

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

Third Legislative Day

Friday, January 11, 2013

1 Prayer by Pastor Randle Loeb.

2

3 The Speaker called the House to order at 10:00 a.m.

4

5 Pledge of Allegiance led by Juno Padilla, Arupe Jesuit High School.

6

7 The roll was called with the following result:

8

9 Present--62.

10 Excused--Representatives Exum, Petterson, Sonnenburg--3.

11 Present after roll call--Representative Pettersen.

12

13 The Speaker declared a quorum present.

14

15

16

17 Speaker Ferrandino administered the oath of office to the staff of the
18 Colorado House of Representatives.

19

20

21 On motion of Representative Buck, the reading of the journal of January
22 10, 2013, was declared dispensed with and approved as corrected by the
23 Chief Clerk.

24

25

26

APPOINTMENTS

27

28 The Speaker announced the appointment of Representative Court to
29 replace Representative Schafer to the Committee on Education.

30

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32

House in recess for Joint Session.

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35

JOINT SESSION

36

37 The Joint Session was called to order by the Speaker of the House, Mark
38 Ferrandino.

39

40 On motion of Senator Carroll, the morning roll call of the Senate was
41 made the roll call of the Joint Session.

42

43

Present--34.

44

Excused--1.

1 On motion of Representative Hullinghorst, the current roll call of the
2 House was made the roll call of the Joint Session.

3

4 Present--63.

5 Excused--Representatives Exum, Sonnenburg--2.

6

7 The Speaker declared a quorum present and as is customary presented the
8 gavel to the President of the Senate to preside over the Joint Session.

9

10 President Morse requested the Joint Committee, composed of Senators
11 Hudak and Lundberg, and Representatives Kagan, Lee, and Lawrence to
12 escort Chief Justice Michael L. Bender to the rostrum.

13

14 Chief Sergeant-at-Arms John Wallin announced the arrived of the
15 Honorable Michael L. Bender, Chief Justice of the State of Colorado.

16

17 The Joint Committee escorted the Chief Justice to the rostrum where he
18 addressed the Joint Session.

19

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22

**ADDRESS BY THE HONORABLE
Michael L. Bender**

23

24

25 President Morse, Speaker Ferrandino, members of the General Assembly,
26 honored guests and friends:

27

28 It is my great privilege and pleasure to speak with you about the judiciary
29 and to continue the tradition of the Chief Justice addressing the Joint
30 session of the General Assembly;

31

32 Before I begin, I would like to introduce my colleagues on the Colorado
33 Supreme Court:

34

35 Justice Gregory Hobbs,

36 Justice Nancy Rice,

37 Justice Ben Coats,

38 Justice Allison Eid,

39 Justice Monica Márquez, and

40 Justice Brian Boatright;

41

42 and, Judge Gerald Marroney, our State Court Administrator.

43

44 I want to acknowledge others who are present:

45

46 Marty Katz, Dean of the Sturm College of Law at the University of
47 Denver;

48

49 Marianne Wesson, University of Colorado Law School Professor; and

50

51 Mark Fogg, President of the Colorado Bar Association.

52

53 Members of my family are here, and I would like to acknowledge them,
54 as well:

55

56

1 My son, Jeremy Bender and his wife Melissa, their children and my
2 grandchildren, Margo and Sam; my daughter Aviva Siegel; my daughter
3 Maryjean Hand-Bender; and my son Ben Hand-Bender.

4
5 Charlie Greer, a professor and poet, is a close college friend who grew up
6 and lives in the Fort Collins area.

7
8 I am pleased to report that the judiciary is alive and well in the State of
9 Colorado! Today I would like to tell you about the progress the judicial
10 branch has made since I visited with you two years ago. I hope that by
11 the end of my remarks you will share my conviction that Colorado has an
12 outstanding judiciary, one that aspires to set the mark others hope to
13 achieve. As I speak you will hear me emphasize three major themes:

14
15 One, is the importance of citizen's trust in the rule of law in our
16 democracy.

17
18 Two, is the way in which the judicial branch in Colorado furthers the rule
19 of law for our citizens.

20
21 Three, is the importance for the courts and the legal community to
22 understand the needs of the public they serve and to collaborate to create
23 programs that address those needs.

24
25 Trust in the rule of law distinguishes our society from many others around
26 the world. When the blind Chinese lawyer and activist, Chen
27 Guangcheng, was allowed to leave China to study in the United States, he
28 noted that China does not lack laws, but it lacks the rule of law. The
29 legitimacy of government depends on the fair, impartial, and reliable
30 administration of the laws.

31
32 Courts serve the people of the state by resolving disputes, protecting
33 individual rights, and delivering justice in criminal and civil cases. To
34 ensure a just society Courts must tailor the fair, effective, and efficient
35 delivery of justice to fit each individual case. This mission requires us
36 not only to reach a fair and just outcome but also to do so in a way that is
37 perceived as being fair to all sides. The perception of fairness is as
38 important as the fairness of the outcome.

39
40 When citizens who go to court feel they are treated with dignity and
41 respect, research shows that they trust the court system and are more
42 likely to understand, appreciate and follow court orders. The term
43 "procedural fairness" has been coined by researchers to refer to the
44 perception of fairness by those accessing the courts.

45
46 For citizens to trust the judicial system they must believe that justice is
47 truly for all. Today, as historic events unfold in many parts of the world,
48 we see that where a fair and open judicial system does not exist, citizens
49 are alienated from their governments and instability occurs.

50
51 So, let me turn now to Colorado and tell you who we are and what we do.
52 Last fiscal year, 777,000 cases came through our state court system. 99%
53 of these cases were heard in our trial courts -- that is, our district and
54 county courts -- and about 1% made their way to our appellate courts.
55 The trial courts, which include judges, magistrates, probation officers,
56 judicial assistants, court clerks, court reporters, and interpreters, are the

1 face of justice in Colorado. The people in the trial courts number over
2 3,500, and include 319 judges who operate in 22 different judicial
3 districts and 73 courthouses. We are the largest unified criminal justice
4 agency in the state. Our adult and juvenile probation departments
5 supervise more than 80,000 offenders.

6
7 Let me pause here to make a plea on behalf of our 3500-plus employees.
8 A recent survey revealed that almost half of our employees sought to
9 supplement their incomes with outside employment last year. In his
10 budget request to the legislature, Governor Hickenlooper suggested pay
11 increases for state workers across Colorado. The dedicated and hard-
12 working employees of the judicial branch deserve to be included in this
13 raise.

14
15 The great orator, Daniel Webster, said "justice is the great interest of man
16 on earth. It is the ligament which binds civilized beings and civilized
17 nations together."

18
19 Litigants, witnesses, jurors, probationers and employees who move
20 through our courts tell us that the Colorado system reflects Webster's
21 ideal. Three features distinguish our judiciary.

22
23 First, the judiciary enjoys strong bipartisan support from the General
24 Assembly. Over many years, the state legislature has provided sufficient
25 resources for courts and probation to serve and meet the needs of the
26 public. For that, I wholeheartedly thank you.

27
28 Second, our courts and probation systems are centrally financed and
29 administered. We are fortunate to have as our State Court Administrator
30 Judge Jerry Marroney who has done an outstanding job for the past 12
31 years.

32
33 Third, judges are selected through a non-partisan merit-based process
34 which ensures that the most qualified individuals are selected. In
35 addition, judges are rigorously evaluated by independent commissions on
36 a regular basis. And, of course, Colorado's voters have the final say
37 regarding whether a judge will be retained in office.

38
39 Sadly, citizens who do not have firsthand experience with our judicial
40 system have a different perception than those who have actually moved
41 through our courts. General public opinion polls reflect the attitude that
42 only wealthy persons have access to fair justice and this perception is
43 most prevalent in communities of color. Today we are making it a
44 priority to change this misperception and to enhance the community's
45 confidence in our system and, at the same time, continue to save
46 taxpayers' dollars.

47
48 Several of our recent initiatives tap into existing community resources
49 and sometimes private dollars to leverage public funding. In the last two
50 years:

51
52 One. We have increased the number of problem solving courts from 61
53 to 72. These courts exist in 20 of our 22 judicial districts and serve the
54 community by providing opportunities for treatment and rehabilitation in
55 lieu of prison. Today persons in these courts number 3,700. Notable
56 among these courts is the veteran trauma court in El Paso County which

1 has treated more than 100 veterans. We also have two new veteran's
2 courts, one in Denver and one in Arapahoe County. Problem-solving
3 courts operate in a variety of areas: adult and juvenile substance abuse
4 offenders, offenders who are mentally ill, juveniles struggling with
5 truancy issues, and family and dependency cases.

6
7 Let me give you one example of how problem-solving courts can address
8 the needs of society while also changing individual lives. Last year, I met
9 a participant in Arapahoe County's problem-solving mental health court
10 who had a substantial criminal record. After two years, she had
11 completed her court-ordered treatment. At her graduation, she said the
12 key to her change came when therapists and case workers taught her to
13 trust and forgive. She had never learned these life skills and certainly
14 didn't learn them in her repeated incarcerations. Through her experience
15 in the problem-solving court, she began to find purpose in life and pride
16 in the woman she has become. She is on her way to being a productive
17 member of society.

18
19 Two. We have increased the efficiency of the Probation Department.
20 Compared to 2011, in 2012, Probation saved the State 12.4 million dollars
21 through the use of evidence informed practices that have resulted in an
22 increase in offenders successfully completing probation. We have
23 decreased the number of technical revocations of probation, saving the
24 state 2.76 million dollars.

25
26 Three. We have developed and are rolling out a court-run civil e-filing
27 system for all civil cases to coordinate with a new, internal case
28 management system. As of today, we have successfully deployed the new
29 filing system in 7 judicial districts. This project will be completed in the
30 first half of this year and will reduce paper work, increase efficiency for
31 clerks and judges, and provide a more user-friendly system for attorneys
32 than had previously existed.

33
34 Four. We have responded to the growing number of pro se cases. Each
35 year, more and more individuals come to court without an attorney. We
36 now have 12 pro se coordinators and self-help centers in 11 judicial
37 districts to assist those who are not represented by attorneys. These
38 coordinators assist individuals by providing procedural information,
39 locating and printing out forms from our judicial branch Website, and by
40 demystifying the often intimidating nature of the legal process.
41 Community partnerships and collaborative efforts are key.

42
43 For example, the pro se coordinator in Adams County has trained local
44 librarians to assist the public to use self-help forms located on our
45 Website. In addition, Adams County has partnered with a large national
46 law firm and the legal department of a large national company to develop
47 an on-call legal clinic to assist members of the public seeking help from
48 the court.

49
50 Five. We have reviewed more than 35,000 guardianships and
51 conservatorships to ensure that protected persons are indeed being
52 protected. We did this in response to prodding by your legislative audit
53 committee and with the assistance of 19 new probate clerks awarded us
54 last year.

55

- 1 Six. We are beginning the second year of our civil action pilot program
2 in the metro area. This experimental program is the largest in the country
3 and seeks to provide less expensive and more efficient resolution of
4 business disputes by increasing parties' disclosure requirements and by
5 eliminating expert witness depositions. Through the use of the principle
6 of proportionality judges tailor case procedures based on a case's
7 complexity.
8
- 9 Seven. We have increased lawyers' commitment to giving free
10 representation to folks who can't afford to hire a lawyer from 70,000
11 committed hours last year to 109,000 committed hours this year.
12
- 13 Eight. We have improved procedural fairness. Surveys of individuals
14 who come to court show that more individuals believe they were treated
15 fairly and listened to this year than last year. We, of course, can improve.
16
- 17 Through the Chief Justice Commission on the Legal Profession, we have
18 brought together the three main pillars of the legal profession -- judges,
19 lawyers, and Colorado's two law schools -- in an effort to extend the
20 mission of the judiciary to the legal profession as a whole.
21
- 22 What has the Commission done?
23
- 24 It has assisted in the creation of the Bar Association's Colorado Lawyers
25 for Colorado Veterans program which represented 275 indigent veterans.
26
- 27 It has initiated a statewide mentoring program with more than 150
28 mentors to improve the quality of legal service provided by young
29 lawyers.
30
- 31 It has assisted in the planning and staffing of new self-help centers in
32 many courthouses throughout the state.
33
- 34 It has developed a legal professionalism month, which resulted in more
35 than 50 programs throughout the state concerning professional and ethical
36 conduct for attorneys.
37
- 38 It has assisted the Colorado Supreme Court to increase the number of
39 hours of free legal service Colorado lawyers have committed to.
40
- 41 It has brought together all of Colorado's first-year law students to hear
42 from lawyers, judges, and clients concerning the responsibilities of
43 lawyers to serve the needs of their communities.
44
- 45 There are two more initiatives that deserve special recognition for their
46 contribution to building public trust in the fairness and accessibility of the
47 judicial system in Colorado. The first, the Mesa County Criminal justice
48 group, serves as a shining example of how stakeholders with divergent
49 interests, can work together to solve community legal problems. The
50 second, the Ralph L. Carr Judicial Center, represents a judicial branch
51 milestone achieved due to the cooperation and bi-partisan efforts of the
52 General Assembly.
53
- 54 Mesa County is now a recognized national model for a plan to reduce
55 criminal recidivism by applying evidence-based decision-making
56 practices. These practices rely on actual data to determine such things as

1 which defendants pose the greatest risks, what circumstances drive that
2 risk, what outcomes or sentences will have the best impact, and what
3 programs best serve public safety. Mesa County has formed a criminal
4 justice leadership group that includes every single criminal justice agency
5 in the county -- the courts, the district attorney, the public defender, the
6 private defense bar, local law enforcement, probation officers, parole
7 officers, community corrections, and treatment providers. Although these
8 groups represent divergent interests within an adversarial system, they
9 have found a way to collaborate by focusing on a common value -- the
10 need for public safety. They have trained personnel and have set up a
11 pilot criminal courtroom where evidence-based decision-making practices
12 are applied in each stage of the criminal process.

13
14 A second accomplishment is particularly dear to my heart: our new Ralph
15 L. Carr Colorado Judicial Center. I want to thank you, the legislature, for
16 your bipartisan support for the building, named for one of Colorado's
17 most heroic and courageous governors.

18
19 Governor Carr inspires us today with these words, "... The Japanese are
20 protected by the same Constitution that protects us. An American citizen
21 of Japanese descent has the same rights as any other citizen. . . . If you
22 harm them, you must first harm me. I was brought up in small towns
23 where I know the shame and dishonor of race hatred. I grew to despise
24 it because it threatened the happiness of you, and you, and you."

25
26 The Judicial Center stands tall, rock solid, at the seat and center of our
27 state government, symbolizing protection of the weak and guardianship
28 of the hopes and aspirations of all of us. A civics education center is
29 visible from the street and accessible to the public on the first floor and
30 is expected to open this April. Using interactive displays, students and
31 citizens will be able to learn how courts function and why the rule of law
32 is essential to the freedoms of our nation. They will learn about Governor
33 Carr and see his statue set against a backdrop of the state capitol. Best of
34 all, its free and will be open to all. I want to give special thanks to those
35 who have toiled for many hours to design these displays -- Janice
36 Davidson, Chief Judge of the Court of Appeals; Gregory Hobbs, Nancy
37 Rice, and Monica Marquez, Supreme Court Justices; Russ Carparelli,
38 Court of Appeals Judge; David Prince, District Court Judge in El Paso
39 County; Dan Cordova, the Supreme Court Law Librarian; Christopher
40 Ryan, Clerk of the Supreme Court and the Court of Appeals; Rob
41 McCallum and Jon Sarché, the public relations team for the Judicial
42 Branch; and Joe Turnage, Supreme Court Education Specialist.

43
44 To thank the General Assembly for this building, Attorney General John
45 Suthers and the supreme court and the court of appeals will host a ribbon-
46 cutting ceremony and reception on Monday, January 14th at 3 PM.
47 Governor Hickenlooper will also be on hand to say a few words. The
48 appellate judges and justices and their law clerks will offer their services
49 as docents to show you around this spectacular building so that you can
50 see for yourself what a tribute it is to the ideal of Justice for all. I hope
51 you will all attend. You are also invited on May 2nd, to attend a formal
52 dedication ceremony where United States Supreme Court Justice Sonia
53 Sotomayor will be our honored speaker.

54
55 Today is the last time I will have the opportunity to address you. Our
56 constitution mandates that I step down as a justice in about a year, when

1 I turn 72 and am sent out to pasture. It has been a great honor for me to
2 serve on the court for 16-plus years and, for the last two years as Chief
3 Justice.

4

5 I'd like to close with a return to the main themes that I outlined at the
6 beginning and my hopes for the future.

7

8 For our democracy to thrive, citizens must trust in the rule of law. Judges
9 are the leaders of the judicial system and the face of justice in the eyes of
10 the public. To earn the respect of the public, they have to go beyond
11 being fair arbiters of disputes by reaching out to their employees, to the
12 legal profession, and to their communities. They must engage in
13 constructive problem-solving through collaboration with other
14 stakeholders, even when these parties hold divergent views. They need
15 to articulate a clear vision for how the legal problems facing their
16 communities and brought in their courtrooms can be addressed and
17 eventually solved.

18

19 With the assistance of others, as Chief I have strived to support the
20 effectiveness of our system by empowering all the chief judges and the
21 justices on the supreme court to broaden their practice of leadership. I
22 have initiated a procedural fairness campaign in the court system to
23 include all of our employees; I have created the Chief Justice Commission
24 on the Legal Profession, bringing together representatives of all the
25 various parts of the legal community to find ways to improve our system;
26 and I have sought to foster teamwork among all courts, their
27 administrators, and personnel.

28

29 Initiatives such as these require time to take hold. I believe that with the
30 outstanding people that work in our courts and probation, with ongoing
31 dedication to the vision, and with the support of you, the legislature,
32 Colorado will continue to improve and to stand as a model to other states
33 for what a judiciary can be.

34

35 Thank you for the opportunity to talk about the legal system which I love
36 and of which I am so proud. Once again, I leave you with Harper Lee's
37 words, taken from her novel, *To Kill a Mockingbird*, and spoken by
38 Atticus Finch, a wise father and a passionate lawyer:

39

40 But there is one way in this country in which all men are created
41 equal—there is one human institution that makes a pauper the equal of a
42 Rockefeller, the stupid man the equal of an Einstein, and the ignorant man
43 the equal of any college president. The institution is a court. It can be the
44 Supreme Court of the United States or the humblest JP court in the land.
45 Our courts have their faults, as does any human institution, but in this
46 country our courts are the great levelers, and in our courts all men are
47 created equal.

48

49 Thank you. I look forward to working with you during this session.

50

51

52

53 The Joint Committee escorted the Chief Justice from the Chamber.

54

55

56

1 On motion of Representative Hullinghorst, the Chief Justice's message
2 was ordered printed in the House Journal.

3
4
5 On motion of Senator Carroll, the Joint Session was dissolved.

6
7
8
9 House reconvened.

10
11
12 The Speaker announced the following change in sponsorship:
13 HB13-1023--Representative Fields to be added as dual prime sponsor
14 with Representative Murray.

15
16
17
18 **MESSAGE FROM THE SENATE**

19
20 The Senate has adopted and returns herewith: HJR13-1003, and HJR13-
21 1005.

22
23
24
25 **INTRODUCTION OF BILLS**
26 **First Reading**

27
28 The following bills were read by title and referred to the committees
29 indicated:

30
31 **HB13-1070** by Representative(s) Murray, Gardner, Labuda, Levy,
32 Waller; also Senator(s) Morse, Brophy, Carroll, Roberts,
33 Schwartz--Concerning the enactment of Colorado Revised
34 Statutes 2012 as the positive and statutory law of the state
35 of Colorado.

36 Committee on Judiciary

37
38 **HB13-1071** by Representative(s) Holbert; also Senator(s) Tochtrop--
39 Concerning the type of vehicle that qualifies to register as
40 a collector vehicle.

41 Committee on Transportation & Energy

42 Committee on Appropriations

43
44 **HB13-1072** by Representative(s) Swalm; also Senator(s) Kefalas--
45 Concerning the authority for counties to purchase crime
46 insurance coverage for public trustees in lieu of surety
47 bonds.

48 Committee on Local Government

49
50 **HB13-1073** by Representative(s) Landgraf--Concerning waiver of the
51 requirement that a hiring school district grant
52 nonprobationary status to a teacher with effective ratings
53 who has obtained nonprobationary status in another school
54 district.

55 Committee on Education

56 Committee on Appropriations

1 **HB13-1074** by Representative(s) Kraft-Tharp; also Senator(s) Roberts-
2 -Concerning the reallocation of the primary care office
3 from the prevention services division to the department of
4 public health and environment, and, in connection
5 therewith, changing the membership of the Colorado
6 health services corps advisory council and clarifying the
7 moneys included in the Colorado health services corps
8 fund.
9 Committee on Health, Insurance & Environment
10 Committee on Appropriations

11

12

13 On motion of Representative Fischer, the House adjourned until
14 10:00 a.m., January 14, 2013.

15

16

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21

Approved:
MARK FERRANDINO,
Speaker

Attest:
MARILYN EDDINS,
Chief Clerk