

HOUSE JOURNAL
TWENTY-SEVENTH LEGISLATIVE DAY - FEBRUARY 3, 2005

HOUSE JOURNAL
59TH LEGISLATURE
TWENTY-SEVENTH LEGISLATIVE DAY

Helena, Montana
February 3, 2005

House Chambers
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Rep. Hiner. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Representatives Jackson, McNutt, and Witt, excused. Quorum present.

SPECIAL ORDERS OF THE DAY

Sergeant-at-Arms Clark notified Mr. Speaker that the Honorable Senate of the State of Montana awaits outside the Chamber. Speaker Matthews requested Sergeant-at-Arms Clark to admit the Honorable Senate into the House Chamber. Speaker Matthews introduced Senate President Tester and yielded the chair to him.

Senate Majority Leader Ellingson moved that the body resolve itself into a joint session for the purpose of receiving the address from the Honorable Chief Justice Karla Gray. Motion carried.

Senate Majority Leader Ellingson moved the President be authorized to appoint a committee of four to notify the Honorable Chief Justice Gray that the body is in joint session and ready to receive her address. Motion carried.

Senator President Tester appointed Senator Wheat, Senator Shockley, Representative Wiseman, and Representative Noennig to escort the Honorable Chief Justice Gray into the House Chamber.

The committee escorted Chief Justice Gray into the House Chamber.

Invocation was given by Father Jerry Lowney, and Senate President Tester led the body in the Pledge of Allegiance.

Senate President Tester introduced the Honorable Chief Justice Gray to the joint session. Chief Justice Gray made the following remarks:

"Speaker Matthews, President Tester, Members of the 59th Montana Legislature, distinguished guests, fellow Montanans:

I am honored to report to this joint session of the 59th Montana Legislature—and the people we all serve—on Montana's Judicial Branch of government: who we are, our successes and our challenges. Before I do that, let me express my sincere thanks for this time in your crowded schedule. It is important for you to hear about the Judicial Branch; but this time together is perhaps equally important because it provides an opportunity for members of all three Branches of Montana's government to be together in one place, to symbolically remind all of us of our shared commitment to serving the people of Montana as well as we possibly can in our separate, but equally important, roles. In the overall scheme of things, sharing this time together cements the lovely reality that far more binds us together in our government than has ever separated us.

Let me start with who we are in the Judicial Branch, beginning with the dedicated judges of Montana's Courts of Limited Jurisdiction, who are an integral part of nearly every community and, most assuredly, the backbone of our Montana judicial system. These 107 justices of the peace, city court and municipal court judges, together with their experienced and committed employees, handle more than 300,000 cases each year. Their dedication, professionalism and commitment to delivering timely and quality justice to the citizens of our state are a model for us all.

Next, please be aware of the 42 men and women who serve as District Court judges in all 56 counties in Montana, divided into 22 judicial districts. District Court cases involve the most complicated problems human beings can devise, both civil and criminal. On a daily basis, District Court judges make decisions dramatically affecting individuals, families, businesses and communities. They and their talented staff are passionately dedicated to the law, the Constitution and the public and, for that, we owe them immense gratitude.

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Many of you already know my colleagues on the Supreme Court. Montana's highest court—together with our hardworking and dedicated judicial assistants, law clerks and staff attorney—work with incredible diligence to handle a heavy and ever more complex caseload. In 2004, the Supreme Court resolved 800 cases, nearly half by written opinion. In addition, we totally revamped the ethical rules for Montana attorneys, made our first trip ever to Glendive—so the folks in eastern Montana would have the opportunity to experience an oral argument before the Montana Supreme Court—and worked on improvements in various areas related to the administration of justice such as access to justice issues. The Justices are enormously dedicated to serving the people of Montana and to upholding the people's document—our Montana Constitution.

With that abbreviated background on the Judicial Branch, let me touch on just a few of our many accomplishments in recent years. And let me start by confessing that when I stood before the joint session four years ago, as the new Chief Justice, I envisaged a very different term as Chief. But—as the old saying or “curse” goes—“may we live in interesting times.” And did those folks ever serve up some interesting times for the Judicial Branch—including the Chief Justice—in 2001, when they enacted state assumption of District Court expenses during the closing days of the 57th Legislature!

State assumption was a visionary action by the Legislature. But I believe I can say—without fear of contradiction—that state assumption was much more complex, more labor-intensive and more costly than anyone anticipated. And so, most of the Judiciary's biggest recent accomplishments have related to state assumption, which came into being just 2½ years ago. To a large extent, the “major” dust has now settled regarding this challenging and complicated transition. In less than three years, we have created order out of what seemed chaos. We have brought order and timeliness to the process of paying the bills the Legislature obligated us to pay, and all District Courts are operating under a unified set of policies relating to state assumption. In one fell swoop, the District Court employees who came to us with state assumption on July 1, 2002, grew our Branch from a mere 103 FTE to 375 FTE. Those employees are now working under a single Judicial Branch compensation and classification plan. I am confident in reporting that, while state assumption continues to be a work in progress, we have successfully accomplished a major transition that in other states typically has taken many years and many more resources.

I also want to highlight just some of the major successes in Montana's Youth Courts achieved as part of state assumption. Chief probation officers, under the support and guidance of District Court judges wearing their Youth Court “hats,” have worked steadily and creatively to achieve uniformity and consistency across the 22 judicial districts. By the time this 59th Legislature adjourns, Youth Courts in our state will share a single, automated risk assessment system. This new web-based system will dramatically improve the Youth Courts' ability to identify the needs of at-risk youth, efficiently target prevention and intervention services for those youth, and enhance public safety in our communities. We will roll this assessment tool out with a statewide information-gathering system which ultimately will provide a statewide “report card” on how well our Youth Courts are doing business. We also have centralized the purchase of drug testing kits through a state contract at a much-reduced cost. And, as a final example, we have adopted uniform complaint resolution forms and procedures to investigate and process any complaints against Youth Court staff. These are monumental strides for the Youth Court system—and the Montana children, families and communities they serve. These accomplishments also are shining examples of the wisdom of state assumption.

Much of the credit for success of state assumption lies, of course, with the District Court Council created by the 2001 Legislature in the state assumption legislation. This Council, which I chair, has four District Court voting members, and representatives of juvenile probation, Clerks of District Court, court reporters and the Montana Association of Counties. Needless to say, all very busy people. But the District Court Council—with the extremely able and seemingly tireless staff from the Court Administrator's office—gives whatever time and energy is needed to the challenges of quickly, but carefully, transitioning District Courts into state assumption.

Moving away from state assumption-related matters, I am proud to tell you that our District Court judges continue to approach the administration of justice creatively. A number of what are commonly called “problem-solving courts” have been established in Montana, through the dedication and commitment of judges and members of various communities who are attempting to solve underlying problems such as drug and alcohol dependency, which impact so heavily on the safety of families and communities. The newest of these started just recently in Judge Tom McKittrick's court in Great Falls. I hope to visit it soon, as I have visited several of the others. These newer approaches to the administration of justice are incredibly rigorous for the participants and, so far, very successful. I was moved to tears when I spoke at a “graduation ceremony” in the Gallatin County treatment court, where I had the honor of meeting a man who had been a drug addict with a life in shambles for 20+ years, and who was drug-free for the first time, employed and tending to his family—all as a result of the 18-month treatment court program. These

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problem-solving courts are very labor intensive and, therefore, somewhat costly on the “front end.” I am proud that some Montana judges and their communities have begun, and maintained, these creative courts with federal and local monies. When the Judicial Branch becomes financially healthy, I hope we can work together to fund these special courts—and more like them—throughout the state.

Finally, in the area of information technology, where our resource needs are so great, I am pleased to report that—even with limited resources—the Judicial Branch has made important improvements in the past 18 months. We have installed Full Court, a modern case management system, in 100 of the approximately 160 Courts of Limited Jurisdiction. This step alone substantially improves the way judicial business is done in our busiest courts. Even more exciting, we will electronically link these courts and create a single repository for Limited Court information by September of this year, with the assistance of a federal grant. Working in partnership with the Department of Justice and others who depend on criminal justice information, convictions and sentences will be reported quickly and electronically. As you can readily imagine, this will dramatically increase the accuracy and timeliness of data and will eliminate the slow, labor intensive, paper-based processes currently in place. From a technology standpoint, Montana’s Courts of Limited Jurisdiction are in better shape than they have ever been.

The Judiciary continues to face major challenges, of course, so I need to visit with you about just some of our budget proposals to address those challenges. As with all branches of government and the people we serve, our needs are many. But we have limited our budget request to those proposals which are truly essential for the Judicial Branch to function effectively, efficiently and in a manner which provides accessibility of public records in the Judicial Branch to the people of Montana.

Of course, this brings me immediately back to the information technology needs of Montana’s Judiciary. In our modern world, efficiency demands technology; and accountability demands technology in equal measure. As we all know, technology has revolutionized government’s capacity to collect and sort data, provide information and enhance services. Regrettably, the extensive information technology common in the Legislative and Executive Branches simply does not exist in many areas of the Judicial Branch. And I must point out that no funding for IT hardware, software, connectivity or staff came along with state assumption. It is not a “fault” thing—simply a truism that in those hectic last days of the 2001 Session no one was thinking about the IT-related costs of a hugely expanded Judicial Branch.

Montana’s District Courts, especially, are in dire need of modern information technology tools. We are grateful that both former Governor Martz and Governor Schweitzer included, in their budgets, one-time-only money to modernize information technology in the District and Limited Jurisdiction Courts more rapidly, so we can finally get all Montana’s trial courts on the same page at the same time. It is inefficient, wasteful and disruptive to be installing new systems in some courts, while still “patching” old systems in other courts. We ask your support for these proposals.

Stable, long-term and adequate funding is essential to maintain modern information technology in all our courts in the Twenty-First century. We desperately need technology to effectively manage court operations, to report data to the Legislature in a timely, consistent and reliable manner, and to be accountable to those who pay for and rely on court services. Had Montana’s fiscal situation been less dire two years ago, we would have fought for general fund funding for the Judiciary’s ongoing IT needs, but it simply was not going to happen. So, instead, and at our request, the 2003 Legislature increased the IT surcharge to increase resources for court technology. The increase helped, but our experience in the past 18 months has proven beyond a doubt that the surcharge is not an adequate, efficient or long-term solution for funding well-planned, cost-effective information technology for Montana’s courts. Consequently, we have proposed several solutions for funding essential court technology, and Governor Schweitzer’s budget joins us in recommending general fund funding for operating basic IT tools for Montana’s courts. In addition, we will present bonding legislation for improvements in our information technology. We urge you to thoughtfully consider and approve these proposals; without them, Montana’s courts simply cannot do their work or efficiently exchange information with the other Branches, other governments, private businesses and citizens having business with the courts.

Our next major challenge is to more fully implement the vision of state assumption which was set out in the interim study done before the 2001 Session called “Simplification in the 21st Century.” That vision of state assumption is to “provide a uniform, timely and quality judicial system” for Montana. As recognized by the “Simplification” report, the District Courts came into the state system with very uneven staffing and staff compensation levels. Many judicial districts still lack basic, minimum levels of staffing, which creates too many delays in the judicial process. I ask for your support for our conservative proposal for additional staff in the District Courts. Similarly, we have proposed

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a very modest amount to start moving employees doing the same work in different District Courts toward pay equity; the existing inequities are simply unfair and result from the pre-assumption 56-county approach. Please help us take these important steps in furthering the goals the Legislature set for state assumption.

In order to get a handle on Court workloads and needs, the Judiciary is also requesting—and both former Governor Martz and Governor Schweitzer recommend—a one-time-only appropriation for a comprehensive judicial workload assessment study. Such a study will provide logical, measurable data for assessing judicial and staff resource needs, and will help us all answer the questions about court resource needs that have bedeviled Legislative and Judicial policymakers for decades. Such a study has been successfully completed in other states struggling with similar resource issues, but at a significantly higher cost. Neither we nor you currently have the tools and standards necessary for making responsible resource allocation decisions and for ensuring that we have clear, measurable standards for accountability to the public we serve.

Paying the costs of indigent defense remains a very serious problem in the District Court variable budget, which covers criminal defense for the poor, counsel for indigent Montanans facing commitment to a mental facility or the loss of parental rights, and counsel for the most vulnerable of our citizens—children involved in court proceedings—among other things. Some of you will remember that last session I requested, cajoled, nudged and, indeed, pleaded for adequate funding of these costs the Legislature obligated us to pay. I asked not to be forced into a supplemental appropriation situation this session. But fiscal times were dire in Montana, and the needed funds were not provided. Unfortunately, but not surprisingly, the expenses for these variable budget services have far exceeded the amount funded by the 2003 Legislature. The Judiciary currently is anticipating a supplemental request of about \$6.8 million because, frankly, how many Montanans require these services simply is not a matter which we or anyone can control, unless you want prosecutors to dismiss cases involving people entitled to state-funded legal representation. So far, we have kept the wolf from the door by delaying purchases and reducing operating expenses. We cannot, however, continue to starve other portions of the Judicial Branch's budget to pay these bills you obligated us to pay. That was not the vision for state assumption. I urge you to support our crucial request for supplemental funding for these essential services.

The Judicial Branch has had many successes and faces more challenges. I am proud of our successes and confident that you will fairly and constructively help us address the remaining challenges.

I am most proud that Montanans who seek resolution of their disputes through our courts—established expressly for that purpose—have their cases handled fairly by judges and staff who are competent and committed. The Judicial Branch continues working to ensure that every Montanan has equal access to our courts, and that the administration of justice is fair, impartial and accountable to the people we serve. We believe in these goals and strive to meet them every day.

I know that all of you aspire to correlative goals on behalf of your—and our—constituents. As elected officials, we are all committed to serving our constituents with dignity and to giving them the best that is in us. Let us remember together that we are part of a system of government—three separate branches with built-in checks and balances—that is the envy of people around the world. Let us remember together the sacrifices that have been made—and continue to be made—to protect our form of government and to enable others to attain it. If we keep these fundamental ideas close to our hearts and minds, these will be our proudest moments—and we will have faithfully discharged our duties to the people we all serve.

Thank you for your valuable time and considerate attention. The Judicial Branch applauds the critical work you do. On behalf of Montana's Judges, Justices and staff, I wish you a productive and successful 59th Legislative Session."

President Tester thanked Chief Justice Gray and directed the escort committee to escort Chief Justice Gray from the joint session.

Senate Majority Leader Ellingson moved that the joint session of the 59th Legislature, convened to receive the address from Chief Justice Gray, be adjourned. Motion carried.

Joint session adjourned at 1:40 p.m.

REPORTS OF STANDING COMMITTEES

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BILLS (Barrett, Chairman): 2/3/2005
Correctly printed: **HB 98, HB 104, HB 220, HB 253, HB 297, HB 298, HB 312, HB 371, HB 411, HB 427, HB 447.**

Correctly engrossed: **HB 35, HB 79, HB 99, HB 182, HB 197, HB 208, HB 213, HB 227, HB 234, HB 280, HB 324, HB 326, HB 336, HB 345, HB 347, HB 348, HB 350, HB 351, HB 370, HB 396, HB 414, HB 417.**

TAXATION (Waitschies, Chairman): 2/3/2005
HB 134, do pass. Report adopted.

TRANSPORTATION (Mendenhall, Chairman): 2/3/2005
HB 186, introduced bill, be amended as follows:

1. Title, line 8 through line 10.
Following: "'MOTORCYCLE'," on line 8
Insert: "AND"
Strike: ", AND" on line 8 through "ENDORSEMENTS" on line 10

2. Title, line 12 through line 13.
Strike: "61-1-123" on line 12 through "61-8-605," on line 13

3. Page 1, line 18.
Following: "that" on line 18
Insert: ": (a) was manufactured in one stage;
(b)"

4. Page 1, lines 19 through 22.
Strike: ", " on line 19 through "(b)" on line 22
Insert: "; and (c)"

5. Page 1, line 23.
Strike: "40"
Insert: "49"

6. Page 1, line 26.
Following: "include"
Insert: "a vehicle manufactured before 1980,"

7. Page 2, line 10.
Following: "~~61-1-123~~"
Insert: "bicycle, as defined in 61-1-123, and a"

8. Page 2, line 25.
Following: "~~61-1-123~~"
Insert: "bicycle, as defined in 61-1-123, and a"

9. Page 3, line 15 through page 6, line 3.
Strike: sections 7 through 9 in their entirety
Renumber: subsequent sections

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And, as amended, do pass. Report adopted.

HB 269, introduced bill, be amended as follows:

1. Title, line 5.

Following: "LAND OR"

Strike: "PUBLIC"

2. Page 1, line 19.

Following: "or"

Strike: "public"

Insert: "to access"

3. Page 1, line 20.

Following: "23-2-301"

Insert: "and as permitted in 23-2-302"

4. Page 2, line 7.

Following: "or"

Insert: "to access"

5. Page 2, line 8.

Strike: "public"

Following: "23-2-301"

Insert: "and as permitted in 23-2-302"

And, as amended, do pass. Report adopted.

HB 385, introduced bill, be amended as follows:

1. Title, lines 7 and 8.

Strike: "THAT" on line 7 through "ENTITY;" on line 8

Insert: "FOR ISSUANCE OF A DRIVER'S LICENSE TO A FOREIGN NATIONAL WHOSE PRESENCE IN THE UNITED STATES IS TEMPORARILY AUTHORIZED UNDER FEDERAL LAW AND IMPOSING CERTAIN CONDITIONS ON RENEWAL AND EXPIRATION OF THAT LICENSE; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ADOPT RULES REGARDING ISSUANCE OF A DRIVER'S LICENSE TO A FOREIGN NATIONAL;"

Following: "61-5-105"

Insert: ", "

Strike: "AND 61-5-106"

Insert: "61-5-107, 61-5-111, AND 61-5-125"

2. Title, lines 8 and 9.

Strike: "AN" on line 8 through "IMMEDIATE" on line 9

Strike: "DATE" on line 9

Insert: "DATES AND APPLICABILITY DATES"

3. Page 1, line 14.

Strike: "-- no refusal for debts"

Strike: "(1)"

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4. Page 1, line 16.

Strike: "(a)"

Insert: "(1)"

5. Page 1, line 17.

Strike: "(i)"

Insert: "(a)"

6. Page 1, line 19.

Strike: "(ii)"

Insert: "(b)"

7. Page 1, line 21.

Strike: "(b)"

Insert: "(2)"

8. Page 1, line 24.

Strike: "(c)"

Insert: "(3)"

9. Page 1, line 25.

Strike: "(d)"

Insert: "(4)"

10. Page 1, line 28.

Strike: "(e)"

Insert: "(5)"

11. Page 1, line 29.

Strike: "(f)"

Insert: "(6)"

12. Page 2, line 1.

Strike: "(g)"

Insert: "(7)"

13. Page 2, line 7.

Strike: "(h)"

Insert: "(8)"

14. Page 2, line 9.

Strike: "(i)"

Insert: "(9)"

15. Page 2, lines 13 and 14.

Strike: subsection (2) in its entirety

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16. Page 2, line 16 through page 3, line 20.

Strike: sections 2 and 3 in their entirety

Insert: "Section 2. Section 61-5-107, MCA, is amended to read:

"61-5-107. Application for license, instruction permit, or motorcycle endorsement. (1) Each application for an instruction permit, driver's license, commercial driver's license, or motorcycle endorsement must be made upon a form furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from the date of application. A voter registration form for mail registration as prescribed by the secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator.

(2) Each application must include the full legal name, date of birth, sex, residence address of the applicant [and the applicant's social security number], must include a brief description of the applicant, and must provide the following additional information:

(a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the application;

(b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

(c) a brief description of any physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; ~~and~~

(d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; ~~and~~

(e) if the applicant is a foreign national whose presence in the United States is temporarily authorized under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship and immigration services of the department of homeland security authorizing the applicant's presence in the United States.

[(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U. S. C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(4) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium.

(b) When received, the driving records must be appended to the driver's record created and maintained in this state. The department may rely on information contained in driving records received under this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Insert: "Section 3. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of a driver's license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee; and

(iv) either the licensee's customary signature or a digital reproduction of the licensee's customary signature.

(b) The department may not use the licensee's social security number as the distinguishing number unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on

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the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) ~~Except as provided in subsections (3)(d)(iv) through (3)(d)(vi),~~ a person may renew a driver's license by mail if the person certifies that the person is temporarily out of state and will not be returning to the state prior to the expiration of the license.

(ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph or signature record of the renewal applicant from the expiring license, then the department may require the renewal applicant to submit a personal photograph and signature that meets the requirements prescribed by the department.

(iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail for consecutive license terms.

(v) The department may not renew a license by mail if the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily authorized under federal law, the license may not be renewed by mail.

(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a driver's license. The department shall mail the notice to the Montana mailing address shown on the driver's license unless the licensee has submitted a change of address as required by 61-5-115.

(4) (a) Except as provided in subsections (4)(b), ~~and~~ (4)(c), ~~and~~ (4)(d), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, on either:

(i) the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States;
or

(ii) on the person's birthday immediately preceding the expiration date of the official document.

(5) Whenever the department issues an original license to a person under the age of 18 years, the license must be designated and clearly marked as a "provisional license". Any license designated and marked as provisional may be suspended by the department for a period of not more than 12 months when its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless or negligent driving.

(6) Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(b) motorcycle endorsement -- 50 cents a year or fraction of a year;

(c) commercial driver's license:

(i) interstate -- \$5 a year or fraction of a year;

(ii) intrastate -- \$3.50 a year or fraction of a year;

(d) renewal notice -- 50 cents.

(7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has surrendered a Montana driver's license to that jurisdiction, the department shall change the license status on the person's official driver record to "inactive". If the person returns to Montana prior to the expiration of the previously surrendered license, the department may reactivate the license for the remainder of the license term."

Insert: "Section 4. Section 61-5-125, MCA, is amended to read:

"61-5-125. Authority of department -- rulemaking authority. (1) The department shall administer and enforce the provisions of this chapter.

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(2) The department shall adopt rules setting standards to govern driver's license examinations and reexaminations. The rules:

(a) must specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway;

(b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licensure and may include minimum field of vision and depth perception requirements and hearing requirements for unrestricted and restricted licensure;

(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination;

(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

(e) may take into consideration any nationally recognized standards or recommended practices for assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

(g) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; and

(h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation, or condition as a justification for denial of a license.

(3) The department may adopt additional rules governing:

(a) acceptable methods of proof of identification that must be supplied by a person upon application for or renewal of a driver's license;

(b) issuance of a hardship license to an underage applicant;

(c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license fees;

(d) circumstances under which the department may issue a probationary license to a person whose license has been suspended or revoked or a person whose license is subject to a discretionary suspension or revocation;

(e) restrictions to be imposed upon a probationary license;

(f) renewal of a driver's license by a person in the military assigned to active duty who had a valid Montana driver's license at the time of entering active duty; ~~and~~

(g) issuance of a duplicate driver's license; and

(h) a determination of the driver's license expiration date, minimum and maximum license terms, and license renewal requirements for a driver's license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law."

Insert: "NEW SECTION. Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is effective July 1, 2005.

(2) [Sections 2 and 3] are effective July 1, 2006."

Insert: "NEW SECTION. Section 6. Applicability. [This act] applies to driver's licenses issued on or after July 1, 2005, and to driver's licenses renewed on or after July 1, 2006."

And, as amended, do pass. Report adopted.

HB 393, introduced bill, be amended as follows:

1. Title, line 17.

Strike: "LIMITING GOVERNMENTAL LIABILITY;"

2. Page 2, line 13.

Strike: "medical" through "to a"

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3. Page 2, line 15.

Following: "confirmation test"

Insert: "that is reported to the commercial motor vehicle operator employer by a medical review officer or breath alcohol technician hired by or under contract to the commercial motor vehicle operator employer"

4. Page 2, lines 18 and 19.

Following: "49 CFR 40.191"

Strike: ", " on line 18 through "technician" on line 19

5. Page 2, line 23.

Strike: "department"

Insert: "commercial motor vehicle operator employer"

6. Page 2, line 24.

Strike: "as provided in [section 2(1)]"

7. Page 2, line 29.

Strike: "medical" through "or"

8. Page 3, line 2.

Following: "subject to"

Insert: "subsection (8) and"

9. Page 3, line 18.

Following: "report"

Insert: "to the commercial motor vehicle operator employer"

10. Page 3, line 30.

Following: "report"

Insert: "to the commercial motor vehicle operator employer"

11. Page 4, line 19 through line 22.

Strike: subsection (10) in its entirety

Renumber: subsequent subsections

12. Page 5, line 8 through line 11.

Strike: section 3 in its entirety

Renumber: subsequent section

And, as amended, do pass. Report adopted.

MESSAGES FROM THE SENATE

Senate bills passed and transmitted to the House for concurrence:

2/3/2005

SB 104, introduced by Gillan

SB 112, introduced by Harrington

SB 134, introduced by Wheat

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Senate joint resolution passed and transmitted to the House for concurrence:

2/3/2005

SJR 1, introduced by Ellingson

FIRST READING AND COMMITMENT OF BILLS

The following House bills were introduced, read first time, and referred to committees:

HB 535, introduced by L. Jones, referred to Taxation.

HB 536, introduced by Callahan, Wheat, Ripley, McNutt, Parker, Brueggeman, Cromley, referred to State Administration.

HB 537, introduced by Wanzenried, Clark, Galvin-Halcro, Jayne, Jopek, Noonan, Buzzas, Lindeen, Golie, Bixby, Gallik, Branae, Small-Eastman, Dowell, Raser, Grinde, Groesbeck, Wilson, Villa, Callahan, McAlpin, referred to Business and Labor.

HB 538, introduced by Butcher, referred to Local Government.

HB 539, introduced by Lindeen, Himmelberger, Barrett, A. Olson, McNutt, Matthews, R. Brown, referred to Federal Relations, Energy, and Telecommunications.

HB 540, introduced by Dickenson, Galvin-Halcro, Sesso, Noonan, Callahan, Smith, Campbell, Gillan, Cohenour, Jacobson, Lindeen, Eaton, Harrington, Schmidt, Becker, Musgrove, Tester, Raser, Golie, McAlpin, Wilson, Dowell, Toole, Groesbeck, Grinde, Branae, Franklin, Cromley, Caferro, Villa, Kitzenberg, Laslovich, Larson, Wiseman, Furey, Gallus, Keane, Stahl, Milburn, Hamilton, Ryan, Hiner, Moss, Small-Eastman, Mangan, Ward, referred to Appropriations.

HB 541, introduced by Glaser, Hendrick, Maedje, Sonju, D. Brown, Lambert, R. Brown, Taylor, Wagman, Morgan, Ward, L. Jones, Story, referred to Taxation.

HB 542, introduced by Hamilton, referred to State Administration.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Dem. Floor Leader Parker moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Warden in the chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 262 - Representative Lange moved **HB 262** do pass. Motion carried as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Branae, D. Brown, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, McNutt, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 96

Noes: Bixby, Hamilton, Jayne, Small-Eastman.
Total 4

Voted Absentee: Jackson, McNutt, Witt, Ayes.

Excused: None.
Total 0

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Absent or not voting: None.
Total 0

HB 377 - Representative Keane moved **HB 377** do pass. Motion carried as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, D. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hendrick, Henry, Himmelberger, Hiner, Jackson, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McKenney, McNutt, Mendenhall, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Ripley, Roberts, Ross, Sesso, Small-Eastman, Sonju, Stahl, Stoker, Villa, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Witt, Mr. Speaker.
Total 86

Noes: R. Brown, Hawk, Heinert, Jayne, Koopman, Milburn, Rice, Sales, Sinrud, Taylor, Wagman, Waitschies, Wells.
Total 13

Voted Absentee: Jackson, McNutt, Witt, Ayes.

Excused: None.
Total 0

Absent or not voting: McGillvray.
Total 1

Dem. Floor Leader Parker moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the chair. Chairman Warden moved the Committee of the Whole report be adopted. Report adopted as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Clark, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Franklin, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Henry, Himmelberger, Hiner, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, Mendenhall, Milburn, Morgan, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 87

Noes: Facey, Jayne, Wells.
Total 3

Excused: Jackson, McNutt, Witt.
Total 3

Absent or not voting: D. Brown, Hendrick, McKenney, Musgrove, Sonju, Ward, Warden.
Total 7

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 171 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro,

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Callahan, Campbell, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 94

Noes: None.
Total 0

Excused: Jackson, McNutt, Witt.
Total 3

Absent or not voting: D. Brown, Clark, Franklin.
Total 3

HB 183 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jayne, Jent, L. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Malcolm, McAlpin, McGillvray, McKenney, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 89

Noes: Koopman, Maedje, Sales, Wells.
Total 4

Excused: Jackson, McNutt, Witt.
Total 3

Absent or not voting: D. Brown, Clark, Franklin, W. Jones.
Total 4

HB 206 passed as follows:

Ayes: Andersen, Arntzen, Becker, Bergren, Bixby, Branae, Butcher, Buzzas, Caferro, Callahan, Campbell, Cohenour, Dickenson, Driscoll, Eaton, Facey, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hendrick, Henry, Hiner, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lange, Lenhart, Lindeen, MacLaren, Maedje, McAlpin, McGillvray, McKenney, Mendenhall, Milburn, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Roberts, Ross, Sesso, Small-Eastman, Stoker, Taylor, Villa, Waitschies, Wanzenried, Warden, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 74

Noes: Balyeat, Barrett, R. Brown, Dowell, Everett, Hawk, Heinert, Himmelberger, Lambert, Malcolm, Morgan, Rice, Ripley, Sales, Sinrud, Sonju, Stahl, Wagman, Ward, Wells.
Total 20

Excused: Jackson, McNutt, Witt.
Total 3

Absent or not voting: D. Brown, Clark, Franklin.
Total 3

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HB 313 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Facey, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, Milburn, Morgan, Musgrove, Noennig, Noonan, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 88

Noes: Everett, Jayne, Mendenhall, A. Olson, Sales, Waitschies.
Total 6

Excused: Jackson, McNutt, Witt.
Total 3

Absent or not voting: D. Brown, Clark, Franklin.
Total 3

HB 381 passed as follows:

Ayes: Andersen, Arntzen, Balyeat, Barrett, Becker, Bergren, Bixby, Branae, R. Brown, Butcher, Buzzas, Caferro, Callahan, Campbell, Cohenour, Dickenson, Dowell, Driscoll, Eaton, Everett, Facey, Furey, Gallik, Galvin-Halcro, Glaser, Golie, Grinde, Groesbeck, Gutsche, Hamilton, Harris, Hawk, Heinert, Hendrick, Henry, Himmelberger, Hiner, Jacobson, Jayne, Jent, L. Jones, W. Jones, Jopek, Juneau, Kaufmann, Keane, Klock, Koopman, Lake, Lambert, Lange, Lenhart, Lindeen, MacLaren, Maedje, Malcolm, McAlpin, McGillvray, McKenney, Mendenhall, Milburn, Morgan, Musgrove, Noennig, Noonan, A. Olson, B. Olson, Parker, Peterson, Raser, Rice, Ripley, Roberts, Ross, Sales, Sesso, Sinrud, Small-Eastman, Sonju, Stahl, Stoker, Taylor, Villa, Wagman, Waitschies, Wanzenried, Ward, Warden, Wells, Wilson, Windham, Windy Boy, Wiseman, Mr. Speaker.
Total 94

Noes: None.
Total 0

Excused: Jackson, McNutt, Witt.
Total 3

Absent or not voting: D. Brown, Clark, Franklin.
Total 3

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Dem. Floor Leader Parker moved that the House adjourn until 12:30 p.m., Friday, February 4, 2005. Motion carried.

House adjourned at 1:40 p.m.

MARILYN MILLER
Chief Clerk of the House

GARY MATTHEWS
Speaker of the House