

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

Third Legislative Day

Friday, January 14, 2005

1 Prayer by Dr. C. Gene Selander, Crossroads, Northglenn.

2

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

4

5 Pledge of Allegiance led by Representative Curry.

6

7 The roll was called with the following result:

8

9 Present--64.

10 Absent--Representative Pommer--1.

11 Present after roll call--Representative Pommer.

12

13 The Speaker declared a quorum present.

14

15

16 On motion of Representative Solano, the reading of the journal of
17 January 13, 2005, was declared dispensed with and approved as corrected
18 by the Chief Clerk.

19

20

21

22

PRINTING REPORT

23

24 The Chief Clerk reports the following bills have been correctly printed:
25 **HB05-1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096,**
26 **1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107.**

27

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30

INTRODUCTION OF BILLS

31

First Reading

32

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

35

36 **HB05-1087** by Representative(s) Lindstrom--Concerning the provision
37 of international education opportunities in public schools.

38 Committee on Education

39

40 **HB05-1088** by Representative(s) McFadyen, Merrifield; also
41 Senator(s) Groff--Concerning the education of children
42 whose parents are incarcerated.

43 Committee on Education

- 1 **HB05-1089** by Representative(s) Knoedler--Concerning reduction in
2 student enrollment waiting lists for public schools.
3 Committee on Education
4
- 5 **HB05-1090** by Representative(s) Carroll T.--Concerning a requirement
6 that mental health institutions provide written notice to
7 certain committed defendants of their right to a release
8 hearing.
9 Committee on Judiciary
10
- 11 **HB05-1091** by Representative(s) Boyd--Concerning the authority of a
12 local board of health to set annual license fees for retail
13 food establishments to cover total costs.
14 Committee on Health and Human Services
15
- 16 **HB05-1092** by Representative(s) Solano; also Senator(s) Takis--
17 Concerning modifications to the method of determining
18 the unemployment insurance tax rate of an entity that
19 acquires an employer's business for purposes of complying
20 with the federal "SUTA Dumping Prevention Act of
21 2004".
22 Committee on Business Affairs and Labor
23
- 24 **HB05-1093** by Representative(s) Solano, Jahn; also Senator(s) Shaffer--
25 Concerning requiring a prospective adoptive parent to
26 submit to a criminal history record check.
27 Committee on Health and Human Services
28
- 29 **HB05-1094** by Representative(s) Sullivan--Concerning continuing
30 education requirements for real estate licensees.
31 Committee on Business Affairs and Labor
32
- 33 **HB05-1095** by Representative(s) Carroll M.; also Senator(s) Hanna--
34 Concerning making insurers defendants in negligence
35 actions brought against insureds.
36 Committee on Judiciary
37
- 38 **HB05-1096** by Representative(s) Penry--Concerning Mesa state
39 college.
40 Committee on Education
41
- 42 **HB05-1097** by Representative(s) Hefley, Judd, Marshall; also
43 Senator(s) Grossman, Dyer, Evans, Gordon, Jones--
44 Concerning the enactment of Colorado Revised Statutes
45 2004 as the positive and statutory law of the state of
46 Colorado.
47 Committee on Judiciary
48
- 49 **HB05-1098** by Representative(s) White, Jahn; also Senator(s) Isgar--
50 Concerning the legislative appointments to the board of
51 directors of the Colorado tourism office.
52 Committee on State, Veterans, & Military Affairs
53
54
55

- 1 **HB05-1099** by Representative(s) McCluskey--Concerning the
2 authority of the commissioner to spend moneys in
3 connection with participation in the National Conference
4 of Insurance Legislators or its successor organization.
5 Committee on State, Veterans, & Military Affairs
6
- 7 **HB05-1100** by Representative(s) Ragsdale; also Senator(s) Takis--
8 Concerning the quarterly exemption from the tax on the
9 severance of coal.
10 Committee on Finance
11
- 12 **HB05-1101** by Representative(s) McGihon; also Senator(s) Shaffer--
13 Concerning health coverage for a dependent child not
14 enrolled in an educational institution.
15 Committee on Business Affairs and Labor
16
- 17 **HB05-1102** by Representative(s) Lindstrom--Concerning the calendar
18 year to which the annual vehicle identification fee paid by
19 various motor vehicle carriers to the public utilities
20 commission applies.
21 Committee on Transportation & Energy
22
- 23 **HB05-1103** by Representative(s) McFadyen--Concerning a
24 requirement that the ratio of supervisor to apprentice for
25 electrician apprentices be one to one.
26 Committee on Business Affairs and Labor
27
- 28 **HB05-1104** by Representative(s) Berens--Concerning the civil penalty
29 that a public highway authority may impose for a toll
30 evasion.
31 Committee on Transportation & Energy
32
- 33 **HB05-1105** by Representative(s) McGihon; also Senator(s) Veiga--
34 Concerning access to unemployment benefits by persons
35 who have quit a job due to domestic abuse.
36 Committee on Business Affairs and Labor
37
- 38 **HB05-1106** by Representative(s) Brophy--Concerning the unborn child
39 pain awareness act.
40 Committee on Health and Human Services
41
- 42 **HB05-1107** by Representative(s) Larson; also Senator(s) Williams--
43 Concerning the recodification of statutes governing the
44 registration of motor vehicles, and, in connection
45 therewith, clarifying, harmonizing, modernizing, and
46 substantively amending such statutes.
47 Committee on Transportation & Energy
48

49 House in recess.
50

JOINT SESSION

51
52
53
54
55 The Joint Session was called to order by the Speaker of the House,
56 Andrew Romanoff.

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

3

4 Present--34.
5 Excused--1.

6

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

9

10 Present--65.

11

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

14

15 President Groff requested the Joint Committee, composed of Senators
16 Grossman and Entz, and Representatives Carroll T., Carroll M., and
17 Larson to escort the Governor from the Governor's Chambers to the
18 rostrum.

19

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

22

23 The Joint Committee escorted the Chief Justice to the rostrum where she
24 addressed the Joint Session.

25

26 The Joint Committee escorted the Chief Justice from the Chambers.

27

28 On motion of Representative Madden, the Chief Justice's message was
29 ordered printed in the House Journal.

30

31

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33

34

**ADDRESS BY THE HONORABLE
Mary Mullarkey**

35

36

37 President Fitz-Gerald, Speaker Romanoff, Members of the 65th General
38 Assembly, honored guests and friends:

39

40

Introduction

41

42 It is an honor to join you today to discuss the State of the Colorado Judiciary.
43 The General Assembly has a long tradition of inviting the Chief Justice to
44 address its members at the beginning of each new session. It gives the Chief
45 Justice an opportunity to update the General Assembly on the work of the
46 Judicial Branch over the prior two years and to present the judiciary's requests
47 for legislative action.

48

49

Description of the Judiciary

50

51 As Chief Justice, I proudly represent the state's 256 judges and justices, and
52 more than 2,800 full and part-time employees of the Colorado Judicial Branch.
53 The state court system includes two levels of trial courts-- the county courts and
54 the district courts-- and two levels of appellate courts-- the court of appeals and
55 the supreme court. We are a statewide organization with at least one judge and
56 one courthouse serving in every county. The judiciary also includes probation

1 services. Our probation officers supervise persons who are convicted of crimes
2 and serve their sentences within the community rather than in the custody of the
3 Department of Corrections. In the past year, almost 700,000 new cases of all
4 types were filed in our trial courts. That number includes over 177,000 cases
5 filed in the district courts and 514,000 cases filed in the county courts. Our
6 probation officers supervised 39,000 adult offenders and 6,800 juvenile
7 offenders. The court of appeals received 2,500 new cases and 1,300 cases were
8 filed in the supreme court.

9
10 By any standard, the judiciary faces a heavy workload in the courts and
11 probation. That work has been made more difficult by the state's financial crisis.
12 The last two years have been difficult ones for the Judicial Branch, as they have
13 been for many people living in Colorado and for the state government generally.
14 We have had to cope with rising caseloads and fewer financial resources. When
15 I am asked to describe the past two years, I say we are dancing as fast as we
16 can.

17 18 Effects of Budget Cuts

19
20 When I last spoke to the General Assembly in 2003, we were responding to the
21 falling revenues with temporary measures including a hiring freeze and requiring
22 employees to take eight days without pay. It quickly became obvious that more
23 drastic measures were necessary. Because 85 percent of our budget goes to pay
24 personnel, we must reduce personnel costs in order to reduce our expenditures.
25 When our budget was cut for the fiscal year that began on July 1, 2003, we had
26 to eliminate jobs. We reduced our total number of positions by 290 full-time
27 employees, or 13 percent.

28
29 As fate would have it, the number of new cases filed has been rising just as the
30 numbers of employees have been falling. Case filings in the trial courts generally
31 follow the state's population. About one case is filed for every six or seven
32 people living in the state. If, as I read, Colorado's population is now 4.5 million,
33 our new cases are likely to exceed 700,000 and may reach 750,000 before the
34 fiscal year ends on June 30, 2005.

35
36 We absorbed many of our job losses through attrition by holding a position
37 vacant when someone resigned or retired, but we were required to lay off more
38 than 90 people. These were good employees who lost their jobs through no fault
39 of their own. As you can imagine, this has been a demoralizing experience.

40
41 We have survived as well as we have because of the extraordinary dedication,
42 hard work and ingenuity of our judges and employees. In coping with our new
43 reality, we have tried to follow two principles. One is to give our judges and
44 employees the tools and training to do their jobs. The other is to give priority to
45 cases that are time sensitive or involve the most vulnerable people. If we don't
46 have time to do all the cases, we must do those cases first. A prime example of
47 high priority cases are those involving abused and neglected children. We have
48 also looked for new ways to handle cases cheaper, better and faster. We aim to
49 reduce unnecessary costs and delay while getting better results for the litigants.
50 In other words, we have invented some new steps to keep up with the music.

51
52 My constant concern is that we are not able to give the people of Colorado the
53 level of services that they should receive. To compensate for the lost staff, most
54 courts have reduced their public hours. Courts close their doors at noon or 4
55 p.m. so that the clerks can process the hundreds of documents going in and out
56 of the courts every day. Telephone calls may go unanswered and the lines of

1 people waiting for services are longer. Many district courts no longer have live
2 court reporters, but rely on electronic recording devices. Some judges lack basic
3 clerical support services to retrieve files, enter orders and mark exhibits.

4
5 Other effects of the budget cuts are not as visible. Court employees must
6 perform each task more quickly or leave the task undone. Judges have less time
7 to analyze and decide each case. The same is true for probation officers and
8 staff. The average caseload is now 217 adult offenders per probation officer, a
9 ratio far above the national recommended standard. To supervise 217 people,
10 each probation officer is allotted only eleven minutes per week with each adult
11 offender. That is not much time for the effective rehabilitation that the public
12 expects. The probation officers also assist victims and prepare pre-sentence
13 reports for judges. We run the risk in the courts and probation that we will make
14 mistakes that could have been avoided.

15
16 Increased workloads have caused us to rely more heavily on improvements in
17 computer technology and other innovations.

18 19 Use of Technology

20
21 The Colorado Judicial Branch has often earned national recognition for its
22 advances in technology. Over the past two years the Branch has been recognized
23 for its case management system, and its role in the state's CICJIS or criminal
24 justice information project. The courts and Colorado Bureau of Investigation
25 have worked closely together to match arrest records and court dispositions.
26 The current disposition match rate of over 90 percent far exceeds the national
27 average of 30 percent. The courts have also worked with CBI on developing an
28 automated sex offender registration system that will more efficiently track these
29 offenders. We continue to work hard in enhancing both of these systems which
30 are critical to efficient case processing and public safety.

31
32 The Branch has also been a leader in the area of electronic filing. This allows
33 attorneys to file their court pleadings through the Internet rather than by coming
34 to the courthouse. The benefits of this to the courts, litigants and their attorneys
35 are clear. Electronic filing has been a voluntary system for the most part, and its
36 value can be seen in the fact that is used in 70 percent of the district court civil
37 cases. The ultimate goal is to have a "paper-on-demand" system where paper
38 works for us rather than against us. Paper would not be generated automatically,
39 but would be produced only when needed. On a pilot project basis, several
40 courts such as the Denver Probate Court, Boulder County District Court and
41 courts in Arapahoe, El Paso, Alamosa and Teller counties have already made e-
42 filing mandatory. The time savings and storage space savings are already
43 impressive and bound to increase over time.

44
45 The Colorado courts are leading the nation by being the only statewide court
46 system that has electronic filing capabilities in all of its general jurisdiction civil,
47 domestic relations, probate and water cases. No other state can match that. We
48 hope to expand electronic filing to the county courts in the next several months.

49
50 There are other technology projects underway or recently completed to improve
51 the way we do business. For example, we have better, more accurate lists for
52 summoning jurors. We exchange data electronically with executive agencies.
53 The Department of Corrections shares data electronically with the courts to
54 track restitution paid by inmates. We will be working with the Department of
55 Human Services to exchange electronic data on child welfare and child support
56 services.

1 While information technology is a great tool for the courts, there are other tools
2 that are equally important to the long term success of the Judicial Branch.
3 Those are the new ideas and innovative approaches to managing cases that will
4 change the way courts operate. Simplified Divorce and simplified civil discovery
5 are two of the new approaches that benefit courts and the parties.

6
7 New Approaches

8
9 Civil litigation is often criticized as expensive, complicated, acrimonious and
10 slow. It is seen as beyond the reach of the average person even though the
11 average person sometimes must resolve disputes through the courts.

12
13 We have developed two successful ways to address these problems. The first is
14 Simplified Divorce which has greatly reduced the time it takes to get a divorce
15 and the bitter feelings that often develop during a lengthy divorce proceeding.

16
17 Simplified Divorce depends on specially trained judicial officers or court
18 personnel meeting with the divorcing couple soon after the case begins and
19 resolve informally as many matters as possible. The formal discovery process is
20 largely eliminated and the disputed issues that must be tried are greatly reduced.

21
22 We have taken a similar approach to smaller civil cases in which less than
23 \$100,000 is at stake. By rule, we have strictly limited the amount of pre-trial
24 discovery so that the costs are reduced.

25
26 Simplified Divorce has been a great success. It started as an experiment but now
27 is the norm statewide. Simplified discovery for civil cases has been in use for a
28 shorter time but it is proving to be similarly popular.

29
30 Both of these “cheaper, better and faster” innovations originated in Colorado
31 and have no equals in other states. They illustrate the creative thinking that can
32 make a real difference.

33
34 Let me briefly describe the progress we have made in a few areas that may be
35 of interest to you.

36
37 Dependent and Neglected Children

38
39 As I mentioned earlier, we are committed to prompt handling of cases involving
40 children who have been removed from their families because of neglect or abuse.
41 Since 1997, there have been concerted efforts at the national, state, and local
42 levels to reduce the time these children spend in limbo not knowing whether they
43 will be reunited with their parents or freed for adoption. They need decisions to
44 be made as soon as possible on what their permanent placement will be.

45
46 Through better case handling, our district courts have greatly reduced the time
47 it takes to make the permanency decisions in these cases. Adams County District
48 Court, for example, has reduced the time for making permanency decisions for
49 children by an average of three to four months per case. The El Paso County
50 District Court and El Paso County Human Services were recognized nationally
51 last month by the United States Department of Health and Human Services for
52 excellence in increasing the number of children adopted. Seventeen awards were
53 given nationwide and Colorado has the only trial court to be honored for
54 improving the judicial system.

55
56

1 Our efforts to expedite these cases are now moving to the appellate courts
2 where we hope to have success equivalent to that of the trial courts.

3

4 Problem Solving Courts

5

6 Throughout the state we have also developed specialized courts to address
7 persistent social problems such as drug abuse or mental illness. Emphasis is
8 placed on rehabilitation and treatment with strict accountability by the offender
9 to the court. The goal is to break the cycle which repeatedly brings the same
10 offender back to court for having committed new offenses.

11

12 One new effort is the Denver Family Integrated Drug Court, which coordinates
13 hearings and treatment for family members when a parent is a defendant in the
14 adult drug court and the children are involved in a case pending in the juvenile
15 court. The juvenile case may be delinquency, dependency and neglect, truancy
16 or paternity. A team works with the family to provide individual treatment,
17 family therapy and other services. A case is successful if the adult completes
18 probation and the family is reunited. Although the numbers are small with 57
19 participants to date, the results are encouraging. We have been awarded another
20 federal grant to expand the program.

21

22 The idea of bundling together all pending cases involving a family is sometimes
23 called "One Family/ One Judge." Adams County District Court has used the
24 concept for several years and generally 50 to 60 pending cases are handled this
25 way. Juvenile delinquency, dependency and neglect, and truancy cases are
26 bundled with child issues from dissolution of marriage or paternity cases. All of
27 the family's cases are heard by the same judge who can make certain that the
28 family is receiving consistent treatment and planning.

29

30 Jury Reform

31

32 We have an ongoing effort to improve the quality of jury service by making
33 better use of jurors' time and giving them the tools to do their work. I
34 mentioned earlier that we have improved the lists to summon prospective jurors.
35 The process for reporting for jury duty and being excused from jury service has
36 been streamlined. Once in the court room, jurors are treated differently from the
37 way they were in the past. No longer are jurors expected to sit passively and
38 remember days or weeks of testimony without taking a note. Jurors receive
39 notebooks with the relevant information. Jurors are now able to take notes and
40 can submit questions to the judge to ask witnesses.

41

42 Three of our jury trials were nationally broadcast on television this year. Each
43 was a one hour documentary of a homicide trial. The three judges involved were
44 Judge Gloria Rivera and Judge Morris Hoffman, both of Denver District Court,
45 and Chief Judge Harlan Bockman of the Adams County District Court. Each
46 documentary provides a "behind the scenes" look at a real criminal trial that is
47 accurate and interesting. We hope to use the videotapes to educate the public
48 about the work of the courts.

49

50 Now let me turn to our legislative requests for this year.

51

52 Legislative Proposals

53

54 The Judicial Branch has before the Joint Budget Committee our request for
55 funding in the 2006 fiscal year. We are requesting funding for the personnel
56 expenses that are common policy for all state employees.

1 Beyond the basics, our top priority is the funding of 12 new district judges that
2 were authorized in 2001 and scheduled to be added in the last two fiscal years.
3 The positions were not funded because of the budget problems, but the need has
4 not diminished. In fact, even more judges are needed now in both the district and
5 county courts.

6
7 If state revenues rebound as predicted, we hope that the 12 judges and 48
8 associated staff are finally funded. We are also seeking 56 new probation officers
9 to reduce the caseload and improve some specialized programs that were
10 reduced.

11
12 We are discussing with the Joint Budget Committee some changes in our
13 business practices that could free up money to fund our proposed increases. As
14 always, we will work closely with the committee as it considers our budget
15 requests.

16
17 The Judicial Branch is making four requests for substantive legislation as well.
18 We are seeking reauthorization of the Family Friendly Facilities law, which will
19 sunset if not extended. This provides money for children's waiting rooms in
20 courthouses so that children are not exposed to court proceedings that do not
21 involve them while their parents attend court hearings.

22
23 We also seek a change in the senior judge program. This statute allows retired
24 judges to work on a part-time basis and has become an invaluable aid to our
25 sitting judges. I ask that the legislature remove the twelve year cap on senior
26 judge service. We are losing some of our best senior judges because of that limit.

27
28 Two other proposals I suggest are long-range planning issues that might be
29 subjects for interim committees. One is the future use of the block occupied by
30 the state judicial building. We are your neighbor down the hill between
31 Broadway and Lincoln on 14th Avenue. Our building houses the supreme court
32 and court of appeals. It has been greatly overcrowded for years and most of our
33 employees now are located off-site in rented office space at three different
34 locations in the Denver area. The south end of the block is occupied by the
35 Colorado History Museum, and it, too, is short of space.

36
37 My vision is that the Museum will relocate to a site of its choosing and the entire
38 block will be committed to the Judicial Branch and related state entities such as
39 the Attorney General and Public Defender. It may take 10 or 20 years to
40 accomplish, but we should start planning now.

41
42 The other project I suggest the legislature undertake is examining the 22 judicial
43 districts into which the state is divided. With the state's rapid growth and
44 increased concentration of the population in urban areas, it is time to see if the
45 boundaries of the judicial districts should be changed.

46
47 The judiciary deals with the existing districts every day but there are other
48 interested parties such as the District Attorneys and the counties. A study should
49 include all the stakeholders and the legislature is the body that can do that.

50
51 Conclusion

52
53
54 I wish you well as you undertake the important work of this session. Doing the
55 people's business is always difficult, but this year will be especially hard. I hope

1 you look favorably on our requests so that the courts can better serve the
2 people.

3
4 Thank you.

5
6
7 On motion of Senator Gordon, the Joint Session was dissolved.

8
9
10 House reconvened.

11
12
13 **MESSAGE FROM THE SENATE**

14
15 The Senate has adopted and transmits herewith: SJR05-004, 005.

16
17
18 **INTRODUCTION OF RESOLUTIONS**

19
20 The following resolutions were read by title and laid over one day under
21 the rules:

22
23 **SJR05-004** by Senator(s) Hagedorn; also Representative(s) Boyd--
24 Concerning the utilization of the commission on mandated
25 health insurance benefits.

26
27 **SJR05-005** by Senator(s) Fitz-Gerald; also Representative(s)
28 Romanoff--Concerning the appointment of members of the
29 Colorado Commission on Uniform State Laws.

30
31
32
33 **LAY OVER OF CALENDAR ITEMS**

34
35 On motion of Representative Madden, the following items on the
36 Calendar were laid over until January 17, 2005, retaining place on
37 Calendar:

38
39 Consideration of Resolution--**HJR05-1007**.

40
41 On motion of Representative Boyd, the House adjourned until 1:30 p.m.,
42 January 17, 2005.

43
44 Approved:

45
46
47
48 ANDREW ROMANOFF,
49 Speaker

50 Attest:
51
52 MARILYN EDDINS,
53 Chief Clerk