

HOUSE JOURNAL
SIXTY-THIRD GENERAL ASSEMBLY
STATE OF COLORADO
First Regular Session

Third Legislative Day

Friday, January 12, 2001

1 Prayer by Father Ed Judy, Samaritan House, Denver.

2

3 The Speaker called the House to order at 9:00 a.m.

4

5 The roll was called with the following result:

6

7 Present--64.

8

9 Excused--Representative Alexander--1.

10 The Speaker declared a quorum present.

11

12

13 On motion of Representative Weddig, the reading of the journal of
14 January 11, 2001, was dispensed with and approved as corrected by the
15 Chief Clerk.

16

17

REPORT OF COMMITTEE OF REFERENCE

18

FINANCE

19
20 After consideration on the merits, the Committee recommends the
21 following:

22

23 **HB01-1107** be referred favorably to the Committee on Appropriations.

24

25

26

PRINTING REPORT

27

28 The Chief Clerk reports the following bills have been correctly printed:
29 **HB01-1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117,**
30 **1118, 1119, 1120, 1121.**

31

32

33

House in recess. House reconvened.

34

35

36

REPORT OF COMMITTEE OF REFERENCE

37

APPROPRIATIONS

38
39 After consideration on the merits, the Committee recommends the
40 following:

41

42 **HB01-1107** be referred to the Committee of the Whole with favorable
43 recommendation.

44

45

1 On motion of Representative Spradley, **HB01-1107** shall be made Special
2 Orders on Friday, January 12, 2001, at 9:38 a.m.

3
4
5 The hour of 9:38 a.m., having arrived, on motion of Representative
6 Fairbank, the House resolved itself into Committee of the Whole for
7 consideration of Special Orders and he was called to the Chair to act as
8 Chairman.

9
10
11
12 **SPECIAL ORDERS--SECOND READING OF BILL**

13
14 The Committee of the Whole having risen, the Chairman reported the
15 titles of the following bill had been read (reading at length had been
16 dispensed with by unanimous consent), the bill considered and action
17 taken thereon as follows:

18
19 (Amendments to the committee amendment are to the printed committee
20 report which was printed and placed in the members' bill file.)

21
22 **HB01-1107** by Representative(s) Snook, Cloer, Rhodes, Dean, Stengel,
23 Spence; also Senator(s) Hernandez--Concerning the
24 provision of additional funding for the low-income energy
25 assistance program, and making an appropriation therefor.

26
27 Ordered engrossed and placed on the Calendar for Third Reading and
28 Final Passage.

29
30
31
32 **ADOPTION OF COMMITTEE OF THE WHOLE REPORT**

33
34 Passed Second Reading: **HB01-1107**.

35
36 The Chairman moved the adoption of the Committee of the Whole
37 Report. As shown by the following roll call vote, a majority of those
38 elected to the House voted in the affirmative, and the Report was
39 **adopted**.

40
41 YES 61 NO 1 EXCUSED 1 ABSENT 2

42							
43	Alexander	E Groff	Y	Miller	Y	Spence	Y
44	Bacon	Y Grossman	Y	Mitchell	Y	Spradley	Y
45	Berry	Y Hefley	Y	Nuñez	N	Stafford	Y
46	Borodkin	Y Hodge	Y	Paschall	Y	Stengel	Y
47	Boyd	Y Hoppe	Y	Plant	Y	Swenson	Y
48	Cadman	Y Jahn	Y	Ragsdale	Y	Tapia	Y
49	Chavez	- Jameson	Y	Rhodes	Y	Tochtrop	Y
50	Clapp	Y Johnson	Y	Rippy	Y	Veiga	Y
51	Cloer	Y Kester	Y	Romanoff	Y	Vigil	Y
52	Coleman	Y King	Y	Saliman	Y	Webster	Y
53	Crane	Y Larson	Y	Sanchez	Y	Weddig	-
54	Daniel	Y Lawrence	Y	Schultheis	Y	White	Y
55	Decker	Y Lee	Y	Scott	Y	Williams S.	Y
56	Fairbank	Y Mace	Y	Sinclair	Y	Williams T.	Y

1	Fritz	Y	Madden	Y	Smith	Y	Witwer	Y
2	Garcia	Y	Marshall	Y	Snook	Y	Young	Y
3							Mr. Speaker	Y

REPORT OF COMMITTEE OF REFERENCE

TRANSPORTATION AND ENERGY

After consideration on the merits, the Committee recommends the following:

HB01-1091 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

Amend printed bill, page 9, line 13, strike "01-____," and substitute "01-1091,".

Page 13, line 18, strike "01-____," and substitute "01-1091,".

Page 15, line 25, after "STATION," insert "FLEET INSPECTION STATION, MOTOR VEHICLE DEALER TEST FACILITY,".

Page 19, line 20, strike "01-____," and substitute "01-1091,".

INTRODUCTION OF BILLS

First Reading

The following bills were read by title and referred to the committees indicated:

HB01-1120 by Representative(s) Hefley--Concerning a state income tax credit for personal property taxes paid on business personal property.

Committee on Finance

HB01-1121 by Representative(s) Hodge--Concerning countywide ballot issues.

Committee on Local Government

HB01-1122 by Representative(s) Coleman, Groff; also Senator(s) Tate--Concerning increased consumer protections regarding loans secured by residential real estate.

Committee on Business Affairs & Labor

HB01-1123 by Representative(s) Spradley; also Senator(s) McElhany--Concerning the authority of a local liquor licensing authority to authorize the personal transportation of an alcohol beverage from a retail gaming tavern to another retail gaming tavern.

Committee on Local Government

1 **HB01-1124** by Representative(s) Swenson, Lee; also Senator(s)
 2 Nichol--Concerning limitations on the authority to issue
 3 special license plates.
 4 Committee on Transportation & Energy

6
 7 **INTRODUCTION OF RESOLUTION**

8
 9 The following resolution was read by title and laid over one day under the
 10 rules:

11
 12 **HR01-1006** by Representative(s) Spradley, Dean--Concerning the
 13 repeal of a provision in the house rules of procedure for
 14 committees of reference that requires the committee to
 15 specify the amount and source of an appropriation in the
 16 bill prior to passage by the committee of reference.

17
 18 *Be It Resolved by the House of Representatives of the Sixty-third*
 19 *General Assembly of the State of Colorado:*

20
 21 That Rule No. 25 (j) (2.5) of the Rules of the House is repealed as
 22 follows:

23
 24 **25. COMMITTEES**

25
 26 (j) All committees of reference, as listed in (a) above, shall
 27 observe the following rules of procedures:

28
 29 (2.5) ~~No bill containing an appropriation shall be passed~~
 30 ~~from a committee of reference unless the amount~~
 31 ~~and the source of the appropriation are specified in~~
 32 ~~the bill.~~

33
 34
 35
 36 On motion of Representative Spradley, the House adjourned until
 37 10:30 a.m., January 15, 2001.

38
 39
 40
 41 **JOINT SESSION**

42
 43 The Joint Session was called to order by the Speaker of the House, Doug
 44 Dean.

45
 46 On motion of Senator Thiebaut, the morning roll call of the Senate was
 47 made the roll call of the Joint Session.

48
 49 Present--34.
 50 Excused--Senator Hagedorn.

51
 52 On motion of Representative Spradley, the morning roll call of the House
 53 was made the roll call of the Joint Session.

54
 55 Present--64.
 56 Excused--Representative Alexander.

1 The Speaker declared a quorum present and as is customary presented the
2 gavel to the President of the Senate to preside over the joint session.

3
4 President Matsunaka requested the Joint Committee, composed of
5 Senators Gordon and Evans, and Representatives T. Williams, Swenson,
6 and Tapia to escort the Governor from the Governor's Chambers to the
7 rostrum.

8
9 Chief Sergeant-at-Arms Suman announced the arrival of the Honorable
10 Mary Mullarkey, Chief Justice of the State of Colorado.

11
12 The Joint Committee escorted the Chief Justice to the rostrum where she
13 addressed the Joint Session.

14
15 The Joint Committee escorted the Chief Justice from the Chambers.

16
17 On motion of Representative Spradley, the Chief Justice's message was
18 ordered printed in the House Journal.

19
20
21
22 **ADDRESS BY THE HONORABLE**
23 **Mary Mullarkey**
24

25 It is an honor to address the 63rd session of the General Assembly on behalf of
26 the third branch of Colorado state government, the Judicial Branch. Today I
27 will update you on some of our issues and innovations and discuss three of our
28 legislative priorities.

29
30 **WHO WE ARE**

31 Let me begin by describing the Judicial Branch that, in our state, includes
32 both the state court system and probation. We have 244 judges and justices and
33 approximately 2700 employees. Two-thirds of the employees work for the
34 courts and one-third work in probation. Probation officers assist the trial courts
35 in making sentencing decisions in criminal cases, and they supervise offenders
36 who are placed on probation rather than incarcerated.

37
38 On the court side, we have four levels of state courts. The county courts
39 are trial courts of limited jurisdiction handling criminal misdemeanors and civil
40 cases under \$10,000. By constitution, every county has at least one county
41 judge. This year you will see legislation to create a county judgeship for our
42 newest county, Broomfield. The counties are organized geographically into 22
43 judicial districts.

44
45 The district courts are courts of general jurisdiction that can hear all
46 kinds of cases including civil, felony crimes, dissolution of marriage, juvenile and
47 probate.

48
49 There are two appellate courts both located here in Denver. We are
50 your near neighbors located at 14th and Lincoln. The court of appeals decides
51 appeals from decisions by the district court and by state administrative agencies.
52 The supreme court is the state's highest court and reviews decisions of the trial
53 courts and the court of appeals. It is also the administrative head of the
54 Colorado Judicial Branch. I have been the Chief Justice for 2 years and have
55 served on the court since 1987. I invite you to visit the courts. Any of the chief
56 judges or I would be glad to help you arrange a visit.

1 **ISSUES IDENTIFIED IN 1999**

2 When I spoke to the General Assembly two years ago, I identified some
3 of the challenges facing the courts. These include the high volume of cases, the
4 increasing diversity among court users and the Colorado population generally,
5 the increasingly large numbers of parties appearing without attorneys, and the
6 changing demands on judges to assume new, nontraditional roles.

7
8 These challenges are so important because our courts can succeed only
9 if they are fair and they are perceived as being fair. We can have equal justice
10 for all only if the courts are open and accessible to all. This means all court
11 users must be treated with dignity and respect regardless of race, ethnicity,
12 gender, or other irrelevant characteristics. Our citizens must see courts that
13 reflect their diverse faces.

14
15 **ACHIEVING FAIRNESS**

16 We've come a long way in improving the basic fairness of the Judicial
17 Branch. Here are some brief examples. In 2000 we marked the 10th
18 anniversary of the Gender & Justice Report on gender discrimination in the
19 Colorado courts. We charted our progress in implementing the original report's
20 recommendations, identified current gender bias issues, and now are making our
21 plans for the future.

22
23 In 2001 we expect to begin a major effort to implement the Multicultural
24 Commission's recommendations on addressing racial and ethnic bias. We
25 already have made some progress in improving access to the courts for people
26 who are not fluent in English. There is a strong demand for language
27 interpreters throughout the state. Spanish predominates but many other
28 languages are used as well. Last summer I swore in the first group of court
29 interpreters to complete our rigorous certification program. These interpreters
30 are able both to translate from another language into English and also to explain
31 court terminology and procedure.

32
33 Another program in the 5th Judicial District (Summit County) attracted
34 some national publicity. Called "Living in America," the program educates
35 people who have recently moved here from Central and South American
36 countries about basic legal requirements in this country, such as prohibitions
37 against drunk driving and domestic violence. It has proved to be a successful
38 way to divert participants from the criminal justice system.

39
40 **DRAMATIC INCREASE IN COURT CASELOADS**

41 But the biggest obstacle to providing a fair decision in every case may
42 be the sheer volume of cases each of our trial judges must carry. Let's look at
43 what's happened over the last 20 years.

44
45 Caseloads per judge have increased dramatically as our population has
46 grown. In 1980, the average caseload for each district judge was 1054 cases per
47 year. Now there are 1367 cases per judge per year. In 1980, a judge could
48 spend 57.6 minutes per case. Now each case can have only 42 minutes of a
49 judge's time per year. Caseloads have risen over 80 percent while the number
50 of district judges has increased by 12 percent and the number of county judges
51 by about 10 percent. Today we have 120 district court judges. If we wanted
52 each judge today to have the same caseload as a judge did in 1980, we would
53 need more than 100 additional district judges.

54
55 **CRIMINAL CASES DOMINATE THE COURTS**

56 And, please don't think that everyone has their day in court. The

1 significant increase in cases per judge has adversely impacted our ability to try
2 cases. You may find it interesting to know that today fewer than 2 percent of
3 cases are tried. The rest are settled. Imagine the effect that one two-week trial
4 has on the 42 minutes per case that is available to the judge. Very quickly the
5 available time per case is reduced to mere seconds or perhaps nanoseconds.
6 Death penalty cases have a particularly high impact on other pending cases.

7
8 Each death penalty case that is tried through the sentencing phase
9 requires the equivalent of one-half of one judge for a full year. At present, 12
10 death penalty cases are pending in the trial courts. If all 12 go through the full
11 process, those 12 cases will absorb the equivalent of 6 of our 120 district judges.

12
13 There are now slightly over 160,000 cases filed each year in the district
14 courts, representing an increase of about 16 percent over the past ten years.
15 During the same time period, criminal cases increased by 70 percent and now
16 stand at almost 36,000 filed annually. This sharp increase in criminal filings has
17 dominated the courts.

18
19 Because of the statutory and constitutional rights of a criminal defendant
20 to a speedy trial, criminal cases drive the dockets in trial courts. In general, a
21 criminal defendant in Colorado must be tried within 6 months or the charges
22 must be dismissed. Simply put, civil and domestic relations cases take the back
23 seat in the courts to criminal cases.

24
25 The strong increase in criminal case filings reflects the increased
26 emphasis on crime prevention that has occurred at all levels of government.
27 There has been a close collaboration between the legislative and judicial
28 branches to increase our ability to fulfill our public safety functions.

29 30 **PROBATION AND RESTORATIVE JUSTICE**

31 Since 1980, the General Assembly has made significant increases in
32 funding and staffing for the Probation Department. As a result, probation
33 supervised over 19,000 adults and 7600 juveniles last year. About 2500 of these
34 probationers were offenders who were placed in specialized programs that the
35 legislature has funded for high risk or high need offenders. Without these
36 specialized programs, many of the 2500 offenders would have been incarcerated.

37
38 The General Assembly has supported important recent innovations that
39 may reduce the size of future criminal dockets. For several years, our Probation
40 Department has been committed to the principles of restorative justice. It is not
41 a substitute for the standard criminal justice process and is not suitable in all
42 cases. Rather, it is a concept that recognizes that crime tears the fabric of
43 society. The harm done by the offender extends beyond the immediate victim
44 to the victim's family, friends, neighbors, and the community at large.
45 Restorative justice tries to repair that harm to society so that ultimately the
46 offender can be reintegrated into the community.

47
48 In legislation adopted in the last session, the General Assembly endorsed
49 restorative justice for use with juvenile offenders.

50 51 **PROBLEM SOLVING COURTS**

52 On the court side, the equivalent of restorative justice is sometimes
53 referred to as therapeutic courts or, the term I prefer, problem-solving courts.
54 These are specialized courts such as drug courts aimed at cases involving
55 complex social and psychological problems. The judge plays an active role in
56 changing chronic behavior of the defendant by monitoring the defendant closely

1 and requiring treatment. Such courts have been effective in reducing recidivism
2 rates. According to one national study, only 10 percent of offenders who
3 successfully completed the treatment program are charged with new crimes.

4
5 Again, the legislature has supported this innovation. The Denver District
6 Court has operated a successful drug court for over 5 years. Eight new drug
7 courts are beginning operations throughout the state during 2000 and 2001.

8
9 We are also expanding the problem solving court to another important
10 area. The 19th Judicial District (Weld County) is the first in the state to begin
11 a domestic violence court.

12
13 The concentration on criminal law has occurred not just at the state level
14 but also at the national and local levels. The result has been significant
15 investment on the front end of the process. Increasingly more money has been
16 spent on policing, prosecuting, defending and incarcerating offenders. Similarly,
17 many millions of dollars have been spent on the end of the process to build
18 prisons. But little attention has been paid to the judging phase in the middle of
19 the process. The courts have shifted resources to handle the increased criminal
20 caseload. We have come to rely on magistrates to assume more of the
21 responsibilities in civil and family cases. Magistrates perform very important
22 functions and we couldn't get along without them. However, they are not
23 judges and cannot try cases. I think that it is time to add more judges to
24 adjudicate civil cases and family matters.

25 26 **GOVERNOR'S TASK FORCE REPORT**

27 The Governor's Task Force on Civil Justice Reform took an in-depth
28 look at the trial courts' civil dockets and concluded that the civil justice system
29 is approaching a crisis. It endorsed a series of changes, some of which will come
30 before you for legislative action this session.

31
32 The most important proposal is legislation to add 24 new district
33 judgeships over the next four years. The bill, which will be sponsored by
34 Representative Mitchell and Senator Perlmutter, requires a 2/3 majority of each
35 house and will be presented to you very early in the session. The reason for this
36 expedited schedule is to allow the Joint Budget Committee to include the first
37 year cost of the new judgeships in the Judicial Branch's appropriation in the long
38 bill. The Mitchell-Perlmutter bill will specify exactly what districts will get new
39 judgeships in each of the next 4 years. In general, the new judgeships will go to
40 the fastest growing areas in the state.

41 42 **HIGHER STANDARDS**

43 If these new judgeships are authorized, we can and will hold ourselves
44 to higher standards. Our present standards for timely disposition of cases were
45 set in 1989. We think the public will be better served if we can adopt the
46 performance standards set by the American Bar Association. At present, we
47 close 86 percent of criminal cases within 12 months. With the new judges, we
48 can reach the ABA goal of closing 100 percent of the criminal cases within 12
49 months of filing by 2007. In the civil area, we now are able to close 74 percent
50 of the cases within 12 months. With the added judges, we can reach the ABA
51 standard of closing 90 percent of the civil cases within 12 months of filing by
52 2007.

53 54 **WORKING WITH OUR COMMUNITIES**

55 Of course, we recognize that our ability to set higher standards and reach
56 them is not solely a product of adding more judges. It also requires all of the

1 judges to improve the management of their cases. With the help of nationally
2 recognized consultants and with the full commitment of the chief judges, we
3 have started a concentrated effort to improve the way we do business. It
4 requires the judges to work closely with the lawyers and court users in their
5 local communities to reach consensus on how specific case types can be
6 expedited.

7
8 For example, judges in the First Judicial District (Jefferson and Gilpin
9 Counties) have been working with community agencies on juvenile case
10 processing, to give more attention to the needs of juveniles. The 4th Judicial
11 District (El Paso and Teller Counties) decided to work on their criminal case
12 management in order to create more time for family court dockets.

13
14 Nine of the 22 judicial districts began this process last summer. Each of
15 the projects selected by the districts is different to reflect local priorities across
16 the state. The second batch of districts began the process in December and we
17 expect projects to be underway in all districts this year.

18
19 Adding new district judges is our first legislative priority this year and
20 adding new court staff is our second priority. I have no doubt that staff
21 shortages in the courts contribute to the perception of approaching crisis in the
22 civil justice system. As part of our budget, we are asking for 69 new court
23 employees for 17 of the 22 judicial districts.

24
25 We have been unsuccessful in obtaining new court staff for courts in our
26 larger cities for several years and the shortages have become severe. For
27 example, we are requesting 8 new court staff in the 19th Judicial District (Weld
28 County) and 9 in the 8th Judicial District (Larimer and Jackson Counties).
29 Many of our employees work too much overtime and suffer work-related
30 illnesses and injuries. It is inevitable that more mistakes are made. Court users
31 are forced to wait in long lines and routine functions like garnishments and the
32 paperwork to reinstate drivers' licenses cannot be processed in a timely manner.
33 I hope that you will look favorably upon our budget request so that we can
34 improve our service to the public.

35 36 **BUSINESS COURT PILOT**

37 Another recommendation from the Governor's Task Force urged the
38 development of a specialized business court so that business disputes can be
39 handled more expertly and resolved more promptly. In response to the
40 recommendation, we have analyzed our business cases and we are seeking
41 funding for a pilot project to be based in the Denver District Court. We have
42 made this our third priority.

43
44 The Denver District Court has the largest number of business cases
45 pending, about 230 cases. That number is too small to justify a specialized
46 court. However, we believe that the goals of the task force can be met by
47 specialized case management. We propose hiring personnel with business
48 expertise who can work with the parties and the judges to prepare the cases for
49 decision.

50
51 Having intensive, hands-on management of each case at an early stage
52 should result in faster, better decisions. We think it is important to develop this
53 service because we recognize the need for orderly development of case
54 precedent in business law. Without court decisions, businesses cannot have the
55 predictability they need to plan their futures.

56

1 **THE IMPORTANCE OF FAMILY CASES**

2 I have saved the discussion of family cases for the last because I hope my
3 thoughts on this subject will stay with you the longest. It is difficult to
4 exaggerate the importance of family cases to the district court dockets. Family
5 cases account for more than one-half of the filings in the district courts today.
6 That is a sea change since 1980.

7
8 There are some interesting and potentially very significant experiments
9 currently underway in the Colorado courts. Three judicial districts are testing
10 a model to simplify the divorce process. The model calls for the judge to act
11 more as a mediator than an adjudicator. A court employee, who is a lawyer
12 experienced in this area of law, acts as a case facilitator to work with the parties.
13 The facilitator helps the parties to resolve issues if possible and to prepare the
14 disputed issues for resolution by the judge. Although the test period is not over,
15 preliminary results suggest that the simplified divorce procedure substantially
16 reduces the time to complete the case. If the preliminary results hold true, the
17 simplified procedure would reduce the expense and trauma of dissolution of
18 marriage action.

19
20 In September, a pilot project testing the "one judge/one family" concept
21 began in Adams County District Court. We know that a family may have
22 several different cases pending at the same time in the same jurisdiction. In a
23 large urban court, the cases may be assigned to several different judges. For
24 example, a family could have simultaneous cases involving domestic abuse, drug
25 abuse, delinquency, truancy and dependency and neglect. Human services
26 agencies often are involved with several of the cases. Handling these cases
27 separately seems to create gaps in services, needless duplication and possibly
28 conflicting rulings.

29
30 Without additional cost to the court, the pilot project will bring all of the
31 cases related to one family before the same judge. It will track 25 families
32 through the experimental family court and compare the results with 25 families
33 whose cases are handled through the usual process. We'll compare the two
34 groups to see if the family court model produces better outcomes for families.

35
36 **APPOINTMENT OF COMMISSION ON FAMILIES**

37 In addition to these special projects, I have established a Commission on
38 Families in the Colorado Courts. It is co-chaired by one of your former
39 colleagues, Senator Dottie Wham, and one of my former colleagues, Senior
40 Judge Pattie O'Rourke. I am grateful that several present and former legislators
41 have agreed to serve on the Commission.

42
43 I have asked the Commission over the next 18 months to study how we
44 handle family cases and to recommend how we can improve. A court committee
45 co-chaired by Chief Judge Chuck Buss of the 21st District Court (Mesa County)
46 and Judge Jesse Vigil of the 17th District Court (Adams County) will provide
47 the Commission with background on our current system, the best practices
48 around the country and suggestions for change.

49
50 I hope that the Commission will use our internal report as a springboard
51 for its study, and will gather other views from around the state. By the summer
52 of 2002, the Commission will report on its findings and recommendations. It is
53 a major undertaking but well worth doing because of the importance of family
54 cases to all of us.

55

1 **CONCLUSION**

2 In conclusion, I want to thank you for your past support. Without you
3 many of the innovations I discussed would not have happened. One of the
4 hallmarks of Colorado state government when operating at its best has been the
5 ability of the three branches to work together for the common good of our
6 citizens. I ask for your favorable consideration of the proposed new district
7 judges and of our budget requests including the new court staff and the business
8 court pilot project.

9
10 Please remember that my door is open to you. I look forward to
11 working with you.

12 _____

13
14
15 On motion of Senator Thiebaut, the Joint Session was dissolved.

16
17 _____

18
19
20 Approved:

21
22
23
24 DOUG DEAN,
25 Speaker

26
27 Attest:
28
29 JUDITH RODRIGUE,
30 Chief Clerk

31