attend the Joint Convention and to make such communication as pleases the Chief Justice.

The **SPEAKER**: A roll call having been previously ordered. The pending question before the House is to Adhere. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 360

YEA - Annis, Ash, Austin, Beaudette, Berube, Bierman, Bishop, Blanchard, Bliss, Bowles, Brautigam, Brown R, Browne W, Bryant, Bryant-Deschenes, Cain, Campbell, Canavan, Churchill, Clark, Craven, Cressey, Cummings, Davis K, Driscoll, Duchesne, Dugay, Duplessie, Duprey, Eberle, Edgecomb, Emery, Faircloth, Farrington, Fisher, Fitts, Fletcher, Gerzofsky, Goldman, Grose, Hall, Hanley B, Hanley S, Harlow, Jackson, Jacobsen, Jennings, Jodrey, Joy, Lundeen, Makas, Marean, Marley, Marraché, McCormick, McFadden, McLeod, Merrill, Miller, Millett, Moore G, Muse, Nass, Norton, Nutting, O'Brien, Paradis, Percy, Perry, Pingree, Pinkham, Piotti, Richardson D, Richardson M, Rines, Robinson, Rosen, Schatz, Sherman, Simpson, Smith N, Smith W, Sykes, Tardy, Thompson, Trahan, Tuttle, Vaughan, Walcott, Watson, Webster, Wheeler, Mr. Speaker.

NAY - Adams, Babbidge, Blanchette, Bowen, Carr, Cebra, Clough, Collins, Crosthwaite, Curley, Curtis, Daigle, Davis G, Finch, Flood, Glynn, Hamper, Hogan, Lansley, Lindell, Mazurek, McKane, McKenney, Mills, Moody, Ott, Pilon, Plummer, Rector, Richardson E, Richardson W, Seavey, Shields, Twomey, Valentino, Woodbury.

ABSENT - Barstow, Brannigan, Burns, Crosby, Dudley, Dunn, Eder, Fischer, Greeley, Hotham, Hutton, Kaelin, Koffman, Lerman, Lewin, Moulton, Patrick, Pineau, Sampson, Saviello, Stedman, Thomas.

Yes, 93; No, 36; Absent, 22; Excused, 0.

93 having voted in the affirmative and 36 voted in the negative, with 22 being absent, and accordingly the House voted to **ADHERE. ORDERED SENT FORTHWITH.**

Thereupon the House voted to concur in the proposal for a Joint Convention to be held at 11:00 in the morning and the Speaker appointed Representative CUMMINGS of Portland to convey this message to the Senate.

COMMUNICATIONS

The Following Communication: (H.C. 359)

STATE OF MAINE

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE
COMMITTEE ON BUSINESS RESEARCH AND ECONOMIC
DEVELOPMENT**

January 23, 2006
Honorable Beth Edmonds, President of the Senate
Honorable John Richardson, Speaker of the House
122nd Maine Legislature
State House
Augusta, Maine 04333

Dear President Edmonds and Speaker Richardson:
Pursuant to Joint Rule 310, we are writing to notify you that the Joint Standing Committee on Business, Research and Economic Development has voted unanimously to report the following bill out "Ought Not to Pass":

L.D. 1629 An Act To Enable Bulk Purchasing of Heating Oil Eligible for Federal Reimbursement

We have also notified the sponsor and cosponsors of the Committee's action.

Sincerely,
S/Sen. Lynn Bromley
Senate Chair
S/Rep. Nancy E. Smith
House Chair

READ and ORDERED PLACED ON FILE.

(2-2) The Following Communication: (H.C. 361)

STATE OF MAINE

122ND MAINE LEGISLATURE

January 24, 2006
Chief Justice Leigh I. Saufley
Maine Supreme Judicial Court
P.O. Box 368
Portland, ME 04112

Dear Chief Justice Saufley:
We are pleased to invite you to address a Joint Session of the 122nd Maine Legislature on Wednesday, February 1, 2006 at 11:00 a.m. concerning the State of the Judiciary and any other matters that you may care to bring to our attention.
We look forward to seeing you then.

Sincerely,
S/Beth Edmonds
President of the Senate
S/John Richardson
Speaker of the House

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 362)

STATE OF MAINE

SUPREME JUDICIAL COURT

PORTLAND, MAINE 04112

January 26, 2006
The Honorable Beth G. Edmonds
President of the Senate
3 State House Station
Augusta, Maine 04333-0003
The Honorable John Richardson
Speaker of the House
2 State House Station
Augusta, Maine 04333-0002

Dear President Edmonds and Speaker Richardson:
I am pleased to accept your invitation to address a Joint Session of the 122nd Maine Legislature on Wednesday, February 1, 2006, at 11:00 A.M. I appreciate the courtesy of the Legislative Branch of government in permitting me to address the cause of justice in Maine.

I look forward to seeing you on February 1, 2006.

Sincerely,
S/Leigh I. Saufley
Chief Justice

READ and ORDERED PLACED ON FILE.

The Following Communication: (H.C. 360)

UNIVERSITY OF MAINE

MARGARET CHASE SMITH POLICY CENTER

5715 COBURN HALL

ORONO, MAINE 04469-5715

January 30, 2006
Honorable Millicent M. MacFarland
Clerk of the House of Representatives
2 State House Station
Augusta, ME 04333-0002
Re: Maine State Government Summer Internship Program
Dear Clerk MacFarland:

In accordance with 1967 Public Law, Chapter 493, Section 294, Item 8, I am enclosing copies of the 2005 Maine State Government Summer Internship Report for distribution to the Members of the Maine House of Representatives.

The Maine State Government Summer Internship Program is a full-time, 12-week, paid work experience in a state agency. The Program combines work experience with an educational program designed to provide talented Maine college students an opportunity to participate in and contribute to Maine State Government. Student applications must be received by the Margaret Chase Smith Policy Center by Monday, March 20, 2006. Application forms can be downloaded at <http://www.umaine.edu/mcsc/MeSGIP.htm>.

Thank you for your assistance in making this report available to the Members of the House.

Yours truly,
S/Charles E. Morris
Research Associate

Director, Maine State Government Summer Internship Program

READ and with accompanying papers ORDERED PLACED ON FILE.

Subsequently, Representative CUMMINGS of Portland reported that he had delivered the message with which he was charged.

REPORTS OF COMMITTEE

Refer to the Committee on Insurance and Financial Services Pursuant to Resolve

Representative PERRY for the **Joint Standing Committee on Insurance and Financial Services** on Bill "An Act To Create the Insurance Fraud Division within the Bureau of Insurance"

(H.P. 1394) (L.D. 1990)

Reporting that it be **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES** pursuant to Resolve 2005, chapter 47.

Report was **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**.

Sent for concurrence.

Divided Report

Majority Report of the Committee on **TAXATION** reporting **Ought Not to Pass** on Bill "An Act To Amend the Maine Tree Growth Tax Law To Encourage Public Access"

(S.P. 455) (L.D. 1328)

Signed:

Senators:

PERRY of Penobscot
COURTNEY of York
STRIMLING of Cumberland

Representatives:

HANLEY of Paris
McCORMICK of West Gardiner
WOODBURY of Yarmouth
CLOUGH of Scarborough
DUDLEY of Portland
HUTTON of Bowdoinham
SEAVEY of Kennebunkport
WATSON of Bath

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-429)** on same Bill.

Signed:

Representative:

CLARK of Millinocket

Came from the Senate with the Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **TAXATION**.

READ.

Representative **WOODBURY** of Yarmouth, moved that the Bill and all accompanying papers be **COMMITTED** to the Committee on **TAXATION**.

Representative **CARR** of Lincoln **REQUESTED** a roll call on the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **TAXATION**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is to Commit the bill and all accompanying papers to the Committee on Taxation. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 361

YEA - Adams, Ash, Babbidge, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Cain, Canavan, Clark, Craven, Cummings, Duchesne, Dunn, Duplessie, Eberle, Faircloth, Farrington, Finch, Fisher, Gerzofsky, Goldman, Grose, Hanley S, Harlow, Jackson, Jennings, Lerman, Lundeen, Makas, Marley, Marraché, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Percy, Perry, Pilon, Pingree, Piotti, Rines, Schatz,

Smith N, Smith W, Thompson, Tuttle, Twomey, Valentino, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Annis, Austin, Berube, Bierman, Bishop, Bowen, Bowles, Brown R, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosthwaite, Curley, Curtis, Daigle, Davis G, Davis K, Driscoll, Duprey, Edgecomb, Emery, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Hotham, Jacobsen, Jodrey, Joy, Lansley, Lindell, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moore G, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson M, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Simpson, Sykes, Tardy, Trahan, Vaughan.

ABSENT - Barstow, Burns, Crosby, Dudley, Dugay, Eder, Fischer, Hogan, Hutton, Kaelin, Koffman, Lewin, Moulton, Patrick, Pineau, Sampson, Stedman, Thomas.

Yes, 61; No, 72; Absent, 18; Excused, 0.

61 having voted in the affirmative and 72 voted in the negative, with 18 being absent, and accordingly the motion to **COMMIT** the Bill and all accompanying papers to the Committee on **TAXATION FAILED**.

Subsequently, on motion of **CARR** of Lincoln, the Bill and all accompanying papers were **INDEFINITELY POSTPONED** in **NON-CONCURRENCE** and sent for concurrence.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought Not to Pass** on Bill "An Act To Allow Qualified Health Centers To Obtain Telecommunications Education Access Funding"

(H.P. 470) (L.D. 637)

Signed:

Senator:

WESTON of Waldo

Representatives:

RICHARDSON of Skowhegan
FITTS of Pittsfield
RINES of Wiscasset
CURTIS of Madison
McLEOD of Lee
FLETCHER of Winslow
ADAMS of Portland

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-740)** on same Bill.

Signed:

Senators:

COWGER of Kennebec
BARTLETT of Cumberland

Representatives:

BLISS of South Portland
BABBIDGE of Kennebunk
BRAUTIGAM of Falmouth

READ.

On motion of Representative **BLISS** of South Portland, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

**CONSENT CALENDAR
First Day**

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 1272) (L.D. 1832) Bill "An Act To Prevent the Introduction of Chronic Wasting Disease" (EMERGENCY) Committee on **INLAND FISHERIES AND WILDLIFE** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-742)**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

**CONSENT CALENDAR
Second Day**

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the Second Day:

(H.P. 1219) (L.D. 1712) Bill "An Act To Restore the Funding to the Fund for the Efficient Delivery of Local and Regional Services" (EMERGENCY) (C. "A" H-741)

No objections having been noted at the end of the Second Legislative Day, the House Paper was **PASSED TO BE ENGROSSED AS AMENDED** and sent for concurrence.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Resolve, Directing the State Board of Property Tax Review To Accept and Review the Appeal Filed by the Town of Palermo (EMERGENCY)

(S.P. 768) (L.D. 1989)

Came from the Senate, **REFERRED** to the Committee on **TAXATION** and ordered printed.

REFERRED to the Committee on **TAXATION** in concurrence.

**REPORTS OF COMMITTEE
Divided Report**

Majority Report of the Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought Not to Pass** on Bill "An Act To Preserve Public Access and Job Opportunities in the North Woods"

(S.P. 495) (L.D. 1406)

Signed:

Senators:

NUTTING of Androscoggin
BRYANT of Oxford
RAYE of Washington

Representatives:

PIOTTI of Unity
LUNDEEN of Mars Hill
JENNINGS of Leeds
CARR of Lincoln
JODREY of Bethel
SHERMAN of Hodgdon
FLOOD of Winthrop
MAREAN of Hollis
EDGEComb of Caribou

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-440)** on same Bill.

Signed:

Representative:

TWOMEY of Biddeford

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.
READ.

On motion of Representative PIOTTI of Unity, the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

**CONSENT CALENDAR
First Day**

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(S.P. 648) (L.D. 1694) Bill "An Act To Allow the Towns of Mapleton, Castle Hill and Chapman To Deposit All Tax Revenues, Grant Revenues and Other Income and Revenues into One Depository Account" Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass**

There being no objections, the above item was ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

At this point, the Senate came and a Joint Convention was formed.

In Convention

The President of the Senate, the Honorable Beth Edmonds, in the Chair.

The convention was called to order by the Chair.

On motion by Senator Brennan, of Cumberland, it was **ORDERED**, that a committee be appointed to wait upon the Honorable Leigh I. Saufley, Chief Justice of the Supreme Judicial Court, the Honorable John E. Baldacci, Governor of the State of Maine, the justices of the Supreme Judicial Court, and members of the Judiciary and inform them that the two branches of the Legislature are in convention assembled, ready to receive such communication as pleases the Chief Justice.

The order was Read and Passed.

The chair will appoint the following:

The Sen. from York, Sen. Hobbins
The Sen. from Cumberland, Sen. Bromley
The Sen. from Oxford, Sen. Hastings
The Rep. from Auburn, Rep. Simpson
The Rep. from Bangor, Rep. Faircloth
The Rep. from Brunswick, Rep. Gerzofsky
The Rep. from Waterville, Rep. Canavan
The Rep. from Windham, Rep. Bryant
The Rep. from Bangor, Rep. Dunn
The Rep. from Hodgdon, Rep. Sherman
The Rep. from Lincoln, Rep. Carr
The Rep. from Turner, Rep. Bryant-Deschenes
The Rep. from Acton, Rep. Nass

Subsequently, Senator Hobbins from York, for the Committee, reported that the Honorable Leigh I. Saufley, Chief Justice of the Maine Supreme Judicial Court, the Honorable John E. Baldacci, Governor of the State of Maine, and the Honorable members of the Judiciary will attend forthwith.

The Chair is pleased to welcome to the convention the Honorable Leigh I. Saufley, Chief Justice of the Maine Supreme Judicial Court, the Honorable John E. Baldacci, Governor of the State of Maine, and the honorable members of the Judiciary.

The chair is pleased to recognize the justices of the Maine Supreme Judicial Court, Justice Howard H. Dana Jr., Justice Donald G. Alexander, Justice Jon G. Levy, and Justice Warren M. Silver. Also, Chief Justice of the Superior Court, Thomas E. Humphrey; Chief Judge of the District Court, John C. Nivison; and the Deputy Chief Judge of the District Court, Ann M. Murray.

The Chair is pleased to recognize in the gallery the spouse of Chief Justice Saufley, William Saufley; the parents of Chief Justice Saufley, Janet and Richard Ingalls.

The Chair would also like to recognize in the gallery James T. Glessner, State Court Administrator; Susan Bell, Director of the Office of Clerks of Court; Miriam Levy, wife of Associate Justice Jon D. Levy; and Evelyn Silver, wife of Associate Justice Warren M. Silver.

The Chair would request the Honorable Leigh I. Saufley, Chief Justice of the Maine Supreme Judicial Court, to please step forward and address the Joint Convention.

Justice SAUFLEY: Good morning and thank you so much for the welcome. Governor Baldacci, President Edmonds, Speaker Richardson, esteemed members of the 122nd Maine Legislature, members of the court, friends and family, it is an honor and a privilege to appear before you today to present this report on the state of Maine's Judiciary.

Before I begin, I want to personally thank Governor Baldacci for joining us today. The loss of a brother is a tragic event, and I know that all of us extend our deepest sympathies to the Governor and his family. The Governor's presence with us today is another demonstration of his steadfast efforts to understand the public's need for justice and to work with us to restore balance for Maine's people.

So, now to the business of Justice. Last year, I brought you a straightforward and brief message. That message was this; the lack of judicial resources available to Maine's people is real, it is serious and we have a plan to address those problems in full.

I am proud to report to the people of the State that the Governor and the Legislature, in bipartisan efforts, took that message as seriously as it was intended, and worked with us in the last session to move the plan forward. As a consequence, I am here today to say this: the state of Maine's Judiciary is struggling, but improving.

PROGRESS, PROBLEMS, PLANS

To bring you up to date, I have organized my comments into three separate sections. First I will talk to you about the progress that we have made, then I will tell you about the problems that continue to limit the public's safe access to justice; and then I will again address the plans to address those problems. And, as always, I preface my remarks with now familiar cautions.

With a Fiscal Year '06 budget of just over \$55 million, the State Budget Office expects that we will return nearly \$49 million in revenues. We will process over 280,000 new filings, and we

will operate 40 separate courthouses. And we will do this with far too few people by any standard. Now, if I haven't mentioned it already, let me just mention it again—Maine is 50th in the country for per capita spending in the delivery of justice. We run the Judicial Branch in Maine on approximately \$15 million dollars less than our frugal neighbor New Hampshire. We have fewer judges and less security than New Hampshire, which is itself 47th in the country. But we are realists. We understand the limitations on resources, and we have been working diligently to find greater efficiencies in our operations, to reduce unnecessary costs, and to focus our resources on priorities. I want to thank all of you who have taken the time to talk with us, to learn about your constituents' needs, to work with us on task forces, and to find ways to improve the delivery of justice in Maine. So, on behalf of the hard working employees in the Judicial Branch, I begin my report to you with the good news.

PROGRESS

We have achieved progress in safety, access to justice, and efficiencies.

SAFETY

The first area of progress, in safety, shows up in our courthouses. Courthouses are incrementally safer. In 2005 you made it a crime to bring a gun into a courthouse. With the sponsorship of Representative Rod Carr, you enacted LD 166 (P.L. 2005, c. 175, *An Act to Prohibit Firearms in a Courthouse*) which makes it a crime, surprisingly for the first time, to bring an unauthorized gun into a courthouse. Also in 2005, you found funding for us for additional entry screening, and with that we were able to provide 404 courthouse days of entry screening throughout the state. To put that in perspective, there are more than 9,000 courthouse days in a year. That small improvement in entry screening resulted in 309 times that people turned around upon seeing the security in place, it prevented over 4,900 knives and sharp weapons from being brought into the courthouses, prevented 20 efforts to bring illegal drugs into a courthouse, and it stopped four guns at courthouse doors. Imagine what would happen without it. These improvements are a great start, but we have a long road to travel before we achieve real safety in all of our courthouses.

Next, online bail conditions are improving the safety of the public. This system allows law enforcement officials to have immediate, 24-hour access to bail conditions set by judges and bail commissioners. This advance, along with the online access to Protection from Abuse Orders, is improving the safety of our citizens, particularly in cases involving allegations of domestic violence.

ACCESS TO JUSTICE

The second area of substantial improvement is in access to justice and we have seen real benefits from establishing cases priorities. As a result of putting cases involving children, violence, stalking, sexual assault, or other serious crimes first in line for judge time, the backlog of family cases and murder trials has been greatly reduced. For example, in 2005 the trial courts reduced the amount of time families and victims of violence must wait for decisions. Nearly 75% of all family cases statewide have been pending for less than nine months, less than 18% of the family cases have been pending for more than one year, murder and manslaughter cases are ready for trial in an average of nine to twelve months from the filing of the charges. In addition Problem-Solving Courts are providing hope for lasting change. In 2005, two Problem-Solving Courts were initiated.

The state's first Co-Occurring Disorder Court was established through the leadership of Justice Nancy Mills. This initiative provides needed supervision and services to individuals who struggle with both a mental illness and substance abuse.

Participation requires a personal commitment to a rigorous program of intense treatment, testing, and supervision.

The other new Problem-Solving Court, a new Family Drug Treatment Court, has been established in Androscoggin County by Judge John Beliveau. These courts provide immediate attention to parents who have lost or are at risk of losing their children due to drug and alcohol abuse. Prompt access to intense treatment for parents can make all the difference in the world to children who are waiting for their parents to take them home.

We have also worked to improve public understanding of the courts.

This year, to add to civic education in Maine, we experimented with a new idea aimed at introducing high school students to the work of the Supreme Judicial Court. With the assistance of Senator John Martin, we arranged to sit for formal oral arguments at the Caribou Performing Arts Center. Before the day was over, more than 700 middle and high school students had the opportunity to watch the Court in action. In fact, Representative Bill Smith argued a case before us with an audience of teachers and students behind him. I am not sure how that experience went for the lawyer involved; you may want to talk to him later. Interestingly – and this is something to keep in mind as you work with your constituents – the students were most animated by the land use cases and we heard these kinds of questions: What do you mean I can't build a deck, a dock, or a business on my own land without the government's permission? It was a very interesting conversation with students and it was an excellent example of advance preparation by the teachers and it provided an indication of the interest that our youth have in the way their government works. It was a gratifying experience for us. We hope to repeat in other counties. We may be in touch with you to see if any of you have suggestions for the next county.

We are also planning for future improvement in public access through the work of the Task Force on Electronic Court Records. I will not even try to tell you the acronym or the length of the name for this task force. But the name reflects the very complex topic of public access to electronic records and the task was undertaken by a task force lead by Justice Andrew Mead that included individuals from the courts, the media, advocacy groups, and both the Executive and Legislative branches.

Some of the issues are straightforward—don't electronically release Social Security numbers to the public. Others are not so simple. For example, should your neighbors be able to sit at home in their jammies and Google your name to find out the personal details of your divorce or other court case? Much remains to be done and the next step in the task force's efforts will be to sort through those policy issues and make recommendations to the court for rules and statutes.

There have also been improvements in the provision of access to lawyers for low income Mainers. The legal needs of Maine people living at or near the poverty level often go unmet. Through the cooperation of Maine lawyers, who frequently work for reduced or no pay, we are able to provide lawyers in critical cases. In addition, last year, Maine lawyers and judges contributed more than \$300,000 to the Campaign for Justice, which helps legal service providers in their efforts to fund lawyers for those in need of civil legal services. The efforts of the Maine legal community placed Maine at second in the nation for the generosity of its legal profession. Keep that in mind the next time you are tempted to pass along one of those horrible lawyer jokes.

INCREASED EFFICIENCIES AND COST SAVINGS

The third area of progress is increased efficiencies and cost savings. Our new model for structuring can reduce costs and improve public service.

One of the most important aspects of our new approach to scheduling cases is called "event certainty". Now, my teenage son told me that sounds like something from a science fiction movie: fortunately it is not. It is a very straightforward concept that means that people involved in any case will know what the next court event will be, when it will occur, and that it will occur on the date that it is scheduled.

I understand from Commissioner Magnusson and the counties that the implementation of this one change could save innumerable dollars throughout state government. It means cases are not rescheduled, witnesses do not come to courthouses repeatedly, and prisoner transportation for trials will occur only once. Implementing this concept in every case types will require more judges, but the benefits will be substantial.

The consolidation of clerks' offices has achieved greater efficiencies. We have now consolidated the Superior and District Court clerks' offices in nearly half of Maine's counties. In addition, single clerks serve multiple District Courts in Augusta/Waterville and Madawaska/Fort Kent. These changes have reduced the funding demands we must make on the General Fund and have assisted us in our efforts to stabilize our operations notwithstanding the limited number of clerks throughout the system.

We have also contained facilities costs through the consolidation of two of our smaller courthouses into the next larger courthouses, those were: Bar Harbor, which was consolidated into the Ellsworth District Court; and Livermore Falls, which was previously consolidated into the Lewiston District Court and this year, through your help, we will begin the construction of a new, consolidated courthouse in Bangor.

We also averted a substantial increase in library spending. As a result of a dramatic increase in publishing costs, we were not able to purchase the statutory updates arising from your last session within the budget that we had been allotted. Just imagine that for a minute. I don't need to tell you that the prospect of allowing Maine's judges to be without the current law is abhorrent to us. Through the focused and creative work of judges and legislative staff, a new arrangement has been developed which, in 2005 alone, averted the need for an additional \$50,000 for book purchases for the Judicial branch, and even greater savings were created for the Legislature.

Our final example of progress in 2005 will both reduce costs and improve safety. The Judicial Branch video conferencing project is moving from planning into reality. In two courthouses, we have established video conferencing for mental health hearings. This project eliminates the need for patients to be brought into busy courthouses, it respects the dignity of those patients and it eliminates the costs of transportation.

In another setting, the first video criminal arraignments took place in Kennebec County last week under the leadership of Judge Vendean Vafiades. This project allows the incarcerated individual to remain at the jail, it increases safety and reduces costs for the county government.

Video conferencing may prove to be a money saver through many different uses. The final installation of video conferencing equipment for courthouses throughout the state will roll out over the next year and will reduce costs in many other areas in the years to come.

Thus, the progress toward safer, more accessible, and more efficient justice has been substantial and our efforts continue. We truly appreciate your support in all of these efforts.

THE PROBLEMS

Despite those successes, many challenges continue to exist, and efficiencies alone cannot solve all of the problems. We must balance the need for frugal government against the very real need of Maine people to obtain justice.

Most of our challenges occur because, to put it starkly, there are simply not enough people in the Judicial Branch to do the job we have been asked to do.

There are four areas where these deficits continue to hurt our citizens. The first is the threat of violence inside our courthouses. This problem is evident when you walk into a courthouse and see the metal detectors pushed back against a wall because there is no one to staff them that day. When you walk the hallways you sometimes see angry litigants, frightened witnesses, and sometimes even vulnerable children without a single court security officer in sight. We must have more people to protect our citizens. I do appreciate your support.

Next is the inability to reach all family matters in a timely manner. Although our Family Division has made great strides in reducing the backlog in family cases, there remain several areas of the state where we are still failing to reach family cases in time to prevent further hardships. In our courts with the highest volume of cases, there are as many as 200 family cases that have not been resolved within one year. For families waiting for stability, that year may seem like a lifetime. We must do better.

Next, in 2006 we have had to institute a moratorium on the expansion of problem-solving courts. It is estimated that in 2005, drug related deaths in Maine reached an all time high of 178 people. Drug and alcohol related crimes take a terrible toll on Maine people and affect the lives of Maine's children. Unfortunately, Drug Treatment Courts, described by Maine's judges as some of the most promising programs ever to be undertaken in Maine's courts, exist in too few counties. Adult Drug Treatment Courts are available in only five counties. Juvenile Drug Treatment Courts exist in only six counties. Family Drug Treatment Courts are available in only five counties. Domestic Violence Projects exist in only four counties. The new Co-Occurring Disorder Court exists in only one county.

Despite the promise of Problem-Solving Courts, the Trial Court Chiefs have had to ask the Supreme Judicial Court to institute a moratorium on the establishment of new Problem-Solving Courts. We have agreed to that request.

Until there are new judicial resources, the concept that has worked so well, but requires extensive judge time, cannot be expanded. On a separate note, the Juvenile Drug Treatment Courts that do exist are in peril due to cuts in federal funding. You may remember that last year I asked you to think a good thought as we went off to meet with our Congressional representatives. I am not sure that you were thinking hard enough. The end result was not good and the cuts will affect the prosecutors and case management providers much more than the courts. I know that Attorney General Steve Rowe – who has been a tireless advocate for early intervention and prevention programs – will talk to you about those needs. I hope you will find a way to help.

Fourth, we cannot continue to fail our business and consumer communities because we simply do not have enough judges. I make no apologies about establishing cases involving violence, sexual assault, other serious crimes, and cases involving children's needs as those that must get priority attention from the courts and we will continue to impose those priorities. But everywhere I go, I hear from the businesses and consumers that we are failing them. Small claims cases and collections proceedings are delayed, intermediate business cases are too expensive to pursue, and complex consumer and business cases

take years to process. This will remain true if there is no increase in the number of Maine judges.

THE PLAN

I told you last year that we had a plan. You have helped us with the beginning of that plan. I ask you now to help us in the next phase.

First things first – safety in our courthouses. The math for providing entry screening throughout the state is not difficult: forty courthouses times two trained law enforcement officers at the doorway is a substantial amount of money. Whether those individuals are contract or state employees there is no getting around it – the fiscal need approaches \$3 million. It sounds dramatic, but this is a critical part of the basic delivery of safety to our citizens. We must find a way to get there.

This year, we have asked you for an incremental increase of \$368,000 to allow us to hire an additional seven court security officers who will be available in multiple counties to improve safety. The Governor has included that amount in the Supplemental Budget. I ask you to support it.

Second, the eight Family Law Magistrates who must cover the entire state are struggling to fulfill their responsibilities. Last session, you began the process of approving one new magistrate with staff to improve our ability to reach family cases quickly. You were unable to fund the modest cost to the General Fund of \$82,301 at the end of the last session. I trust that we will find a way to make it happen this session.

Finally, the ability of the Judicial Branch to address business and consumer related disputes in a timely fashion is critical to the health of Maine's economy, but we cannot address those cases until we can assure that the priority cases are being addressed promptly. We have, therefore, proposed the addition of four judges, with the necessary staff. Two of those judges will help us address the priority cases involving violence and children. And with two of those positions, we would establish a Business and Consumer Unit of the court system. Two judges would be assigned to that unit. Their responsibilities would be threefold.

First, to establish a complex business and consumer docket, with a centralized filing system, expedited case management and judges who travel to the parties throughout the state. Second, they will assure the prompt and less expensive resolution of intermediate business and consumer cases. Third, they will assist the court's return to the prompt resolution of small claims, collections, and landlord/tenant matters.

This session, the Governor has placed the funding for four additional judges and staff in the Supplemental Budget. We greatly appreciate the support of Governor Baldacci and Speaker Richardson in moving this initiative forward. The annual cost of the initiative is \$1.28 million. It is not an insignificant amount, but it is a fiscally responsible effort. It will help small business owners, improve Maine's economy, and assure attention to children and victims of violence. It is necessary if we are going to balance efficiencies against the need for meaningful access to justice.

I close with this: these are your courts. This is your system of justice. Many of you have taken the time to come to our courthouses and see for yourself how and what we are doing. We hope you will continue to join us in the courthouses, to improve the services that are so needed by Maine people and to help us make the courthouses safe. Maine people deserve prompt, safe access to justice. Help us make that a reality. Thank you for your time and your support.

The Chief Justice withdrew amid the applause of the Convention, the audience rising.

The purpose for which the 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 audience rising.

(After the Joint Convention)

The House was called to order by the Speaker.

The following item was taken up out of order by unanimous consent:

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (S-438)** on Bill "An Act Regarding Interscholastic Athletics"

(S.P. 26) (L.D. 84)

Signed:

Senators:

MITCHELL of Kennebec
SCHNEIDER of Penobscot

Representatives:

NORTON of Bangor
DAVIS of Falmouth
FINCH of Fairfield
EDGEComb of Caribou
GOLDMAN of Cape Elizabeth
STEDMAN of Hartland
LANSLEY of Sabattus
CAIN of Orono
MERRILL of Appleton

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (S-439)** on same Bill.

Signed:

Senator:

TURNER of Cumberland

Representative:

MAKAS of Lewiston

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-438)**.

READ.

Representative NORTON of Bangor moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative BOWLES of Sanford **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

On motion of Representative CUMMINGS of Portland, **TABLED** pending the motion of Representative NORTON of

Bangor to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned. (Roll Call Ordered)

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH.**

On motion of Representative TUTTLE of Sanford, the House adjourned at 11:52 a.m., until 10:00 a.m., Thursday, February 2, 2006 in honor and lasting tribute to Thomas R. Bergeron, of Sanford.