

State of the Judiciary 2016  
Chief Justice E. James Burke, Wyoming Supreme Court  
Message to the Wyoming State Legislature  
February 8, 2016, at Jonah Bank Building

Thank you very much for that welcome. Mr. President, Mr. Speaker, Governor and Mrs. Mead, members of the 63rd Wyoming Legislature, elected officials, members of the judiciary, guests and citizens of the state of Wyoming. It is an honor to speak to you on behalf of the men and women who serve in the judicial branch of our state's government.

Thank you, President Nicholas, Speaker Brown, for the opportunity to do so.

The Governor's a tough act to follow, and even stole my first line, which was how about them Broncos? (Applause.)

I was tempted to show you my Von Miller jersey, which I'm wearing underneath my robe.

Before I begin, I would like to compliment you all, actually, on these temporary facilities. The Governor mentioned that from his viewpoint, they were cozy, I believe was the word that he used. But I'm sure that Justice Hill will remember when we moved out of the supreme court, cozy would not have done justice to what our courtroom was like in those days. So you are all to be commended for the quality of these facilities.

As I was preparing for this presentation, I kept flashing on scenes from The Weather Channel. I started to identify with residents of coastal communities, glued to our sets, tracking the latest hurricane, who are appalled to learn that what started as a seemingly harmless tropical storm had now reached Category 1 status was gaining strength and heading their way. I'm sure they hoped the wind currents and pressure systems would move the storm out to sea or, at a minimum, that it would not make landfall where they lived. I don't know where this current financial storm that our state is facing is going to land, but I'm pretty sure that we're all going to get wet. However, I'm confident that we're also going to weather it, and you are going to help us get through it.

There have been some rays of sunshine since we last visited. Justice Kautz was selected to fill the vacancy on the supreme court resulting from Justice Kite's retirement. Justice Kautz comes to our court after a distinguished career spanning 22 years as a district judge in the Eighth Judicial District. Our courtroom was packed during his swearing in, and the overflow crowd prompted Justice Hill to dub him "the Garth Brooks of Robing Ceremonies." The appointment of Justice Kautz created another vacancy, and Patrick Korell was appointed as a district judge to replace Justice Kautz. Judge Korell is a well respected and experienced attorney. He is the past president of the Wyoming State Bar, was in the midst of his fifth term as Goshen County Attorney at the time of his appointment. Both bring a wealth of experience and talent to the Wyoming judiciary, and we look forward to working with them.

Their selection is another testament to our merit selection process. I'm sure the Governor's decision was difficult because, once again, he was presented with three highly qualified candidates for each position. I will not go into further detail of that process because I spoke about

it at length last year, but it does bring to mind Representative John Patton, who passed away since then. I can still picture him in the audience during last year's address. He had such a great smile, and it was in evidence while he was extolling our state's judicial selection process. He made it a point to find me afterwards, and I enjoyed listening to him as he recalled the legislative effort leading to creation of our merit selection process. He was proud of that effort, and his role in it. Representative Patton was a wonderful person and he will be missed.

In the past year, we made significant progress on the court facilities front. The new circuit courthouse in Riverton was completed, and extensive improvements to the courthouse in Pinedale were accomplished. We've been advised the project for the new circuit courthouse in Sweetwater County was recently put out to bid and that groundbreaking for that project will occur later this spring.

As you will recall, in last year's session, funding for security improvements in nine courthouses was approved. There's a matching funds requirement and the counties must seek the funding from the State Loan and Investment Board. Six counties submitted their applications and all were approved. We expect that the remaining counties will submit their funding applications in the near future.

We're not requesting additional funding for courthouse security in this year's budget. We have, however, filed another grant application to fund courthouse security assessments in other counties. We will keep you informed of the results.

We continued with our efforts to install audio and visual technology in courtrooms throughout the state. During this biennium, we installed the technology in several courtrooms. Those efforts were funded by a \$3,000 exception —\$300,000 exception approved during the last budget session. We're seeking a similar exception in this budget session. As always, we will attempt to leverage the funds by seeking contributions from the counties.

We should note that the technology upgrades in Sublette County courthouse were funded by the county, and we salute the county leadership that made those improvements possible, and I'd like to expand a little on their efforts. Late August of last year an open house was held to showcase the improvements. The event was summarized by Dawn Ballou in an article for Pinedale Online. The article was forwarded to me by Judge Tyler with justifiable pride in his courthouse and his community. The article captures the essence of what was done, and what we were trying to accomplish in courtrooms throughout the state.

The article reads as follows: On Thursday, August 27th, the district courtroom in the Sublette County Courthouse in Pinedale held an open house to showcase technology upgrades that were recently made to the courtroom. The court installed additional monitors in the jury box and at the defendant and prosecuting attorney's tables to allow everyone to see the visuals being presented. The sound system has been upgraded with a variety of hearing assist devices. Video system has been made more versatile inside the courtroom and also connects to the state videoconferencing system which allows real-time visual connection to courtrooms and live proceedings in other courtrooms in counties across the state. The courtroom upgrades will be used for numerous court proceedings, including jury trials and help ensure greater confidence in proceedings and verdicts

in the court.

The article mentions only the district court, but similar improvements were made in the circuit courtrooms. Both Judge Tyler and Judge Haws have put the technology to good use helping out in other courts. They are not alone. Where the technology is in place, our judges use it. Our judges can assist in other jurisdictions on a more frequent and economical basis.

Travel time can also be eliminated by video hearings and conferences. The educational possibilities are endless. Judge Haws used the video feed from a jury trial in district court to provide a valuable learning experience for Pinedale students watching the trial in circuit — in the circuit courtroom.

Ten district judges and three supreme court justices employed the technology or similar technology to provide a several-hour judicial orientation for Judge Korell. All were able to participate from their separate courthouses.

The savings do not only impact the judicial branch. Judge Prokos provided this snapshot of technology in action in a recent email to me. It says, “Chief Justice Burke, given the state’s budget situation, I wanted to pass on a vignette on using technology to save everyone money and time.

Today this court saw a defendant who completes a jail sentence in Johnson County tomorrow. Judge Cundiff notified me of this yesterday and advised Sweetwater County had an active warrant for failure to pay on the individual. Rather than have county detention staff spend time and money transporting the defendant, I saw him by video and entered orders. Ideally he will now pay his obligations and we can close his files. Buffalo to our jail is a five-hour, 343-mile drive one way.”

We should have similar technology in all courtrooms throughout the state. We still have a way to go. The \$300,000 exception request will not satisfy the need, but is a big step in the right direction, and we believe it is a good investment.

Several of our other budget exceptions also relate to ongoing technology exception — efforts. E-filing in district courts continues to inch closer. It has not come as quickly as we would have liked or expected. Progress that has occurred was in no small measure expedited by the efforts of our court technology staff.

Our district judges have been able to remotely access court files throughout the state for quite some time. We refer to this process as case management. This is the first of three major aspects of court automation. There’s no question that it is a valuable tool and allows our judges to more effectively manage their dockets.

We are now embarking on implementation of the next two facets: Calendaring and e-filing. This is also a significant undertaking, and we are under no illusions about the difficulty. However, we remain convinced that it is a worthwhile investment that will pay huge dividends in terms of efficiency and quality of service for the bench, the bar, and our citizens.

Equal Justice Wyoming continues to flourish.

Low-income individuals are receiving more legal help than ever before. There are more legal service attorneys. More attorneys are providing pro bono services. More resources are available for those who are forced to represent themselves. Community partnerships to address unmet legal needs continue to be formed. Innovative approaches continue to be explored.

We're seeking an additional \$100,000 in spending authority for Equal Justice Wyoming as one of our budget exceptions. The funds are already collected. We were just seeking authority so those funds can be put to good use. I will not detail all their accomplishments because I spoke about them at length last year.

The judicial branch commitment to outreach and civic education continues. We believe these efforts pay big educational dividends and engender public trust and confidence in our system of justice.

The You Be the Judge — You Be the Judge programs have been held in nearly every judicial district. Programs that have been held in schools, community colleges, libraries and courtrooms. The judges and lawyers in Sweetwater County will be finishing up the second week of their program this week. This is the second time they've done that program.

We're pleased to report — we're also pleased to report we've obtained matching funds for the full \$280,000 authorized by the legislature for the judicial learning center, initial phase of construction has been completed, and we are now in the exhibit construction stage. If you have time, we would encourage you to stop by for a visit.

We're very excited about the potential for this project.

Unfortunately, the bid we ultimately received for the exhibit package exceeded original estimates. We are currently seeking other bids and expect to make some lemonade out of the situation by making the exhibit information more exportable to schools throughout the state. We believe it will be a better product than originally conceived. As a result, we are seeking modest general fund budget exception (of a matching funds variety) to complete the project.

This is, perhaps, a good time for another Pinedale reference. Gerald Mason was an attorney who lived and practiced in Pinedale. He served as president of the Wyoming State Bar in 1995 and 1996. The Bar's professionalism award is given in his honor. While he was president, he coined a phrase "Proud to be a Wyoming lawyer." It caught on and is used repeatedly to capture the essence of all that is right and good about the legal profession in this state.

The success of Equal Justice Wyoming would not be possible without the help of Wyoming lawyers. When we talk about an increase in pro bono representation for those who cannot afford an attorney, we are talking about lawyers giving of their time and talent to those in need. Today, Wyoming lawyers are making the pro bono commitment in unprecedented numbers.

They're also embracing our civic education and outreach efforts. Wyoming lawyers are an essential ingredient in every You Be the Judge program. In the Sweetwater program that is currently ongoing, 20 lawyers are taking part.

Our judicial — and our judicial center would not exist without contributions from the Wyoming State Bar. One contribution in particular stands out. The Wyoming State Bar Foundation was created years ago. One of the stated purposes of the Foundation was public education projects which promote a knowledge and awareness of the law. The Judicial Learning Center project dovetails perfectly with that purpose. Last year's Wyoming State Bar convention, the Foundation announced its contribution of \$176,000 for the project. That contribution allowed us to fully access the matching funds authorized by the legislature. And so to paraphrase Gerald Mason, we're so proud of our Wyoming lawyers, and thank them for the many contributions to our system of justice.

Although they are not implicated directly in our budget, there are two issues that will come before you that merit brief comment. Senate File 000 — three zeros and a 6, authorizes an additional district judge in the First Judicial District serving Laramie County. The request was vetted by the Board of Judicial Policy who gave their unanimous support.

Currently there are three district judges. The weighted caseload study reflects a need for well over four judges, and that need has existed for some time. The judges from that district make an even more compelling case, and we would urge your support.

There's been discussion regarding funding for DUI and drug courts. I would simply say that, according to our judges, the programs work and are viewed as a valuable resource and sentencing option. According to one judge: If there are no drug courts or half the available slots, I will only have two options for many of our serious alcohol and substance abuse offenders. Either far less stringent probation, or far more individuals going to prisons. Risks and costs of those options are significant.

Another district judge echoed those sentiments and added, "In my opinion, it has been a success, and has helped individuals break the cycle of addiction." Obviously, the funding decision for those programs rest with you, but if you need more information from our judges about this issue, please know that it is available.

And along similar lines, there is a judicial component to many of the problems you are facing.

Sentencing, pretrial release, involuntary commitments, elder issues come to mind. We would welcome more opportunities for conversation and collaboration.

Soon you will be reviewing our budget request. From our perspective, it is very lean. We have very few exception requests, and I've identified most of them in my previous remarks. Some of those requests do not involve general fund dollars.

Our general fund standard budget is approximately \$73 million. This includes the supreme court, all district courts and all circuit courts. Total payroll for our branch is \$65.5 million, which is 90

percent of that budget. Although the judicial workload has increased, and we have taken on more projects, the number of employee positions in that budget has essentially remained constant over the last several years.

We are left with approximately \$7.5 million to fund all other general funds standard budget items. IT service agreements eat up a significant portion of those funds. Other items include funding more magistrates, commissioners, court interpreters and transcript costs. Interpreter and transcript costs are difficult to predict. For example, in a recent trial, we needed an interpreter qualified in Mandarin. That was a two-week trial. The interpreter cost there was \$12,000. However, interpreter costs and transcript costs implicate due process concerns, and when they're needed, they are essential. There is very little left to fund other office expenses, travel, training and miscellaneous costs from that budget.

We have tried to be effective stewards of taxpayers dollars, and our current request maintains that commitment. Most of our employees wear several hats. They're the heart of our branch. They do what it takes to accomplish our mission. Most states have judicial education departments. We can't do that because we lack the economies of scale. But our need for educated judges is identical to the needs in those states, so we improvise. The judicial orientation program mentioned earlier is a classic example of our use of resources. We have not had one employee in pursuit of our civic education efforts. We can go on with numerous other examples, but recognize the time is short.

Typically, it seems to me, we are asking what more can we do to make our branch more effective and economical?

What can we do better serve our citizens? That thought process, I believe, permeates our branch of government, and employees at every level are contributing to that effort.

Before closing, I want — would like to mention my colleagues on the supreme court bench. It is a pleasure to work with Justices Hill, Davis, Fox and Kautz. They are leaders and team players. When issues are raised or problems discussed in early — inevitably their response is, "What can I do? How can I help?"

All have traveled to participate — throughout the state to participate in the You Be the Judge program. I think Justice Fox is scheduled to be in Rock Springs for the program there this week. They've taken on additional responsibilities in court security, court technology, access to justice, judicial education, and many other areas. Much of what gets accomplished in our branch is attributable to their efforts.

I've gone on at length about our budget and our employees because I wanted you to have an understanding of our circumstances. But we recognize that there are many other aspects of state government, many other considerations that you must take into account in reaching your decisions. We know that it is very heavy responsibility. But we have every confidence that you are up to the challenge.

We wish you well in this legislative session as you grapple with the important issues facing our

state.

And thank you again for the opportunity to visit with you this morning. Good luck and Godspeed.