

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

Third Legislative Day

Friday, January 12, 2007

1 Prayer by Father Tom Carzon, Holy Ghost Church, Denver.

2

3 The Speaker called the House to order at 9:30 a.m.

4

5 Pledge of Allegiance led by Karl Shepard, Boy Scout Troupe 23,  
6 Clintonville, Wisconsin.

7

8 The roll was called with the following result:

9

10 Present--62.

11 Excused--Representatives Kefalas, McFadyen, Pommer--3.

12 Present after roll call--Representatives Kefalas, McFadyen,  
13 Pommer.

14

15 The Speaker declared a quorum present.

16

17

18 On motion of Representative Rice, the reading of the journal of  
19 January 11, 2007, was declared dispensed with and approved as corrected  
20 by the Chief Clerk.

21

22

23

24

25

**INTRODUCTION OF RESOLUTION**

26

27 The following resolution was read by title and laid over one day under the  
28 rules:

29

30 **HR07-1005** by Representative(s) Carroll T., Marshall--Concerning the  
31 commemoration of the birthday of the Reverend Dr.  
32 Martin Luther King, Jr.

33

34

35

36

37

**CONSIDERATION OF RESOLUTION**

38

39 **HJR07-1004** by Representative(s) Gardner C., Butcher, Curry, Hodge,  
40 White; also Senator(s) Fitz-Gerald, Isgar, Taylor--  
41 Concerning a request that Congress support the federal  
42 "Rural Colorado Water Infrastructure Act".

43

1 (Printed and placed in member's file.)

2

3 On motion of Representative Gardner C., the resolution was **adopted** by  
4 **viva voce** vote.

5

6 Co-sponsors added: Roll Call of the House.

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House in recess for Joint Session.

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## JOINT SESSION

13

14 The Joint Session was called to order by the Speaker of the House,  
15 Romanoff.

16

17 On motion of Senator Gordon, the morning roll call of the Senate was  
18 made the roll call of the Joint Session.

19

20 Present--35.

21

22 On motion of Representative Madden, the morning roll call of the House  
23 was made the roll call of the Joint Session.

24

25 Present--65.

26

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

29

30 President Fitz-Gerald requested the Joint Committee, composed of  
31 Senators Shaffer, and Kester and Representatives Carroll T, Merrifield,  
32 Witwer to escort the Chief Justice to the rostrum.

33

34 Chief Sergeant-at-Arms Suman announced the arrival of the Honorable  
35 Mary Mullarkey, Chief Justice of the State of Colorado.

36

37 The Joint Committee escorted the Chief Justice to the rostrum where she  
38 addressed the Joint Session.

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40

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## ADDRESS BY THE HONORABLE Mary Mullarkey

43

44 President Fitz-Gerald, Speaker Romanoff, Members of the 66<sup>th</sup> General  
45 Assembly, honored guests and friends:

46

### Introduction

48

49 It is an honor to be here to discuss with you the State of the Colorado Judiciary.  
50 The first week of a new session always fills us with optimism about the future  
51 and the hope that great things can be accomplished for the citizens of our state.  
52 When state government works together to build a future that better meets the  
53 needs of the public, there is reason to be optimistic.

54

55 My remarks today continue a long tradition of the Chief Justice addressing  
56 members of the General Assembly at the beginning of every new session. Your

1 invitation allows each Chief Justice to discuss a few of our successes and to  
2 draw attention to the challenges we face, particularly to the obstacles or  
3 difficulties that perhaps together we can resolve. It also is an opportunity to  
4 share a vision of the Judiciary that is committed to working with the other two  
5 branches of state government to improve the judicial services to the people of  
6 this state. It is my pleasure to do just that today.

7

8

### Description of the Judiciary

9

10 As Chief Justice, I proudly represent the state's 275 judges and justices, and  
11 more than 2,800 full- and part-time employees of the Colorado Judicial  
12 Department. The state court system includes two levels of trial courts -- the  
13 county courts and the district courts -- and two levels of appellate courts -- the  
14 Court of Appeals and the Supreme Court.

15

16 We have a statewide presence. Every county has a court house where county  
17 and district cases are filed and decided by our judges. Our probation officers  
18 provide community-based supervision of criminal offenders in every  
19 jurisdiction. Members of the Judicial Branch are your neighbors and friends in  
20 communities throughout the state.

21

22 In the past year, more than 750,000 new cases of all types were filed in our trial  
23 courts. That number includes more than 190,000 cases filed in the district  
24 courts and more than 557,000 cases filed in the county courts. The Court of  
25 Appeals received nearly 2,748 new cases and nearly 1,400 new cases were filed  
26 in the Supreme Court.

27

28 These are not just attention-grabbing numbers. Rather, these cases represent  
29 lives that have been impacted, often adversely, through the acts of others. One  
30 of these cases may be a fourteen year-old who was caught writing graffiti on the  
31 neighbor's garage. On the other end of the spectrum, one of the 750,000 cases  
32 is a child who will be adopted into a family, getting a second chance at a life  
33 full of love and hope. We resolve all types of disputes ranging from minor  
34 traffic infractions to highly complex, multi-million dollar commercial  
35 transactions, murder cases and everything in between.

36

37 Our probation officers supervised more than 37,000 adult offenders and more  
38 than 7,000 juvenile offenders. We supervise more people who have been  
39 convicted of crimes than any other entity in the state. Again, these are not just  
40 numbers. Every offender, every victim, their family members and many others  
41 in the wider community are impacted by our courts and our system of justice.

42

43 Just as our cases are not mere numbers, the people who work for the Judicial  
44 Branch are also more than numbers. I want to put the faces on the Judiciary by  
45 sharing some of our achievements from the recent past with you.

46

47 In August, over 100 judges, attorneys, probation officers, treatment providers  
48 and local community officials met in Cortez, to learn best practices in  
49 developing DUI courts and working together to more effectively address the  
50 problem of persistent drunk driving in the four corners region. Teams from the  
51 Judicial Branch were joined by teams from the Southern Ute Tribe, the Ute  
52 Mountain Ute Tribe, the Navajo Nation, Jicarilla Apache Nation, and judges  
53 from the Justice of the Peace courts in eastern Utah. This two-day program  
54 informed participants about DUI Courts and also provided a forum for teams  
55 to begin planning and refining how to most effectively operate DUI Courts in  
56 their districts.

1 One result of this program is that the Colorado Department of Transportation  
2 has awarded a grant of \$500,000 to the Colorado courts to establish DUI Courts  
3 in Durango, Pagosa Springs, Cortez, and Breckenridge. The grant includes the  
4 Southern Ute Tribe and the Ute Mountain Ute Tribe in the effort to have courts  
5 from the various jurisdictions work collaboratively in monitoring problem  
6 drivers through local probation departments and treatment programs.  
7

8 Turning to children and family cases, I can report the outstanding success of our  
9 statewide court case management system which has been praised as a national  
10 model for the collection and electronic transfer of information. This process  
11 makes critical information more readily available to all interested governmental  
12 entities in order to enhance the quality of decision making and public safety.  
13 "FAMJIS" (or the "Family Justice Information System") began in 2003 with a  
14 federal grant aimed at strengthening court efforts in child abuse and dependency  
15 cases. Better informed decision making is made possible by real-time data  
16 exchange with social services allowing the judicial officer to access a  
17 comprehensive snapshot of a child or a family's progress through the courts,  
18 including the number of times the child has been moved, the services a family  
19 has received, and the other cases involving that family. As one judicial officer  
20 reported, "[FAMJIS] helps provide judicial officers with succinct information  
21 to make decisions in the best interests of the children." Further, the data  
22 exchange provides detailed reports on outcomes to enable the Judiciary to  
23 develop best business practices and to collect relevant information for staffing  
24 models and resource allocations. Based on the success of this project, in future  
25 years, the Judicial Branch and Human Services Department hope to expand this  
26 FAMJIS program in the child support arena.  
27

28 This fall, Colorado hosted to the State Court Interpreter Certification  
29 Consortium, an organization that addresses the growing numbers of court users  
30 who are not proficient in English. This group of thirty-nine states joined  
31 together to adopt standards and qualifications for court interpreters and to  
32 administer tests for certification. The Colorado courts work with interpreters  
33 of more than seventy different languages and have certified or credentialed  
34 interpreters in five languages in addition to Spanish.  
35

36 The last topic I want to highlight is court house security. County officials,  
37 sheriffs and law enforcement officials joined judges and court administrators  
38 to address shortcomings in court security. The Court Security Committee met  
39 over a period of several months in 2006 to discuss how to provide security in  
40 court houses throughout the state to a level appropriate for each court location.  
41 This committee came up with innovative ideas that moved the discussion away  
42 from stalemate to solutions that could improve conditions in court houses in all  
43 areas of the state. Many of the identified solutions do not cost additional money  
44 and can be implemented immediately. The work of this committee forms the  
45 basis for one of the legislative initiatives I hope you will consider in this  
46 session.  
47

48 Beyond these specific subjects, there are many other noteworthy achievements.  
49 For example, we have implemented problem-solving courts such as drug courts  
50 that emphasize treatment and personal responsibility. We have developed  
51 resources to provide mediation and other alternative methods used to resolve  
52 disputes without trials. We have used federal court improvement project funds  
53 to improve the outcomes for abused and neglected children. Our judges  
54 continue to be recognized as leaders by state and national organizations.  
55  
56

Legislative Requests

1  
2  
3 Here in this room we come together as the Legislative Branch and the Judicial  
4 Branch united in our goals to serve the people of Colorado. We each have very  
5 distinct roles yet these roles are intertwined as we go about doing the people's  
6 business. Today I come to you in my capacity as Chief Justice representing the  
7 Judiciary and respectfully request your assistance in fulfilling our responsibility  
8 to our three-branch system of government.  
9

10 This year we are asking for the General Assembly's help as we focus on three  
11 primary issues facing the Judiciary. We hope that by working together  
12 solutions will emerge so that we can better serve the needs of the citizens.  
13

Revised Staffing

14  
15  
16 Last year, we presented and you approved the first year of our five-year staffing  
17 plan. This year we ask you to look at the remaining four year plan that includes  
18 new judges, court staff, and probation officers. The volume of cases in the  
19 courts and probation that I described earlier place burdens on the system that  
20 cannot be met by existing judicial resources. If you conduct business at one of  
21 our courts, almost universally you can expect delays that are excessive by  
22 anyone's standards. Most courts are closed to the public at noon and at 4 p.m.  
23 so that the staff can process the hundreds of new documents filed each day.  
24 Despite our best efforts, we cannot serve the public as well as we should.  
25

26 The number of people and entities filing cases in the courts continues to exceed  
27 existing resources. Factors that typically influence the volume of new case  
28 filings include population growth, the economy, changes in state law and law  
29 enforcement policies, and other demographic factors. The biggest factors  
30 impacting court caseloads during the last ten years are population growth and  
31 the economy. We have about one new case filed each year for every six or  
32 seven people living in the state.  
33

34 Beyond the sheer numbers of cases are other components that impact our ability  
35 to provide services. Today we have more diverse court users increasing the  
36 demands for language interpretations, more litigants than ever are proceeding  
37 without attorneys, and the nature of cases is becoming more complex.  
38

39 It is important to recognize that the courts and probation also play a critical role  
40 in providing public safety. As we continue to see a system that is straining  
41 under the burden of rising demands and highly restricted resources, the issue of  
42 public safety weighs heavily on us. In the last thirty years, the amount of time  
43 a district judge has available to spend on a case has dropped dramatically from  
44 approximately one hour per case per year to less than thirty minutes today.  
45 Probation officers have seen their caseloads increase to levels far exceeding  
46 recommended standards.  
47

48 In the past, the legislature has given fair consideration to our requests. You also  
49 have been receptive to examining alternative funding mechanisms to help us.  
50 We are again coming to you asking for your help.  
51

52 Colorado's courts continually endeavor to be more effective and efficient.  
53 However, caseload growth has far outstripped new resources. By Fiscal Year  
54 2008, case filings in the trial courts will have increased by 139 percent in a  
55 thirty-year period, while judicial officers including both judges and magistrates  
56 will have increased only forty-eight percent. We would need 191 new judicial

1 officers to match the caseload growth in the trial courts.

2  
3 The Colorado Judicial Branch is pursuing a long term staffing plan that will  
4 bring the courts to a more adequate level of staffing by Fiscal Year 2011. Key  
5 to this plan is enactment of HB1054 sponsored by Representative Terrance  
6 Carroll and Senator Brandon Shaffer. This bill would create sixty-three  
7 additional judgeships over the next four years. These judgeships are needed to  
8 address workload increases in fifteen of the state's twenty-two judicial districts  
9 and in the Court of Appeals. In total, the branch is requesting forty-nine new  
10 district judgeships, eight new county court judgeships and six new Court of  
11 Appeals judgeships.

12  
13 The proposed increase in judgeships constitutes an approximate five percent  
14 increase per year for the next four years. This rate of growth will allow the  
15 courts to keep pace with an average case filing increase of four percent per year  
16 and provide for very limited progress in making up for the historical  
17 understaffing.

18  
19 I would be remiss if I did not tell you that the multi-year plan represents only  
20 a partial fulfillment of needs that exist in our courts. We had to cut our staff by  
21 thirteen percent when the budget collapsed in 2002-2003. Although we have  
22 recovered that number of positions, we have fallen behind because of the  
23 increasing caseloads. Allocation of the requested positions will not solve all  
24 our problems. It will, however, allow us to resolve disputes in a more timely  
25 fashion and reduce the risk of committing avoidable mistakes.

#### 26 27 Court House Security

28  
29 The second issue we will be bringing to you is security in our rural courts.  
30 There has been a very disturbing trend of violence directed at the courts, judges,  
31 attorneys, and everyone associated with them. At its most basic level, this is  
32 an attack on the rule of law and the American belief that disputes are resolved  
33 peacefully through court litigation, not by the use of force.

34  
35 Our primary concern is the safety of all who use our courts including members  
36 of the public coming to conduct routine business, litigants, jurors, witnesses,  
37 attorneys, court staff, probation officers, judges, and law enforcement  
38 personnel. Many litigants do not want to be in court, are very emotional, and  
39 have extremely high levels of anxiety. In very recent history, Colorado has had  
40 a court house hostage situation, a suicide, arson, vandalism, and numerous  
41 attempts to bring weapons into facilities. We are currently working with county  
42 officials and law enforcement agencies re-evaluating facilities in light of the  
43 recent trend of violence directed toward the Judiciary. Currently there are  
44 thirty-eight court houses without full-time security screening available. Our  
45 goal is to address each court house in the state with an assessment of how best  
46 to provide security at that location, implement those measures that do not  
47 require additional funding, and obtain the resources necessary to implement  
48 additional security in combination with county officials in those locations where  
49 feasible.

#### 50 51 Colorado Judicial Complex

52  
53 The third issue is replacing the State Judicial Building. I have made note of this  
54 pending need in previous State of the Judiciary messages and last year you  
55 appropriated planning money for us to study the feasibility of this project.  
56 Because of the size and solemn nature of this investment for the people of

1 Colorado and the institution itself, it is not a proposal we make lightly. Rather  
2 we are putting forward our request recognizing that construction of a new center  
3 of justice is in the best interest of the state and will be a cornerstone of our state  
4 for generations to come.

5

6 As you know, we are your neighbors in the block to the southwest of this  
7 building. For thirty years, we have shared our block with Colorado History  
8 Museum, which is funded as part of the higher education budget in the  
9 Executive Branch.

10

11 The Judicial Department and Colorado Historical Society have worked together  
12 to develop a joint proposal. The Museum would first be relocated to a site in  
13 the cultural and historical district near Civic Center Park. By constructing a  
14 new museum building, the Historical Society will be able to address its  
15 concerns about inadequate space and meeting current museum standards.

16

17 We currently face a number of challenges in our existing facility. The building  
18 was full the day it opened. Thirty years later it is an overcrowded, dilapidated  
19 building. Noncompliance with safety, fire, egress, ventilation, and American  
20 with Disabilities Act standards and codes are coupled with a physical design  
21 making the building vulnerable to potential terrorist attacks. The design also  
22 makes it impossible to renovate the building into a useable, secure workplace.  
23 Unfortunately, the State Judicial Building is a failed building that must be  
24 replaced as soon as possible.

25

26 We have coped with overcrowding in part by leasing offices in various  
27 locations in the metro Denver area. Currently we have four separate locations.  
28 The multi-location situation in and of itself creates numerous inefficiencies and  
29 is very expensive to the state both in terms of operational expenses and the loss  
30 of time employees spend going from facility to facility.

31

32 Our proposed building project would maximize the use of the block. It will  
33 house not only the two appellate courts and our administrative functions, but it  
34 would also house the legal offices funded by the state. These include the  
35 attorney general's office, the alternate defense counsel, the office of the child's  
36 representative, and the public defenders' office. The new complex consolidates  
37 costs, capitalizes on efficiencies, and greatly enhances security for all these  
38 agencies. It is a multi-agency and multi-party effort; and we need bi-partisan  
39 support.

40

41 The state has built no office space during the past thirty years, creating an  
42 explosion of extremely expensive rental commitments. We will be asking for  
43 your help in making the Colorado Center of Justice a reality. We are not naive  
44 in making this request knowing that you have many demands for scarce  
45 discretionary funds. We will be providing you with a package of funding  
46 alternatives and mechanisms for your consideration.

47

48

#### Outlook

49

50 We are proud of what we have accomplished. We resolve every dispute that  
51 comes before us, no matter how difficult, no matter how emotional, no matter  
52 how volatile. We have worked very hard to provide the highest level of  
53 services within our resource limitations. We have maximized limited resources  
54 and streamlined procedures wherever feasible. We have utilized technology  
55 wherever practical to increase the efficiency of our case processing. However,  
56 the benefits from these efficiencies cannot be sustained without additional

1 judicial resources to adjudicate the caseload and staff resources to process the  
2 cases so that judges have the information necessary upon which to render  
3 judgments.

4  
5 There are no easy answers to addressing our challenges; however, there are  
6 opportunities and options that are important to examine. The court-related  
7 filing fees in Colorado are some of the lowest in the nation. For example, in  
8 district court civil filing fees we rank thirty-fifth in the nation. County court  
9 civil filing fees rank forty-sixth in the nation. These fees can be raised without  
10 adversely affecting access to the courts. There are other opportunities that  
11 should be explored to reclassify some general fund related court filing fees into  
12 cash funds. For our part, we are committed to continuing to explore, develop  
13 and implement efficiencies, and streamline processes.

#### 14 15 Future

16  
17 The future of the Judicial Branch depends on the support of the citizens and the  
18 other branches of government. In the past year, as the state celebrated the  
19 fortieth anniversary of the merit selection of judges, Colorado voters rejected  
20 a proposed constitutional amendment which would have imposed term limits  
21 on appellate judges. The effort to educate voters about the impact of the  
22 proposed amendment came from many different sources, but especially from  
23 leaders in the Executive and Legislative Branches of government. This effort  
24 reinforced my belief that the three branches of government must understand one  
25 another and work together to educate the public about the functions of state  
26 government. The people of Colorado must continue to treasure and respect the  
27 role of the Judicial Branch as an essential feature of state government. We have  
28 only to look around the world to see what happens in a place that does not have  
29 the rule of law.

30  
31 An educated citizenry enhances the Judiciary's ability to protect constitutional  
32 and statutory rights and liberties; to assure equal access to the courts; to provide  
33 fair, timely and constructive resolution of cases; to enhance public safety; to  
34 successfully supervise offenders; and last but certainly not least to facilitate  
35 victim and community reparation. Each of these is possible only through all of  
36 us coming together – the Legislative, Executive and Judicial Branches, each  
37 with equally important yet distinctly different roles for the people of Colorado.

38  
39 None of the issues I have raised here today is unique to Colorado or  
40 revolutionary in nature. They represent the building blocks of a Judiciary  
41 dedicated to providing an accessible, fair, impartial and respected institution for  
42 the people it serves.

43  
44 Thank you for the invitation to join you here today. We look forward to  
45 continuing our long and honorable tradition of working with the Legislative and  
46 Executive branches to face challenges, develop viable alternatives, and enhance  
47 the ability of all three branches of government to serve all Coloradans.

48  
49  
50 The Joint Committee escorted the Chief Justice from the Chambers.

51  
52  
53 On motion of Representative Madden, the message from the Chief  
54 Justice was ordered printed in the House Journal.

55  
56

1 On motion of Senator Gordon, the Joint Session was dissolved.

2

3

4

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House reconvened.

5

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7

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**PRINTING REPORT**

8

9 The Chief Clerk reports the following bills have been correctly printed:

10 **HB07-1095, 1096, 1097.**

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12

13

14

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**INTRODUCTION OF BILLS**

15

**First Reading**

16

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

19

20 **HB07-1098** by Representative(s) Frangas--Concerning the creation of  
21 the Colorado postsecondary transitions program, and  
22 making an appropriation therefor.

23 Committee on Education

24 Committee on Appropriations

25

26 **HB07-1099** by Representative(s) Gagliardi; also Senator(s) Windels--  
27 Concerning the repeal of the Colorado institute of  
28 technology.

29 Committee on Finance

30

31 **HB07-1100** by Representative(s) Riesberg, Buescher; also Senator(s)  
32 Morse--Concerning an increase in the funding to the older  
33 Coloradans cash fund from the receipts collected from the  
34 state sales and use tax, and making an appropriation  
35 therefor.

36 Committee on Finance

37 Committee on Appropriations

38

39 **HB07-1101** by Representative(s) Butcher; also Senator(s) Tapia--  
40 Concerning a study to analyze factors that drive the cost of  
41 health care within Pueblo county, and making an  
42 appropriation in connection therewith.

43 Committee on Health and Human Services

44 Committee on Appropriations

45

46 **HB07-1102** by Representative(s) Gagliardi, McGihon; also Senator(s)  
47 Johnson--Concerning the nursing peer health assistance  
48 diversion program.

49 Committee on Health and Human Services

50

51 **HB07-1103** by Representative(s) Buescher; also Senator(s) Veiga--  
52 Concerning the wholesale supply of malt beverages, and,  
53 in connection therewith, setting forth requirements for the  
54 relationship between a supplier and a wholesaler of malt  
55 beverages.

56 Committee on Business Affairs and Labor

1 **HB07-1104** by Representative(s) Butcher--Concerning referral by an  
2 insurance company of an insured to a property repair  
3 business.

4 Committee on Business Affairs and Labor

5

6

7

8 On motion of Representative Garcia, the House adjourned until  
9 1:00 p.m., January 15, 2007.

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12

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14

15

16

Attest:  
MARILYN EDDINS,  
Chief Clerk

Approved:  
ANDREW ROMANOFF,  
Speaker