

SENATE BILL NO. 194

INTRODUCED BY AKLESTAD, ROUSH

IN THE SENATE

January 18, 1983	Introduced and referred to Committee on Judiciary.
February 3, 1983	Committee recommend bill do pass as amended. Report adopted.
February 4, 1983	Bill printed and placed on members' desks.
February 5, 1983	Second reading, do pass.
February 7, 1983	Correctly engrossed.
February 8, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 9, 1983	Introduced and referred to Committee on Judiciary.
March 22, 1983	Committee recommend bill be concurred in. Report adopted. Second reading, pass consideration.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in.

IN THE SENATE

March 26, 1983	Returned to Senate. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. *194*
 2 INTRODUCED BY *AKLESTAD, RONAN*
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY AMEND AND
 5 CLARIFY THE LAWS RELATING TO JURY SELECTION; ELIMINATING THE
 6 REQUIREMENT FOR BALLOT CAPSULES; SPECIFYING THE DUTIES OF
 7 THE CLERK OF THE DISTRICT COURT; PROVIDING FOR PAYMENT OF
 8 WITNESS EXPENSES AND THE COSTS OF IMPANELING A JURY FROM THE
 9 DISTRICT COURT FUND; REQUIRING PAYMENT OF PART OF THE
 10 INTEREST ON THE TRUST FOR UNLOCATED MINERAL OWNERS TO THE
 11 DISTRICT COURT FUND; AND AMENDING EXEMPTIONS FROM JURY
 12 SERVICE; AMENDING SECTIONS 3-5-510, 3-5-511, 3-15-204,
 13 3-15-205, 3-15-312, 3-15-313, 3-15-501, 3-15-502, 3-15-505,
 14 3-15-507, 7-33-2314, 7-33-2315, 25-7-202 THROUGH 25-7-204,
 15 25-7-206, 25-7-208, 25-7-209, 46-17-202, AND 82-1-304, MCA."
 16
 17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 18 Section 1. Section 3-5-510, MCA, is amended to read:
 19 "3-5-510. Duties relating to jurors and witnesses. The
 20 clerk of the district court shall:
 21 (1) keep a book called "Book of Jurors' Certificates
 22 Warrants", which must contain the blank certificates
 23 warrants and stubs--to--be--filled copies as provided in
 24 3-15-204;
 25 (2) keep a "Witness Book", which must contain blank

1 certificates warrants and stubs--to--be--filled copies as
 2 provided in 3-5-511;
 3 (3) keep a record of the attendance of all jurors and
 4 witnesses in criminal actions and compute the amount due
 5 them for mileage (the distance from any point to the county
 6 seat must be determined by the shortest traveled route)."
 7 Section 2. Section 3-5-511, MCA, is amended to read:
 8 "3-5-511. Procedure in reference to witnesses'
 9 certificates warrants. (1) The witnesses in criminal actions
 10 must report their presence to the clerk the first day they
 11 attend under the subpoena.
 12 (2) At the time any witness is excused from further
 13 attendance, the clerk must give to each witness a
 14 certificate warrant taken from a book containing a stub-with
 15 like--designations carbon copy of the same, signed by the
 16 clerk under-seal, in which must be stated the name of the
 17 witness, the number of days in attendance, the number of
 18 miles traveled, and the amount due.
 19 (3) On presentation of such certificate warrant to the
 20 county treasurer, the amount specified in the certificate
 21 warrant must be paid out of the general district court
 22 fund."
 23 Section 3. Section 3-15-204, MCA, is amended to read:
 24 "3-15-204. Duties of clerk as to jurors. (1) The clerk
 25 must keep a record of the attendance of jurors and compute

1 the amount due for mileage. The distance from any point to
2 the county seat must be determined by the shortest traveled
3 route.

4 (2) The clerk must give to each juror, at the time he
5 is excused from further service, a ~~certificate-taken-from-a~~
6 ~~book-containing-a-stub-with-a-like-designation,~~ warrant
7 signed by himself ~~under-seal~~, in which must be stated the
8 name of the juror, the number of days' attendance, the
9 number of miles traveled, and the amount due.

10 (3) On presentation of such certificate warrant to the
11 county treasurer, the amount specified in the certificate
12 warrant must be paid out of the ~~general~~ district court fund.

13 (4) The clerk must make a detailed statement
14 containing a list of the jurors and the amount of fees and
15 mileage earned by each and file the same with the clerk of
16 the board of county commissioners on the first day of every
17 regular meeting of the board. No quarterly salary must be
18 paid the clerk until such statement is filed. The board must
19 examine such statement and see that it is correct."

20 Section 4. Section 3-15-205, MCA, is amended to read:

21 "3-15-205. Costs of impaneling jury after settlement
22 reached. In any civil action before a court of record in
23 which the parties substantially agree to a settlement of the
24 issues prior to impanelment of the jury and either settle
25 the action or stipulate to a continuance, and fail or refuse

1 to inform the court or clerk of court of such settlement or
2 request a continuance and a jury is impaneled, the court
3 may, upon hearing, assess the reasonable public expenses of
4 impaneling the jury, including jury fees and mileage
5 expenses paid or owing under 3-15-201 and such other costs
6 as may have been incurred by the court, against any party.
7 Costs collected under this section shall be deposited in the
8 county ~~general~~ district court fund."

9 Section 5. Section 3-15-312, MCA, is amended to read:

10 "3-15-312. Discharge by court or jury commissioner.

11 The court or jury commissioner must discharge a person from
12 serving as a trial juror in either of the following cases:

13 (1) when it satisfactorily appears that the person is
14 not competent; or

15 (2) when it satisfactorily appears that the person
16 should be excused under 3-15-313 ~~or 3-15-507~~."

17 Section 6. Section 3-15-313, MCA, is amended to read:

18 "3-15-313. Who may be excused -- affidavit to claim
19 excuse. (1) The court or jury commissioner shall excuse a
20 person from jury service upon finding that jury service
21 would entail undue hardship for the person or the public
22 served by the person.

23 (2) If a person believes jury service would entail
24 undue hardship for him or the public served, he may make and
25 transmit an affidavit to the ~~clerk-of-the-court~~ jury

1 commissioner for which he is summoned stating his occupation
 2 or such other facts as he believes will excuse him from jury
 3 service. The affidavit shall be filed with the ~~clerk of the~~
 4 court jury commissioner, who shall transmit it to the court.
 5 The court or jury commissioner may excuse a prospective
 6 juror from jury service if the prospective juror satisfies
 7 the provisions of subsection (1).

8 ~~{3}--A person may also be excused from jury service~~
 9 ~~upon presentation of his excuse to the court as provided in~~
 10 ~~3-15-502."~~

11 Section 7. Section 3-15-501, MCA, is amended to read:
 12 "3-15-501. Order directing that trial jury be drawn
 13 and summoned. (1) At least once each year in each county,
 14 when a civil or criminal case has been at issue and ready
 15 for trial for more than 6 months and the plaintiff or
 16 defendant in such case has requested a jury trial or
 17 whenever the business of a district court requires the
 18 attendance of a trial jury for the trial of civil or
 19 criminal cases and no jury is in attendance, the court must
 20 make an order directing a trial jury to be drawn and
 21 summoned to attend before said court. Such order must
 22 specify the number of jurors to be drawn, ~~and the~~ the time
 23 at which the jurors are required to attend, ~~which time may~~
 24 ~~must be at the same term in which the jurors are drawn or at~~
 25 ~~the next succeeding term, in the discretion of the court.~~

1 (2) The court may direct that such causes, either
 2 criminal or civil, in which a jury may be required or in
 3 which a jury may have been demanded be continued and fixed
 4 for trial when a jury shall be in attendance.

5 (3) A district court may draw more than one trial jury
 6 in a given year if, in the opinion of the judge or judges
 7 thereof, the service of the trial jury in attendance has
 8 been unduly demanding, and in such case the trial jury in
 9 attendance may be excused by the court from further jury
 10 duty in that year.

11 (4) The judge or judges of a district or the judge of
 12 a department may designate that jury service in his or their
 13 district or department is on a "one-day or one-trial" basis;
 14 that is, each individual juror is excused for the rest of
 15 the year after having attended for 1 day and not having been
 16 selected to serve at the trial of a particular cause or
 17 after having completed service at such a trial.

18 (5) If the number of unexcused jurors is not
 19 sufficient to meet current requirements at any time, jurors
 20 excused under subsection (3) or (4) may be required to
 21 serve."

22 Section 8. Section 3-15-502, MCA, is amended to read:
 23 "3-15-502. Jury commissioner. The clerk of court is
 24 the jury commissioner, and the commissioner may appoint a
 25 deputy pursuant to 7-4-2401."

Section 9. Section 3-15-505, MCA, is amended to read:

"3-15-505. Notice to jurors. The clerk shall serve notice by mail on the persons drawn as jurors and require response thereto by mail ~~in such form as the supreme court designates as to their qualifications to serve as trial jurors.~~ He may attach to the notice a jury questionnaire and a form for an affidavit claiming an excuse as provided for in 3-15-313. If a person fails to respond to the notice, the clerk shall certify the failure to the sheriff, who shall then serve notice personally on such person and require a response to the notice."

Section 10. Section 3-15-507, MCA, is amended to read:

"3-15-507. Clerk to call list of jurors summoned and prepare ~~capsules ballots.~~ (1) At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned and ~~the court may hear the excuses of prospective jurors summoned. The court shall excuse any person satisfying the requirements of 3-15-313(1) not excused.~~

(2) ~~The clerk shall write the names of the jurors present and not excused must be written on separate ballots, fold the ballots so that with the names are concealed, and place them in black capsules in the presence of the court.~~ The clerk shall deposit the capsules containing the ballots in a box large enough to hold all of the capsules

ballots without crowding. The box shall be so arranged that the judge or clerk drawing the ~~capsules ballots~~ from the box is unable to see the ~~capsules ballots~~ he is about to draw. ~~The box must be kept sealed or locked until ordered by the court to be opened.~~"

Section 11. Section 7-33-2314, MCA, is amended to read:

"7-33-2314. Certain exemptions for firefighters. The officers and members of regularly organized unpaid fire companies and exempt firefighters are entitled to the following privileges and exemptions:

(1) exemption from payment of poll tax, road tax, and head tax of every description;

~~(2) exemption from jury duty;~~

~~(3) (2) exemption from military duty except in case of war, invasion, or insurrection."~~

Section 12. Section 7-33-2315, MCA, is amended to read:

"7-33-2315. Certificate of membership in fire company.

(1) Every firefighter who has served 5 years in an organized company in this state is an exempt firefighter and must receive from the chief engineer of the department to which he belonged a certificate to that effect.

(2) (a) Every active firefighter must have a certificate of that fact, signed by the chief of the fire

department or the foreman of the company to which he belongs. Such certificates must be countersigned by the secretary and over the seal of the company if one is provided.

(b) In lieu of issuing certificates to exempt firefighters by the chief of the fire department, on the certificate of the foreman and secretary of any fire company or the chief of the department, provision being made therefor in the bylaws of the company, "exempt certificates" may be issued by the clerk of the county, over his official seal and signature, which entitles the holder to like exemption from military ~~and-jury~~ duty.

(3) Each certificate entitles the holder to exemption from military ~~and-jury~~ duty. Every such certificate is prima facie evidence of the facts therein stated.

(4) The secretary of the fire department or fire company must keep a record of all certificates of exemption or active membership, the date thereof and to whom issued, and, when no seal is provided, similar entries of certificates issued to obtain county clerk's certificates."

Section 13. Section 25-7-202, MCA, is amended to read:

"25-7-202. Judge or jury commissioner to draw ~~capsules~~ containing ballots. When an issue of fact to be tried by a jury is brought to trial, the district judge or jury commissioner in the presence of ~~the clerk of the court two~~

~~witnesses~~ must openly draw out of the trial juror box as many of the ~~capsules-containing~~ ballots with the names of jurors thereon, one after another, as are sufficient to form a jury for the cause to be tried. Upon stipulation of counsel, the court may order such jurors to be seated in the order drawn."

Section 14. Section 25-7-203, MCA, is amended to read:

"25-7-203. Drawing a new jury when another is impaneled. If an issue is brought to trial by a jury while a jury is impaneled in another cause and not then discharged, the court may order a jury for the trial of that issue to be drawn out of the box containing the ~~capsules~~ ballots then undrawn; but in any other case the ~~capsules--containing--the~~ ballots with the names of all the trial jurors returned and attending the court must be placed together in the same box before a jury is drawn therefrom."

Section 15. Section 25-7-204, MCA, is amended to read:

"25-7-204. Mode of drawing ~~capsules~~ ballots. Before the first ~~capsule-containing-a~~ ballot shall have been drawn, the box must be closed and well shaken so as to thoroughly mix the ~~capsules~~ ballots therein. The district judge must draw at random a ~~capsule--containing--a~~ ballot with the juror's name thereon ~~through--an-aperture-made-in-the-lid~~ ~~large-enough-only-to-admit-his-hand-conveniently-and-without~~ ~~said-judge-going-into-said-box-before-or-while-drawing-said~~

1 ~~capsule. Upon stipulation of counsel, the court may order~~
2 ~~the clerk to draw ballots."~~

3 Section 16. Section 25-7-206, MCA, is amended to read:

4 "25-7-206. Procedure when insufficient number attend.

5 (1) If a sufficient number of jurors duly drawn and notified
6 do not attend to form a jury, the ~~district--judge jury~~
7 ~~commissioner~~ shall, pursuant to an order ~~of the court~~ to be
8 entered in the minutes, in the presence of ~~the clerk of--the~~
9 ~~court two witnesses,~~ draw a sufficient number of ballots
10 from the box to complete the jury. The sheriff shall
11 notify the persons thus drawn to attend immediately or at a
12 time fixed by court. If for any reason a sufficient number
13 of jurors to try the issue is not obtained from the persons
14 notified under an order made as prescribed in this section,
15 the court may make another order or successive orders until
16 a sufficient number is obtained.

17 (2) Each person so notified must attend at the time
18 required by the notice and, unless excused by the court or
19 set aside, must serve as a juror upon the trial. For a
20 neglect or refusal to do so, he may be fined in the same
21 manner as any other trial juror regularly drawn and
22 notified. He is subject to the same exceptions and
23 challenges as any other trial juror."

24 Section 17. Section 25-7-208, MCA, is amended to read:

25 "25-7-208. ~~Capsules--containing--ballots~~ ballots of

1 jurors who have been sworn. The ~~capsules--containing--the~~
2 ballots with the names of the jurors so sworn must be then
3 deposited in another box and there kept apart from the other
4 ~~capsules--containing~~ ballots with the names of jurors until
5 that jury is discharged. After the jury is discharged, the
6 ~~capsules--containing--the~~ ballots with the names of the jurors
7 thereon must be returned to the box from which they were
8 first taken."

9 Section 18. Section 25-7-209, MCA, is amended to read:

10 "25-7-209. ~~Capsules--containing--ballots~~ Ballots of
11 jurors not sworn. The ~~capsule--containing--the~~ ballot with the
12 name of a juror who is absent when his name is drawn or
13 called or is set aside or excused from serving on that trial
14 must be again returned to the box containing the undrawn
15 ~~capsules ballots~~ as soon as the jury is sworn."

16 Section 19. Section 46-17-202, MCA, is amended to
17 read:

18 "46-17-202. Formation of trial jury. (1) At the time
19 of preparing the district court jury list, the county ~~jury~~
20 ~~commission commissioners and clerk and recorder~~ shall
21 prepare a jury list for each justice's and city court within
22 the county. Each list shall consist of residents of the
23 appropriate county, city, or town. The lists shall be
24 selected in any reasonable manner which ensures fairness,
25 and each shall include a number of names sufficient to meet

1 the annual jury requirements of the respective court.
 2 Additional lists may be prepared if required. The lists
 3 shall be filed in the office of the clerk of the district
 4 court. The appropriate list shall be posted in a public
 5 place in each county, city, or town, and such list shall
 6 comprise the trial jury list for the ensuing year for such
 7 county, city, or town.

8 (2) Trial jurors shall be summoned from the jury list
 9 by notifying each one orally that he is summoned and of the
 10 time and place at which his attendance is required.

11 (3) The prosecuting attorney and the defendant or his
 12 attorney shall conduct the examination of prospective
 13 jurors. The court may conduct an additional examination. The
 14 court may limit the examination by the defendant, his
 15 attorney, or the prosecuting attorney if the court believes
 16 such examination to be improper.

17 (4) Each party may challenge jurors for cause, and
 18 each challenge must be tried by the court. The challenge may
 19 be for any cause enumerated in 46-16-304(2). Each defendant
 20 shall be allowed three peremptory challenges, and the state
 21 shall be allowed the same number of peremptory challenges as
 22 all of the defendants."

23 Section 20. Section 82-1-304, MCA, is amended to read:

24 "82-1-304. Administration of the trust. (1) The
 25 administration of the trust shall comply with the

1 appropriate provisions regulating trusts contained in Title
 2 72.

3 (2) No trustee or attorney fees may be paid from the
 4 trust proceeds.

5 (3) All bonuses, rental payments, royalties, and other
 6 income shall be paid to the trustee until the trust is
 7 terminated and notice of its termination given to all
 8 interested parties. The trustee shall distribute all money
 9 held in the trust to the person or persons entitled to it
 10 upon the order of the district court.

11 (4) A trust in favor of unlocatable owners shall be in
 12 force until the unlocatable owners of the mineral interest
 13 in question have successfully claimed the share of funds
 14 held in trust and filed the notice provided in 82-1-306.

15 (5) The trustee shall invest funds under his
 16 management in the manner of a prudent man, as defined in
 17 72-21-104. Fifty percent of the interest earned on each
 18 trust shall be credited to the general ~~district court~~ fund
 19 of the county in which the mineral interest is located to
 20 defray the costs of administration.

21 (6) Funds held in the trusts are subject to the
 22 provisions governing abandoned property contained in Title
 23 70, chapter 9."

-End-

Approved by Committee
on Judiciary

SENATE BILL NO. 194

INTRODUCED BY AKLESTAD, ROUSH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY AMEND AND CLARIFY THE LAWS RELATING TO JURY SELECTION; ELIMINATING THE REQUIREMENT FOR BALLOT CAPSULES; SPECIFYING THE DUTIES OF THE CLERK OF THE DISTRICT COURT; ~~PROVIDING FOR PAYMENT OF WITNESS EXPENSES AND THE COSTS OF IMPANELING A JURY FROM THE DISTRICT COURT FUND; REQUIRING PAYMENT OF PART OF THE INTEREST ON THE TRUST FOR UNLOCATED MINERAL OWNERS TO THE DISTRICT COURT FUND;~~ AND AMENDING EXEMPTIONS FROM JURY SERVICE; AMENDING SECTIONS 3-5-510, 3-5-511, 3-15-204, 3-15-205, 3-15-312, 3-15-313, 3-15-501, 3-15-502, 3-15-505, 3-15-507, 7-33-2314, 7-33-2315, 25-7-202 THROUGH 25-7-204, 25-7-206, 25-7-208, 25-7-209, ~~AND 46-17-202, AND 82-1-384,~~ MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-510, MCA, is amended to read:

"3-5-510. Duties relating to jurors and witnesses. The clerk of the district court shall:

(1) keep a book called "Book of Jurors' Certificates Warrants", which must contain the blank certificates warrants and stubs--to--be--fitted copies as provided in 3-15-204;

(2) keep a "Witness Book", which must contain blank certificates warrants and stubs--to--be--fitted copies as provided in 3-5-511;

(3) keep a record of the attendance of all jurors and witnesses in criminal actions and compute the amount due them for mileage (the distance from any point to the county seat must be determined by the shortest traveled route)."

Section 2. Section 3-5-511, MCA, is amended to read:

"3-5-511. Procedure in reference to witnesses' certificates warrants. (1) The witnesses in criminal actions must report their presence to the clerk the first day they attend under the subpoena.

(2) At the time any witness is excused from further attendance, the clerk must give to each witness a certificate warrant taken from a book containing a stub with like designations carbon copy of the same, signed by the clerk under--seat, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due.

(3) On presentation of such certificate warrant to the county treasurer, the amount specified in the certificate warrant must be paid out of the general district--court GENERAL fund."

Section 3. Section 3-15-204, MCA, is amended to read:

"3-15-204. Duties of clerk as to jurors. (1) The clerk

1 must keep a record of the attendance of jurors and compute
2 the amount due for mileage. The distance from any point to
3 the county seat must be determined by the shortest traveled
4 route.

5 (2) The clerk must give to each juror, at the time he
6 is excused from further service, a ~~certificate taken from a~~
7 ~~book containing a stub with a title designation, warrant~~
8 signed by himself ~~under seal~~, in which must be stated the
9 name of the juror, the number of days' attendance, the
10 number of miles traveled, and the amount due.

11 (3) On presentation of such ~~certificate warrant~~ to the
12 county treasurer, the amount specified in the ~~certificate~~
13 ~~warrant~~ must be paid out of the general ~~district court~~
14 ~~GENERAL~~ fund.

15 (4) The clerk must make a detailed statement
16 containing a list of the jurors and the amount of fees and
17 mileage earned by each and file the same with the clerk of
18 the board of county commissioners on the first day of every
19 regular meeting of the board. No quarterly salary must be
20 paid the clerk until such statement is filed. The board must
21 examine such statement and see that it is correct."

22 Section 4. Section 3-15-205, MCA, is amended to read:

23 "3-15-205. Costs of impaneling jury after settlement
24 reached. In any civil action before a court of record in
25 which the parties substantially agree to a settlement of the

1 issues prior to impanelment of the jury and either settle
2 the action or stipulate to a continuance, and fail or refuse
3 to inform the court or clerk of court of such settlement or
4 request a continuance and a jury is impaneled, the court
5 may, upon hearing, assess the reasonable public expenses of
6 impaneling the jury, including jury fees and mileage
7 expenses paid or owing under 3-15-201 and such other costs
8 as may have been incurred by the court, against any party.
9 Costs collected under this section shall be deposited in the
10 county general ~~district court~~ GENERAL fund."

11 Section 5. Section 3-15-312, MCA, is amended to read:

12 "3-15-312. Discharge by court ~~or jury commissioner.~~
13 The court ~~or jury commissioner~~ WITH THE APPROVAL OF THE
14 COURT must discharge a person from serving as a trial juror
15 in either of the following cases:

16 (1) when it satisfactorily appears that the person is
17 not competent; or

18 (2) when it satisfactorily appears that the person
19 should be excused under 3-15-313 ~~or 3-15-507.~~"

20 Section 6. Section 3-15-313, MCA, is amended to read:

21 "3-15-313. Who may be excused -- affidavit to claim
22 excuse. (1) The court ~~or jury commissioner~~ WITH THE APPROVAL
23 OF THE COURT shall excuse a person from jury service upon
24 finding that jury service would entail undue hardship for
25 the person or the public served by the person.

1 (2) If a person believes jury service would entail
 2 undue hardship for him or the public served, he may make and
 3 transmit an affidavit to the ~~clerk--of--the--court~~ JURY
 4 COMMISSIONER for which he is summoned stating his occupation
 5 or such other facts as he believes will excuse him from jury
 6 service. The affidavit shall be filed with the ~~clerk-of-the~~
 7 court JURY COMMISSIONER, who shall transmit it to the court.
 8 The court OR JURY COMMISSIONER WITH THE APPROVAL OF THE
 9 COURT may excuse a prospective juror from jury service if
 10 the prospective juror satisfies the provisions of subsection
 11 (1).

12 ~~{3}--A-person-may-also-be-excused-from-jury-service~~
 13 ~~upon-presentation-of-his-excuse-to-the-court-as-provided-in~~
 14 ~~3-15-507."~~

15 Section 7. Section 3-15-501, MCA, is amended to read:
 16 "3-15-501. Order directing that trial jury be drawn
 17 and summoned. (1) At least once each year in each county,
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 19 for trial for more than 6 months and the plaintiff or
 20 defendant in such case has requested a jury trial or
 21 whenever the business of a district court requires the
 22 attendance of a trial jury for the trial of civil or
 23 criminal cases and no jury is in attendance, the court must
 24 make an order directing a trial jury to be drawn and
 25 summoned to attend before said court. Such order must

1 specify the number of jurors to be drawn, ~~and-the time~~
 2 at which the jurors are required to attend, ~~which--time--may~~
 3 ~~MUST~~ be at the ~~same-term-in-which-the-jurors-are-drawn-or-at~~
 4 ~~the-next-succeeding-term--in~~ the discretion of the court.

5 (2) The court may direct that such causes, either
 6 criminal or civil, in which a jury may be required or in
 7 which a jury may have been demanded be continued and fixed
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 10 in a given year if, in the opinion of the judge or judges
 11 thereof, the service of the trial jury in attendance has
 12 been unduly demanding, and in such case the trial jury in
 13 attendance may be excused by the court from further jury
 14 duty in that year.

15 (4) The judge or judges of a district or the judge of
 16 a department may designate that jury service in his or their
 17 district or department is on a "one-day or one-trial" basis;
 18 that is, each individual juror is excused for the rest of
 19 the year after having attended for 1 day and not having been
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 23 sufficient to meet current requirements at any time, jurors
 24 excused under subsection (3) or (4) may be required to
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Section 8. Section 3-15-502, MCA, is amended to read:

"3-15-502. Jury commissioner. The clerk of court is the jury commissioner, ~~and the commissioner may appoint a deputy pursuant to 7-4-2401.~~"

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"3-15-505. Notice to jurors. The clerk shall serve notice by mail on the persons drawn as jurors and require response thereto by mail ~~in such form as the supreme court designates as to their qualifications to serve as trial jurors.~~ He may attach to the notice ~~a jury questionnaire~~ and a form for an affidavit claiming an excuse as provided for in 3-15-313. If a person fails to respond to the notice, the clerk shall certify the failure to the sheriff, who shall then serve notice personally on such person and require a response to the notice."

Section 10. Section 3-15-507, MCA, is amended to read:

"3-15-507. Clerk to call list of jurors summoned and prepare ~~capsules ballots.~~ (1) At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned and ~~the court may hear the excuses of prospective jurors summoned; the court shall excuse any person satisfying the requirements of 3-15-313(1) not excused.~~

(2) The clerk ~~shall write the~~ names of the jurors present and not excused ~~must be written~~ on separate ballots,

~~fold the ballots so that with the names are concealed, and place them in black capsules in the presence of the court.~~ The clerk shall deposit the ~~capsules containing the~~ ballots in a box large enough to hold all of the ~~capsules~~ ballots without crowding. The box shall be so arranged that the judge ~~or clerk~~ drawing the ~~capsules~~ ballots from the box is unable to see the ~~capsules~~ ballots he is about to draw. ~~The box must be kept sealed or locked until ordered by the court to be opened.~~"

Section 11. Section 7-33-2314, MCA, is amended to read:

"7-33-2314. Certain exemptions for firefighters. The officers and members of regularly organized unpaid fire companies and exempt firefighters are entitled to the following privileges and exemptions:

(1) exemption from payment of poll tax, road tax, and head tax of every description;

~~(2) exemption from jury duty;~~

~~(3) (2) exemption from military duty except in case of war, invasion, or insurrection.~~"

Section 12. Section 7-33-2315, MCA, is amended to read:

"7-33-2315. Certificate of membership in fire company.

(1) Every firefighter who has served 5 years in an organized company in this state is an exempt firefighter and must

1 receive from the chief engineer of the department to which
2 he belonged a certificate to that effect.

3 (2) (a) Every active firefighter must have a
4 certificate of that fact, signed by the chief of the fire
5 department or the foreman of the company to which he
6 belongs. Such certificates must be countersigned by the
7 secretary and over the seal of the company if one is
8 provided.

9 (b) In lieu of issuing certificates to exempt
10 firefighters by the chief of the fire department, on the
11 certificate of the foreman and secretary of any fire company
12 or the chief of the department, provision being made
13 therefor in the bylaws of the company, "exempt certificates"
14 may be issued by the clerk of the county, over his official
15 seal and signature, which entitles the holder to like
16 exemption from military and-jury duty.

17 (3) Each certificate entitles the holder to exemption
18 from military and-jury duty. Every such certificate is prima
19 facie evidence of the facts therein stated.

20 (4) The secretary of the fire department or fire
21 company must keep a record of all certificates of exemption
22 or active membership, the date thereof and to whom issued,
23 and, when no seal is provided, similar entries of
24 certificates issued to obtain county clerk's certificates."

25 Section 13. Section 25-7-202, MCA, is amended to read:

1 "25-7-202. Judge or jury commissioner to draw capsules
2 containing ballots. When an issue of fact to be tried by a
3 jury is brought to trial, the district judge or jury
4 commissioner in the presence of the ~~clerk of the court~~ two
5 witnesses must openly draw out of the trial juror box as
6 many of the ~~capsules-containing~~ ballots with the names of
7 jurors thereon, one after another, as are sufficient to form
8 a jury for the cause to be tried. Upon stipulation of
9 counsel, the court may order such jurors to be seated in the
10 order drawn."

11 Section 14. Section 25-7-203, MCA, is amended to read:

12 "25-7-203. Drawing a new jury when another is
13 impaneled. If an issue is brought to trial by a jury while a
14 jury is impaneled in another cause and not then discharged,
15 the court may order a jury for the trial of that issue to be
16 drawn out of the box containing the capsules ballots then
17 undrawn; but in any other case the ~~capsules-containing-the~~
18 ballots with the names of all the trial jurors returned and
19 attending the court must be placed together in the same box
20 before a jury is drawn therefrom."

21 Section 15. Section 25-7-204, MCA, is amended to read:

22 "25-7-204. Mode of drawing capsules ballots. Before
23 the first ~~capsule-containing-a~~ ballot shall have been drawn,
24 the box must be closed and well shaken so as to thoroughly
25 mix the capsules ballots therein. The district judge must

1 draw at random a capsule--containing--a ballot with the
 2 juror's name thereon through an aperture--made--in--the--lid
 3 large enough only to admit his hand conveniently and without
 4 said judge gazing into said box before or while drawing said
 5 capsule. Upon stipulation of counsel, the court may order
 6 the clerk to draw ballots."

7 Section 16. Section 25-7-206, MCA, is amended to read:

8 "25-7-206. Procedure when insufficient number attend.
 9 (1) If a sufficient number of jurors duly drawn and notified
 10 do not attend to form a jury, the district judge jury
 11 commissioner shall, pursuant to an order of the court to be
 12 entered in the minutes, in the presence of the clerk of the
 13 court two witnesses, draw a sufficient number of ballots
 14 from the box to complete the jury. The sheriff shall
 15 notify the persons thus drawn to attend immediately or at a
 16 time fixed by court. If for any reason a sufficient number
 17 of jurors to try the issue is not obtained from the persons
 18 notified under an order made as prescribed in this section,
 19 the court may make another order or successive orders until
 20 a sufficient number is obtained.

21 (2) Each person so notified must attend at the time
 22 required by the notice and, unless excused by the court or
 23 set aside, must serve as a juror upon the trial. For a
 24 neglect or refusal to do so, he may be fined in the same
 25 manner as any other trial juror regularly drawn and

1 notified. He is subject to the same exceptions and
 2 challenges as any other trial juror."

3 Section 17. Section 25-7-208, MCA, is amended to read:

4 "25-7-208. Capsules--containing--ballots Ballots of
 5 jurors who have been sworn. The capsules--containing--the
 6 ballots with the names of the jurors so sworn must be then
 7 deposited in another box and there kept apart from the other
 8 capsules-containing ballots with the names of jurors until
 9 that jury is discharged. After the jury is discharged, the
 10 capsules-containing the ballots with the names of the jurors
 11 thereon must be returned to the box from which they were
 12 first taken."

13 Section 18. Section 25-7-209, MCA, is amended to read:

14 "25-7-209. Capsules--containing--ballots Ballots of
 15 jurors not sworn. The capsule-containing the ballot with the
 16 name of a juror who is absent when his name is drawn or
 17 called or is set aside or excused from serving on that trial
 18 must be again returned to the box containing the undrawn
 19 capsules ballots as soon as the jury is sworn."

20 Section 19. Section 46-17-202, MCA, is amended to
 21 read:

22 "46-17-202. Formation of trial jury. (1) At the time
 23 of preparing the district court jury list, the county jury
 24 commission commissioners and clerk and recorder shall
 25 prepare a jury list for each justice's and city court within

1 the county. Each list shall consist of residents of the
 2 appropriate county, city, or town. The lists shall be
 3 selected in any reasonable manner which ensures fairness,
 4 and each shall include a number of names sufficient to meet
 5 the annual jury requirements of the respective court.
 6 Additional lists may be prepared if required. The lists
 7 shall be filed in the office of the clerk of the district
 8 court. The appropriate list shall be posted in a public
 9 place in each county, city, or town, and such list shall
 10 comprise the trial jury list for the ensuing year for such
 11 county, city, or town.

12 (2) Trial jurors shall be summoned from the jury list
 13 by notifying each one orally that he is summoned and of the
 14 time and place at which his attendance is required.

15 (3) The prosecuting attorney and the defendant or his
 16 attorney shall conduct the examination of prospective
 17 jurors. The court may conduct an additional examination. The
 18 court may limit the examination by the defendant, his
 19 attorney, or the prosecuting attorney if the court believes
 20 such examination to be improper.

21 (4) Each party may challenge jurors for cause, and
 22 each challenge must be tried by the court. The challenge may
 23 be for any cause enumerated in 46-16-304(2). Each defendant
 24 shall be allowed three peremptory challenges, and the state
 25 shall be allowed the same number of peremptory challenges as

1 all of the defendants."

2 ~~Section-28--Section-82-i-304-MCA-is-amended-to-read:~~
 3 ~~"82-i-304--Administration--of--the--trusts--(i)--The~~
 4 ~~administration--of--the--trust--shall--comply--with--the~~
 5 ~~appropriate--provisions-regulating-trusts-contained-in-Title~~
 6 ~~72.~~

7 ~~(2)--No-trustee-or-attorney-fees-may-be-paid-from--the~~
 8 ~~trust-proceeds.~~

9 ~~(3)--All--bonuses--rental-payments--royalties--and-other~~
 10 ~~income--shall--be--paid--to--the--trustee-until--the--trust--is~~
 11 ~~terminated--and--notice--of--its--termination--given--to--all~~
 12 ~~interested--parties--The-trustee-shall-distribute-all-money~~
 13 ~~held-in-the-trust-to-the-person-or-persons--entitled--to--it~~
 14 ~~upon-the-order-of-the-district-court.~~

15 ~~(4)--A-trust-in-favor-of-unlocatable-owners-shall-be-in~~
 16 ~~force--until--the-unlocatable-owners-of-the-mineral-interest~~
 17 ~~in-question-have-successfully-claimed--the--share--of--funds~~
 18 ~~held-in-trust-and-fitted-the-notice-provided-in-82-i-306.~~

19 ~~(5)--The--trustee--shall--invest--funds--under--his~~
 20 ~~management-in-the-manner-of-a-prudent-man--as--defined--in~~
 21 ~~72-2-i-10--Fifty-percent-of--the--interest-earned-on-each~~
 22 ~~trust-shall-be-credited-to-the-general-district-court--fund~~
 23 ~~of--the--county--in-which-the-mineral-interest-is-located-to~~
 24 ~~defray-the-costs-of-administration.~~

25 ~~(6)--Funds-held--in--the--trusts--are--subject--to--the~~

- 1 provisions--governing--abandoned-property-contained-in-title
- 2 78v--chapter-9v"

-End-

SENATE BILL NO. 194

INTRODUCED BY AKLESTAD, ROUSH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY AMEND AND CLARIFY THE LAWS RELATING TO JURY SELECTION; ELIMINATING THE REQUIREMENT FOR BALLOT CAPSULES; SPECIFYING THE DUTIES OF THE CLERK OF THE DISTRICT COURT; ~~PROVIDING--FOR--PAYMENT--OF~~ WITNESS-EXPENSES-AND-THE-COSTS-OF-IMPANELING-A-JURY-FROM-THE DISTRICT--COURT--FUND;--REQUIRING--PAYMENT--OF--PART--OF-THE INTEREST-ON-THE-TRUST-FOR-UNLOCATED-MINERAL--OWNERS--TO--THE DISTRICT--COURT--FUND; AND AMENDING EXEMPTIONS FROM JURY SERVICE; AMENDING SECTIONS 3-5-510, 3-5-511, 3-15-204, 3-15-205, 3-15-312, 3-15-313, 3-15-501, 3-15-502, 3-15-505, 3-15-507, 7-33-2314, 7-33-2315, 25-7-202 THROUGH 25-7-204, 25-7-206, 25-7-208, 25-7-209, AND 46-17-202, AND ~~82-1-384~~ MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-510, MCA, is amended to read:

"3-5-510. Duties relating to jurors and witnesses. The clerk of the district court shall:

(1) keep a book called "Book of Jurors' Certificates Warrants", which must contain the blank certificates warrants and ~~stubs--to--be--filled copies~~ as provided in 3-15-204;

(2) keep a "Witness Book", which must contain blank certificates warrants and ~~stubs--to--be--filled copies~~ as provided in 3-5-511;

(3) keep a record of the attendance of all jurors and witnesses in criminal actions and compute the amount due them for mileage (the distance from any point to the county seat must be determined by the shortest traveled route)."

Section 2. Section 3-5-511, MCA, is amended to read:

"3-5-511. Procedure in reference to witnesses' certificates warrants. (1) The witnesses in criminal actions must report their presence to the clerk the first day they attend under the subpoena.

(2) At the time any witness is excused from further attendance, the clerk must give to each witness a certificate warrant taken from a book containing a ~~stub-with like-designations carbon copy of the same~~, signed by the clerk under--seat, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due.

(3) On presentation of such certificate warrant to the county treasurer, the amount specified in the certificate warrant must be paid out of the general ~~district--court~~ GENERAL fund."

Section 3. Section 3-15-204, MCA, is amended to read:

"3-15-204. Duties of clerk as to jurors. (1) The clerk

1 must keep a record of the attendance of jurors and compute
2 the amount due for mileage. The distance from any point to
3 the county seat must be determined by the shortest traveled
4 route.

5 (2) The clerk must give to each juror, at the time he
6 is excused from further service, a ~~certificate taken from a~~
7 ~~book containing a stub with a like designation~~ warrant
8 signed by himself ~~under seal~~, in which must be stated the
9 name of the juror, the number of days' attendance, the
10 number of miles traveled, and the amount due.

11 (3) On presentation of such ~~certificate~~ warrant to the
12 county treasurer, the amount specified in the ~~certificate~~
13 ~~warrant~~ must be paid out of the general ~~district court~~
14 ~~GENERAL~~ fund.

15 (4) The clerk must make a detailed statement
16 containing a list of the jurors and the amount of fees and
17 mileage earned by each and file the same with the clerk of
18 the board of county commissioners on the first day of every
19 regular meeting of the board. No quarterly salary must be
20 paid the clerk until such statement is filed. The board must
21 examine such statement and see that it is correct."

22 Section 4. Section 3-15-205, MCA, is amended to read:

23 "3-15-205. Costs of impaneling jury after settlement
24 reached. In any civil action before a court of record in
25 which the parties substantially agree to a settlement of the

1 issues prior to impanelment of the jury and either settle
2 the action or stipulate to a continuance, and fail or refuse
3 to inform the court or clerk of court of such settlement or
4 request a continuance and a jury is impaneled, the court
5 may, upon hearing, assess the reasonable public expenses of
6 impaneling the jury, including jury fees and mileage
7 expenses paid or owing under 3-15-201 and such other costs
8 as may have been incurred by the court, against any party.
9 Costs collected under this section shall be deposited in the
10 county general ~~district court~~ GENERAL fund."

11 Section 5. Section 3-15-312, MCA, is amended to read:

12 "3-15-312. Discharge by court ~~or jury commissioner~~.
13 The court ~~or jury commissioner~~ WITH THE APPROVAL OF THE
14 COURT must discharge a person from serving as a trial juror
15 in either of the following cases:

16 (1) when it satisfactorily appears that the person is
17 not competent; or

18 (2) when it satisfactorily appears that the person
19 should be excused under 3-15-313 ~~or 3-15-507~~."

20 Section 6. Section 3-15-313, MCA, is amended to read:

21 "3-15-313. Who may be excused -- affidavit to claim
22 excuse. (1) The court ~~or jury commissioner~~ WITH THE APPROVAL
23 ~~OF THE COURT~~ shall excuse a person from jury service upon
24 finding that jury service would entail undue hardship for
25 the person or the public served by the person.

(2) If a person believes jury service would entail undue hardship for him or the public served, he may make and transmit an affidavit to the ~~clerk-of-the-court~~ jury commissioner for which he is summoned stating his occupation or such other facts as he believes will excuse him from jury service. The affidavit shall be filed with the ~~clerk-of-the-court~~ jury commissioner, who shall transmit it to the court. ~~The court or jury commissioner~~ WITH THE APPROVAL OF THE COURT may excuse a prospective juror from jury service if the prospective juror satisfies the provisions of subsection (1).

~~{3}--A person may also be excused from jury service upon presentation of his excuse to the court as provided in 3-15-507.~~

Section 7. Section 3-15-501, MCA, is amended to read:

"3-15-501. Order directing that trial jury be drawn and summoned. (1) At least once each year in each county, when a civil or criminal case has been at issue and ready for trial for more than 6 months and the plaintiff or defendant in such case has requested a jury trial or whenever the business of a district court requires the attendance of a trial jury for the trial of civil or criminal cases and no jury is in attendance, the court must make an order directing a trial jury to be drawn and summoned to attend before said court. Such order must

specify the number of jurors to be drawn, ~~and the time~~ at which the jurors are required to attend, ~~which time may~~ must be at the same term in which the jurors are drawn or at the next succeeding term in the discretion of the court.

(2) The court may direct that such causes, either criminal or civil, in which a jury may be required or in which a jury may have been demanded be continued and fixed for trial when a jury shall be in attendance.

(3) A district court may draw more than one trial jury in a given year if, in the opinion of the judge or judges thereof, the service of the trial jury in attendance has been unduly demanding, and in such case the trial jury in attendance may be excused by the court from further jury duty in that year.

(4) The judge or judges of a district or the judge of a department may designate that jury service in his or their district or department is on a "one-day or one-trial" basis; that is, each individual juror is excused for the rest of the year after having attended for 1 day and not having been selected to serve at the trial of a particular cause or after having completed service at such a trial.

(5) If the number of unexcused jurors is not sufficient to meet current requirements at any time, jurors excused under subsection (3) or (4) may be required to serve."

Section 8. Section 3-15-502, MCA, is amended to read:

"3-15-502. Jury commissioner. The clerk of court is the jury commissioner ~~and the commissioner may appoint a deputy pursuant to 7-4-2401.~~"

Section 9. Section 3-15-505, MCA, is amended to read:

"3-15-505. Notice to jurors. The clerk shall serve notice by mail on the persons drawn as jurors and require response thereto by mail ~~in such form as the supreme court designates as to their qualifications to serve as trial jurors.~~ He may attach to the notice a jury questionnaire and a form for an affidavit claiming an excuse as provided for in 3-15-313. If a person fails to respond to the notice, the clerk shall certify the failure to the sheriff, who shall then serve notice personally on such person and require a response to the notice."

Section 10. Section 3-15-507, MCA, is amended to read:

"3-15-507. Clerk to call list of jurors summoned and prepare capsules ballots. (1) At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned and ~~the court may hear the excuses of prospective jurors summoned; the court shall excuse any person satisfying the requirements of 3-15-313(1) not excused.~~

(2) The clerk ~~shall write the~~ names of the jurors present and not excused must be written on separate ballots;

~~fold the ballots so that with the names are concealed, and place them in black capsules in the presence of the court;~~ the clerk shall deposit the capsules ~~containing the~~ ballots in a box large enough to hold all of the capsules without crowding. The box shall be so arranged that the judge ~~or clerk~~ drawing the capsules ~~ballots~~ from the box is unable to see the capsules ~~ballots~~ he is about to draw. ~~The box must be kept sealed or locked until ordered by the court to be opened.~~"

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1 receive from the chief engineer of the department to which
2 he belonged a certificate to that effect.

3 (2) (a) Every active firefighter must have a
4 certificate of that fact, signed by the chief of the fire
5 department or the foreman of the company to which he
6 belongs. Such certificates must be countersigned by the
7 secretary and over the seal of the company if one is
8 provided.

9 (b) In lieu of issuing certificates to exempt
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12 or the chief of the department, provision being made
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14 may be issued by the clerk of the county, over his official
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19 facie evidence of the facts therein stated.

20 (4) The secretary of the fire department or fire
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22 or active membership, the date thereof and to whom issued,
23 and, when no seal is provided, similar entries of
24 certificates issued to obtain county clerk's certificates."

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1 "25-7-202. Judge ~~or jury commissioner~~ to draw capsules
2 containing ballots. When an issue of fact to be tried by a
3 jury is brought to trial, the district judge ~~or jury~~
4 ~~commissioner~~ in the presence of the ~~clerk of the court and~~
5 ~~witnesses~~ must openly draw out of the trial juror box as
6 many of the capsules-containing ballots with the names of
7 jurors thereon, one after another, as are sufficient to form
8 a jury ~~for the cause to be tried. Upon stipulation of~~
9 ~~counsel, the court may order such jurors to be seated in the~~
10 ~~order drawn.~~"

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13 impaneled. If an issue is brought to trial by a jury while a
14 jury is impaneled in another cause and not then discharged,
15 the court may order a jury for the trial of that issue to be
16 drawn out of the box containing the capsules ~~ballots~~ then
17 undrawn; but in any other case the capsules-containing-the
18 ballots with the names of all the trial jurors returned and
19 attending the court must be placed together in the same box
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22 "25-7-204. Mode of drawing capsules ~~ballots~~. Before
23 the first capsule-containing-a ballot shall have been drawn,
24 the box must be closed and well shaken so as to thoroughly
25 mix the capsules ~~ballots~~ therein. The district judge must

draw ~~at random~~ a capsule--containing--a ballot with the juror's name thereon through an aperture--made--in--the--lid large enough only to admit his hand conveniently and without said judge gazing into said box before or while drawing said capsule. Upon stipulation of counsel, the court may order the clerk to draw ballots."

Section 16. Section 25-7-206, MCA, is amended to read:

"25-7-206. Procedure when insufficient number attend.

(1) If a sufficient number of jurors duly drawn and notified do not attend to form a jury, the district judge jury commissioner shall, pursuant to an order of the court to be entered in the minutes, in the presence of the clerk of the court ~~two witnesses~~, draw a sufficient number of ballots from the box to complete the jury. The sheriff shall notify the persons thus drawn to attend immediately or at a time fixed by court. If for any reason a sufficient number of jurors to try the issue is not obtained from the persons notified under an order made as prescribed in this section, the court may make another order or successive orders until a sufficient number is obtained.

(2) Each person so notified must attend at the time required by the notice and, unless excused by the court or set aside, must serve as a juror upon the trial. For a neglect or refusal to do so, he may be fined in the same manner as any other trial juror regularly drawn and

notified. He is subject to the same exceptions and challenges as any other trial juror."

Section 17. Section 25-7-208, MCA, is amended to read:

"25-7-208. Capsules---containing--ballots Ballots of jurors who have been sworn. The capsules--containing--the ballots with the names of the jurors so sworn must be then deposited in another box and there kept apart from the other capsules--containing ballots with the names of jurors until that jury is discharged. After the jury is discharged, the capsules--containing--the ballots with the names of the jurors thereon must be returned to the box from which they were first taken."

Section 18. Section 25-7-209, MCA, is amended to read:

"25-7-209. Capsules---containing--ballots Ballots of jurors not sworn. The capsule--containing--the ballot with the name of a juror who is absent when his name is drawn or called or is set aside or excused from serving on that trial must be again returned to the box containing the undrawn capsules ballots as soon as the jury is sworn."

Section 19. Section 46-17-202, MCA, is amended to read:

"46-17-202. Formation of trial jury. (1) At the time of preparing the district court jury list, the county jury commission commissioners and clerk and recorder shall prepare a jury list for each justice's and city court within

1 the county. Each list shall consist of residents of the
 2 appropriate county, city, or town. The lists shall be
 3 selected in any reasonable manner which ensures fairness,
 4 and each shall include a number of names sufficient to meet
 5 the annual jury requirements of the respective court.
 6 Additional lists may be prepared if required. The lists
 7 shall be filed in the office of the clerk of the district
 8 court. The appropriate list shall be posted in a public
 9 place in each county, city, or town, and such list shall
 10 comprise the trial jury list for the ensuing year for such
 11 county, city, or town.

12 (2) Trial jurors shall be summoned from the jury list
 13 by notifying each one orally that he is summoned and of the
 14 time and place at which his attendance is required.

15 (3) The prosecuting attorney and the defendant or his
 16 attorney shall conduct the examination of prospective
 17 jurors. The court may conduct an additional examination. The
 18 court may limit the examination by the defendant, his
 19 attorney, or the prosecuting attorney if the court believes
 20 such examination to be improper.

21 (4) Each party may challenge jurors for cause, and
 22 each challenge must be tried by the court. The challenge may
 23 be for any cause enumerated in 46-16-304(2). Each defendant
 24 shall be allowed three peremptory challenges, and the state
 25 shall be allowed the same number of peremptory challenges as

1 all of the defendants."

2 Section 20~~v~~--Section 82-i-384~~v~~--MCAs--is amended to read:

3 "82-i-384~~v~~--Administration--of--the--trusts--(1)--The
 4 administration--of--the--trust--shall--comply--with--the
 5 appropriate--provisions--regulating--trusts--contained--in--Title
 6 72~~v~~

7 (2)--No--trustee--or--attorney--fees--may--be--paid--from--the
 8 trust--proceeds~~v~~

9 (3)--All--bonuses~~v~~,--rental--payments~~v~~,--royalties~~v~~,--and--other
 10 income--shall--be--paid--to--the--trustee--until--the--trust--is
 11 terminated--and--notice--of--its--termination--given--to--all
 12 interested--parties~~v~~--The--trustee--shall--distribute--all--money
 13 held--in--the--trust--to--the--person--or--persons--entitled--to--it
 14 upon--the--order--of--the--district--court~~v~~

15 (4)--A--trust--in--favor--of--unlocatable--owners--shall--be--in
 16 force--until--the--unlocatable--owners--of--the--mineral--interest
 17 in--question--have--successfully--claimed--the--share--of--funds
 18 held--in--trust--and--filed--the--notice--provided--in--82-i-386~~v~~

19 (5)--The--trustee--shall--invest--funds--under--his
 20 management--in--the--manner--of--a--prudent--man--as--defined--in
 21 72-2-i-194~~v~~--Fifty--percent--of--the--interest--earned--on--each
 22 trust--shall--be--credited--to--the--general--district--court--fund
 23 of--the--county--in--which--the--mineral--interest--is--located--to
 24 defray--the--costs--of--administration~~v~~

25 (6)--Funds--held--in--the--trusts--are--subject--to--the

- 1 provisions--governing--abandoned-property-contained-in-title
- 2 70v-chapter-9v"

-End-

SENATE BILL NO. 194

INTRODUCED BY AKLESTAD, ROUSH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY AMEND AND CLARIFY THE LAWS RELATING TO JURY SELECTION; ELIMINATING THE REQUIREMENT FOR BALLOT CAPSULES; SPECIFYING THE DUTIES OF THE CLERK OF THE DISTRICT COURT; PROVIDING--FOR--PAYMENT--OF WITNESS-EXPENSES-AND-THE-COSTS-OF-IMPANELING-A-JURY-FROM-THE DISTRICT--COURT--FUND;--REQUIRING--PAYMENT--OF--PART--OF-THE INTEREST-ON-THE-TRUST-FOR-UNDEVELOPED-MINERAL--OWNERS--TO--THE DISTRICT--COURT--FUND; AND AMENDING EXEMPTIONS FROM JURY SERVICE; AMENDING SECTIONS 3-5-510, 3-5-511, 3-15-204, 3-15-205, 3-15-312, 3-15-313, 3-15-501, 3-15-502, 3-15-505, 3-15-507, 7-33-2314, 7-33-2315, 25-7-202 THROUGH 25-7-204, 25-7-206, 25-7-208, 25-7-209, AND 46-17-202, AND 62-1-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-510, MCA, is amended to read:

"3-5-510. Duties relating to jurors and witnesses. The clerk of the district court shall:

(1) keep a book called "Book of Jurors' Certificates Warrants", which must contain the blank certificates warrants and stubs--to-be--fitted copies as provided in 3-15-204;

(2) keep a "Witness Book", which must contain blank certificates warrants and stubs--to-be--fitted copies as provided in 3-5-511;

(3) keep a record of the attendance of all jurors and witnesses in criminal actions and compute the amount due them for mileage (the distance from any point to the county seat must be determined by the shortest traveled route)."

Section 2. Section 3-5-511, MCA, is amended to read:

"3-5-511. Procedure in reference to witnesses' certificates warrants. (1) The witnesses in criminal actions must report their presence to the clerk the first day they attend under the subpoena.

(2) At the time any witness is excused from further attendance, the clerk must give to each witness a certificate warrant taken from a book containing a stub with the designations carbon copy of the same, signed by the clerk under--seal, in which must be stated the name of the witness, the number of days in attendance, the number of miles traveled, and the amount due.

(3) On presentation of such certificate warrant to the county treasurer, the amount specified in the certificate warrant must be paid out of the general district--court GENERAL fund."

Section 3. Section 3-15-204, MCA, is amended to read:

"3-15-204. Duties of clerk as to jurors. (1) The clerk

1 must keep a record of the attendance of jurors and compute
2 the amount due for mileage. The distance from any point to
3 the county seat must be determined by the shortest traveled
4 route.

5 (2) The clerk must give to each juror, at the time he
6 is excused from further service, a ~~certificate-taken-from-a~~
7 ~~book--containing-a-stub-with-a-like-designation, warrant~~
8 signed by himself ~~under-seal~~, in which must be stated the
9 name of the juror, the number of days' attendance, the
10 number of miles traveled, and the amount due.

11 (3) On presentation of such ~~certificate warrant~~ to the
12 county treasurer, the amount specified in the certificate
13 ~~warrant~~ must be paid out of the general ~~district-court~~
14 ~~GENERAL~~ fund.

15 (4) The clerk must make a detailed statement
16 containing a list of the jurors and the amount of fees and
17 mileage earned by each and file the same with the clerk of
18 the board of county commissioners on the first day of every
19 regular meeting of the board. No quarterly salary must be
20 paid the clerk until such statement is filed. The board must
21 examine such statement and see that it is correct."

22 Section 4. Section 3-15-205, MCA, is amended to read:

23 "3-15-205. Costs of impaneling jury after settlement
24 reached. In any civil action before a court of record in
25 which the parties substantially agree to a settlement of the

1 issues prior to impanelment of the jury and either settle
2 the action or stipulate to a continuance, and fail or refuse
3 to inform the court or clerk of court of such settlement or
4 request a continuance and a jury is impaneled, the court
5 may, upon hearing, assess the reasonable public expenses of
6 impaneling the jury, including jury fees and mileage
7 expenses paid or owing under 3-15-201 and such other costs
8 as may have been incurred by the court, against any party.
9 Costs collected under this section shall be deposited in the
10 county general ~~district-court~~ GENERAL fund."

11 Section 5. Section 3-15-312, MCA, is amended to read:

12 "3-15-312. Discharge by court ~~or jury commissioner.~~
13 The court ~~or jury commissioner~~ WITH THE APPROVAL OF THE
14 COURT must discharge a person from serving as a trial juror
15 in either of the following cases:

16 (1) when it satisfactorily appears that the person is
17 not competent; or

18 (2) when it satisfactorily appears that the person
19 should be excused under 3-15-313 ~~or 3-15-507.~~"

20 Section 6. Section 3-15-313, MCA, is amended to read:

21 "3-15-313. Who may be excused -- affidavit to claim
22 excuse. (1) The court ~~or jury commissioner~~ WITH THE APPROVAL
23 OF THE COURT shall excuse a person from jury service upon
24 finding that jury service would entail undue hardship for
25 the person or the public served by the person.

(2) If a person believes jury service would entail undue hardship for him or the public served, he may make and transmit an affidavit to the ~~clerk of the court~~ jury commissioner for which he is summoned stating his occupation or such other facts as he believes will excuse him from jury service. The affidavit shall be filed with the ~~clerk of the court~~ jury commissioner, who shall transmit it to the court. The court or jury commissioner ~~with the approval of the court~~ may excuse a prospective juror from jury service if the prospective juror satisfies the provisions of subsection (1).

~~(3) A person may also be excused from jury service upon presentation of his excuse to the court as provided in 3-15-501.~~

Section 7. Section 3-15-501, MCA, is amended to read:

"3-15-501. Order directing that trial jury be drawn and summoned. (1) At least once each year in each county, when a civil or criminal case has been at issue and ready for trial for more than 6 months and the plaintiff or defendant in such case has requested a jury trial or whenever the business of a district court requires the attendance of a trial jury for the trial of civil or criminal cases and no jury is in attendance, the court must make an order directing a trial jury to be drawn and summoned to attend before said court. Such order must

specify the number of jurors to be drawn, ~~and the time at which the jurors are required to attend, which time may~~ must be at the ~~same term in which the jurors are drawn or at the next succeeding term~~ in the discretion of the court.

(2) The court may direct that such causes, either criminal or civil, in which a jury may be required or in which a jury may have been demanded be continued and fixed for trial when a jury shall be in attendance.

(3) A district court may draw more than one trial jury in a given year if, in the opinion of the judge or judges thereof, the service of the trial jury in attendance has been unduly demanding, and in such case the trial jury in attendance may be excused by the court from further jury duty in that year.

(4) The judge or judges of a district or the judge of a department may designate that jury service in his or their district or department is on a "one-day or one-trial" basis; that is, each individual juror is excused for the rest of the year after having attended for 1 day and not having been selected to serve at the trial of a particular cause or after having completed service at such a trial.

(5) If the number of unexcused jurors is not sufficient to meet current requirements at any time, jurors excused under subsection (3) or (4) may be required to serve."

Section 8. Section 3-15-502, MCA, is amended to read:

"3-15-502. Jury commissioner. The clerk of court is the jury commissioner, and the commissioner may appoint a deputy pursuant to 7-4-2401."

Section 9. Section 3-15-505, MCA, is amended to read:

"3-15-505. Notice to jurors. The clerk shall serve notice by mail on the persons drawn as jurors and require response thereto by mail in such form as the supreme court designates as to their qualifications to serve as trial jurors. He may attach to the notice a jury questionnaire and a form for an affidavit claiming an excuse as provided for in 3-15-313. If a person fails to respond to the notice, the clerk shall certify the failure to the sheriff, who shall then serve notice personally on such person and require a response to the notice."

Section 10. Section 3-15-507, MCA, is amended to read:

"3-15-507. Clerk to call list of jurors summoned and prepare capsules ballots. (1) At the opening of court on the day trial jurors have been summoned to appear, the clerk shall call the names of those summoned and the court may hear the excuses of prospective jurors summoned. The court shall excuse any person satisfying the requirements of 3-15-313(1) not excused.

(2) The clerk shall write the names of the jurors present and not excused must be written on separate ballots

fold the ballots so that with the names are concealed, and place them in black capsules in the presence of the court. The clerk shall deposit the capsules containing the ballots in a box large enough to hold all of the capsules without crowding. The box shall be so arranged that the judge or clerk drawing the capsules ballots from the box is unable to see the capsules ballots he is about to draw. The box must be kept sealed or locked until ordered by the court to be opened."

Section 11. Section 7-33-2314, MCA, is amended to read:

"7-33-2314. Certain exemptions for firefighters. The officers and members of regularly organized unpaid fire companies and exempt firefighters are entitled to the following privileges and exemptions:

(1) exemption from payment of poll tax, road tax, and head tax of every description;

(2) exemption from jury duty;

(3) exemption from military duty except in case of war, invasion, or insurrection."

Section 12. Section 7-33-2315, MCA, is amended to read:

"7-33-2315. Certificate of membership in fire company.

(1) Every firefighter who has served 5 years in an organized company in this state is an exempt firefighter and must

1 receive from the chief engineer of the department to which
2 he belonged a certificate to that effect.

3 (2) (a) Every active firefighter must have a
4 certificate of that fact, signed by the chief of the fire
5 department or the foreman of the company to which he
6 belongs. Such certificates must be countersigned by the
7 secretary and over the seal of the company if one is
8 provided.

9 (b) In lieu of issuing certificates to exempt
10 firefighters by the chief of the fire department, on the
11 certificate of the foreman and secretary of any fire company
12 or the chief of the department, provision being made
13 therefor in the bylaws of the company, "exempt certificates"
14 may be issued by the clerk of the county, over his official
15 seal and signature, which entitles the holder to like
16 exemption from military and-jury duty.

17 (3) Each certificate entitles the holder to exemption
18 from military and-jury duty. Every such certificate is prima
19 facie evidence of the facts therein stated.

20 (4) The secretary of the fire department or fire
21 company must keep a record of all certificates of exemption
22 or active membership, the date thereof and to whom issued,
23 and, when no seal is provided, similar entries of
24 certificates issued to obtain county clerk's certificates."

25 Section 13. Section 25-7-202, MCA, is amended to read:

1 "25-7-202. Judge ~~or jury commissioner~~ to draw capsules
2 containing ballots. When an issue of fact to be tried by a
3 jury is brought to trial, the district judge ~~or jury~~
4 ~~commissioner~~ in the presence of the ~~clerk of the court~~ ~~two~~
5 ~~witnesses~~ must openly draw out of the trial juror box as
6 many of the capsules-containing ballots with the names of
7 jurors thereon, one after another, as are sufficient to form
8 a jury ~~for the cause to be tried. Upon stipulation of~~
9 ~~counsel, the court may order such jurors to be seated in the~~
10 ~~order drawn.~~"

11 Section 14. Section 25-7-203, MCA, is amended to read:

12 "25-7-203. Drawing a new jury when another is
13 impaneled. If an issue is brought to trial by a jury while a
14 jury is impaneled in another cause and not then discharged,
15 the court may order a jury for the trial of that issue to be
16 drawn out of the box containing the capsules ~~ballots~~ then
17 undrawn; but in any other case the ~~capsules-containing-the~~
18 ~~ballots~~ with the names of all the trial jurors returned and
19 attending the court must be placed together in the same box
20 before a jury is drawn therefrom."

21 Section 15. Section 25-7-204, MCA, is amended to read:

22 "25-7-204. Mode of drawing capsules ~~ballots~~. Before
23 the first capsule-containing-a ballot shall have been drawn,
24 the box must be closed and well shaken so as to thoroughly
25 mix the capsules ~~ballots~~ therein. The district judge must

1 draw ~~at random~~ a capsule--containing--a ballot with the
 2 juror's name thereon through ~~an aperture--made--in--the--lid~~
 3 ~~large-enough-only-to-admit-his-hand-conveniently-and-without~~
 4 ~~said-judge-putting-into-said-box-before-or-while-drawing-said~~
 5 capsule. Upon stipulation of counsel, the court may order
 6 the clerk to draw ballots."

7 Section 16. Section 25-7-206, MCA, is amended to read:

8 "25-7-206. Procedure when insufficient number attend.

9 (1) If a sufficient number of jurors duly drawn and notified
 10 do not attend to form a jury, the ~~district-judge jury~~
 11 ~~commissioner~~ shall, pursuant to an order ~~of the court~~ to be
 12 entered in the minutes, in the presence of ~~the clerk of the~~
 13 ~~court two witnesses~~, draw a sufficient number of ballots
 14 from the box to complete the jury. The sheriff shall
 15 notify the persons thus drawn to attend immediately or at a
 16 time fixed by court. If for any reason a sufficient number
 17 of jurors to try the issue is not obtained from the persons
 18 notified under an order made as prescribed in this section,
 19 the court may make another order or successive orders until
 20 a sufficient number is obtained.

21 (2) Each person so notified must attend at the time
 22 required by the notice and, unless excused by the court or
 23 set aside, must serve as a juror upon the trial. For a
 24 neglect or refusal to do so, he may be fined in the same
 25 manner as any other trial juror regularly drawn and

1 notified. He is subject to the same exceptions and
 2 challenges as any other trial juror."

3 Section 17. Section 25-7-208, MCA, is amended to read:

4 "25-7-208. ~~Capsules---containing--ballots~~ Ballots of
 5 jurors who have been sworn. The capsules--containing--the
 6 ballots with the names of the jurors so sworn must be then
 7 deposited in another box and there kept apart from the other
 8 capsules--containing ballots with the names of jurors until
 9 that jury is discharged. After the jury is discharged, the
 10 capsules--containing--the ballots with the names of the jurors
 11 thereon must be returned to the box from which they were
 12 first taken."

13 Section 18. Section 25-7-209, MCA, is amended to read:

14 "25-7-209. ~~Capsules---containing--ballots~~ Ballots of
 15 jurors not sworn. The capsule--containing--the ballot with the
 16 name of a juror who is absent when his name is drawn or
 17 called or is set aside or excused from serving on that trial
 18 must be again returned to the box containing the undrawn
 19 capsules ballots as soon as the jury is sworn."

20 Section 19. Section 46-17-202, MCA, is amended to
 21 read:

22 "46-17-202. Formation of trial jury. (1) At the time
 23 of preparing the district court jury list, the county jury
 24 commission commissioners--and--clerk--and--recorder shall
 25 prepare a jury list for each justice's and city court within

1 the county. Each list shall consist of residents of the
2 appropriate county, city, or town. The lists shall be
3 selected in any reasonable manner which ensures fairness,
4 and each shall include a number of names sufficient to meet
5 the annual jury requirements of the respective court.
6 Additional lists may be prepared if required. The lists
7 shall be filed in the office of the clerk of the district
8 court. The appropriate list shall be posted in a public
9 place in each county, city, or town, and such list shall
10 comprise the trial jury list for the ensuing year for such
11 county, city, or town.

12 (2) Trial jurors shall be summoned from the jury list
13 by notifying each one orally that he is summoned and of the
14 time and place at which his attendance is required.

15 (3) The prosecuting attorney and the defendant or his
16 attorney shall conduct the examination of prospective
17 jurors. The court may conduct an additional examination. The
18 court may limit the examination by the defendant, his
19 attorney, or the prosecuting attorney if the court believes
20 such examination to be improper.

21 (4) Each party may challenge jurors for cause, and
22 each challenge must be tried by the court. The challenge may
23 be for any cause enumerated in 46-16-304(2). Each defendant
24 shall be allowed three peremptory challenges, and the state
25 shall be allowed the same number of peremptory challenges as

1 all of the defendants."

2 ~~Section-28--Section-82-1-304, MAY, is amended to read:~~
3 ~~"82-1-304--Administration--of--the--trusts--(1)--The~~
4 ~~administration--of--the--trust--shall--comply--with--the~~
5 ~~appropriate--provisions-regulating-trusts-contained-in>Title~~
6 ~~72.~~

7 ~~(2)--No-trustee-or-attorney-fees-may-be-paid--from--the~~
8 ~~trust-proceeds.~~

9 ~~(3)--All--bonuses,rental-payments,royalties-and-other~~
10 ~~income--shall--be-paid--to--the--trustee-until--the--trust--is~~
11 ~~terminated-and--notice--of--its--termination--given--to--all~~
12 ~~interested--parties--The-trustee-shall-distribute-all-money~~
13 ~~held-in-the-trust-to-the-person-or-persons--entitled--to--it~~
14 ~~upon-the-order-of-the-district-court.~~

15 ~~(4)--A-trust-in-favor-of-untocatable-owners-shall-be-in~~
16 ~~force--until--the-untocatable-owners-of-the-mineral-interest~~
17 ~~in-question-have-successfully-claimed--the--share--of--funds~~
18 ~~held-in-trust-and-filed-the-notice-provided-in-82-1-306.~~

19 ~~(5)--The--trustee--shall--invest--funds--under--his~~
20 ~~management-in-the-manner-of-a-prudent--man--as--defined--in~~
21 ~~72-21-104--Fifty--percent--of--the--interest-earned-on-each~~
22 ~~trust-shall-be-credited-to-the-general-district--court--fund~~
23 ~~of--the--county--in-which-the-mineral-interest-is-located-to~~
24 ~~defray-the-costs-of-administration.~~

25 ~~(6)--Funds-held--in--the--trusts--are--subject--to--the~~

1 provisions--governing--abandoned-property-contained-in-title

2 707--chapter-9."

-End-

SENATE BILL NO. 194

INTRODUCED BY AKLESTAD, ROUSH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY AMEND AND CLARIFY THE LAWS RELATING TO JURY SELECTION; ELIMINATING THE REQUIREMENT FOR BALLOT CAPSULES; SPECIFYING THE DUTIES OF THE CLERK OF THE DISTRICT COURT; ~~PROVIDING FOR PAYMENT OF WITNESS EXPENSES AND THE COSTS OF IMPANELING A JURY FROM THE DISTRICT COURT FUND; REQUIRING PAYMENT OF PART OF THE INTEREST ON THE TRUST FOR UNDEVELOPED MINERAL OWNERS TO THE DISTRICT COURT FUND;~~ AND AMENDING EXEMPTIONS FROM JURY SERVICE; AMENDING SECTIONS 3-5-510, 3-5-511, 3-15-204, ~~3-15-205, 3-15-312, 3-15-313, 3-15-501, 3-15-502, 3-15-505, 3-15-507, 7-33-2314, 7-33-2315, 25-7-202 THROUGH 25-7-204, 25-7-206, 25-7-208, 25-7-209, AND 46-17-202, AND 82-1-304,~~ MCA."

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(1) keep a book called "Book of Jurors" ~~Certificates~~ ~~Warrants~~, which must contain the blank ~~Certificates~~ ~~Warrants~~ and ~~stubs--to--be--fitted~~ ~~copies~~ as provided in 3-15-204;

(2) keep a "Witness Book", which must contain blank ~~Certificates~~ ~~Warrants~~ and ~~stubs--to--be--fitted~~ ~~copies~~ as provided in 3-5-511;

(3) keep a record of the attendance of all jurors and witnesses in criminal actions and compute the amount due them for mileage (the distance from any point to the county seat must be determined by the shortest traveled route)."

Section 2. Section 3-5-511, MCA, is amended to read:

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(3) On presentation of such ~~Certificate~~ ~~Warrant~~ to the county treasurer, the amount specified in the ~~Certificate~~ ~~Warrant~~ must be paid out of the general ~~district--court~~ ~~GENERAL~~ fund."

Section 3. Section 3-15-204, MCA, is amended to read:

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1 must keep a record of the attendance of jurors and compute
2 the amount due for mileage. The distance from any point to
3 the county seat must be determined by the shortest traveled
4 route.

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6 is excused from further service, a ~~certificate taken from a~~
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8 signed by himself ~~under seal~~, in which must be stated the
9 name of the juror, the number of days' attendance, the
10 number of miles traveled, and the amount due.

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12 county treasurer, the amount specified in the ~~certificate~~
13 ~~warrant~~ must be paid out of the general ~~district court~~
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16 containing a list of the jurors and the amount of fees and
17 mileage earned by each and file the same with the clerk of
18 the board of county commissioners on the first day of every
19 regular meeting of the board. No quarterly salary must be
20 paid the clerk until such statement is filed. The board must
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5 ~~may upon hearing assess the reasonable public expenses of~~
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7 ~~expenses paid or owing under 3-15-201 and such other costs~~
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10 ~~county general district court GENERAL fund."~~

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specify the number of jurors to be drawn, ~~and the time~~ at which the jurors are required to attend, ~~which time may~~ must be at the same term in which the jurors are drawn or at the next succeeding term, in the discretion of the court.

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(1) Every firefighter who has served 5 years in an organized company in this state is an exempt firefighter and must

1 receive from the chief engineer of the department to which
2 he belonged a certificate to that effect.

3 (2) (a) Every active firefighter must have a
4 certificate of that fact, signed by the chief of the fire
5 department or the foreman of the company to which he
6 belongs. Such certificates must be countersigned by the
7 secretary and over the seal of the company if one is
8 provided.

9 (b) In lieu of issuing certificates to exempt
10 firefighters by the chief of the fire department, on the
11 certificate of the foreman and secretary of any fire company
12 or the chief of the department, provision being made
13 therefor in the bylaws of the company, "exempt certificates"
14 may be issued by the clerk of the county, over his official
15 seal and signature, which entitles the holder to like
16 exemption from military and-jury duty.

17 (3) Each certificate entitles the holder to exemption
18 from military and-jury duty. Every such certificate is prima
19 facie evidence of the facts therein stated.

20 (4) The secretary of the fire department or fire
21 company must keep a record of all certificates of exemption
22 or active membership, the date thereof and to whom issued,
23 and, when no seal is provided, similar entries of
24 certificates issued to obtain county clerk's certificates."

25 Section 12. Section 25-7-202, MCA, is amended to read:

1 "25-7-202. Judge or jury commissioner to draw capsules
2 containing ballots. When an issue of fact to be tried by a
3 jury is brought to trial, the district judge or jury
4 commissioner in the presence of ~~the clerk of the court~~ two
5 witnesses must openly draw out of the trial juror box as
6 many of the ~~capsules-containing~~ ballots with the names of
7 jurors thereon, one after another, as are sufficient to form
8 a jury for the cause to be tried. Upon stipulation of
9 counsel, the court may order such jurors to be seated in the
10 order drawn."

11 Section 13. Section 25-7-203, MCA, is amended to read:

12 "25-7-203. Drawing a new jury when another is
13 impaneled. If an issue is brought to trial by a jury while a
14 jury is impaneled in another cause and not then discharged,
15 the court may order a jury for the trial of that issue to be
16 drawn out of the box containing the capsules ballots then
17 undrawn; but in any other case the ~~capsules--containing--the~~
18 ballots with the names of all the trial jurors returned and
19 attending the court must be placed together in the same box
20 before a jury is drawn therefrom."

21 Section 14. Section 25-7-204, MCA, is amended to read:

22 "25-7-204. Mode of drawing capsules ballots. Before
23 the first ~~capsule-containing~~ a ballot shall have been drawn,
24 the box must be closed and well shaken so as to thoroughly
25 mix the capsules ballots therein. The district judge must

1 draw at random a capsule--containing--a ballot with the
 2 juror's name thereon through--an-aperture-made-in-the--lid
 3 large-enough-only-to-admit-his-hand-conveniently-and-without
 4 said-judge-peeking-into-said-box-before-or-while-drawing-said
 5 capsule. Upon stipulation of counsel, the court may order
 6 the clerk to draw ballots."

7 Section 15. Section 25-7-206, MCA, is amended to read:

8 "25-7-206. Procedure when insufficient number attend.

9 (1) If a sufficient number of jurors duly drawn and notified
 10 do not attend to form a jury, the district--judge jury
 11 commissioner shall, pursuant to an order of the court to be
 12 entered in the minutes, in the presence of the-clerk-of--the
 13 court two witnesses, draw a sufficient number of ballots
 14 from the box to complete the jury. The sheriff shall
 15 notify the persons thus drawn to attend immediately or at a
 16 time fixed by court. If for any reason a sufficient number
 17 of jurors to try the issue is not obtained from the persons
 18 notified under an order made as prescribed in this section,
 19 the court may make another order or successive orders until
 20 a sufficient number is obtained.

21 (2) Each person so notified must attend at the time
 22 required by the notice and, unless excused by the court or
 23 set aside, must serve as a juror upon the trial. For a
 24 neglect or refusal to do so, he may be fined in the same
 25 manner as any other trial juror regularly drawn and

1 notified. He is subject to the same exceptions and
 2 challenges as any other trial juror."

3 Section 16. Section 25-7-208, MCA, is amended to read:

4 "25-7-208. Capsules--containing--ballots Ballots of
 5 jurors who have been sworn. The capsules--containing--the
 6 ballots with the names of the jurors so sworn must be then
 7 deposited in another box and there kept apart from the other
 8 capsules--containing ballots with the names of jurors until
 9 that jury is discharged. After the jury is discharged, the
 10 capsules--containing--the ballots with the names of the jurors
 11 thereon must be returned to the box from which they were
 12 first taken."

13 Section 17. Section 25-7-209, MCA, is amended to read:

14 "25-7-209. Capsules--containing--ballots Ballots of
 15 jurors not sworn. The capsule--containing--the ballot with the
 16 name of a juror who is absent when his name is drawn or
 17 called or is set aside or excused from serving on that trial
 18 must be again returned to the box containing the undrawn
 19 capsules ballots as soon as the jury is sworn."

20 Section 18. Section 46-17-202, MCA, is amended to
 21 read:

22 "46-17-202. Formation of trial jury. (1) At the time
 23 of preparing the district court jury list, the county jury
 24 commission commissioners and clerk and recorder shall
 25 prepare a jury list for each justice's and city court within

1 the county. Each list shall consist of residents of the
 2 appropriate county, city, or town. The lists shall be
 3 selected in any reasonable manner which ensures fairness,
 4 and each shall include a number of names sufficient to meet
 5 the annual jury requirements of the respective court.
 6 Additional lists may be prepared if required. The lists
 7 shall be filed in the office of the clerk of the district
 8 court. The appropriate list shall be posted in a public
 9 place in each county, city, or town, and such list shall
 10 comprise the trial jury list for the ensuing year for such
 11 county, city, or town.

12 (2) Trial jurors shall be summoned from the jury list
 13 by notifying each one orally that he is summoned and of the
 14 time and place at which his attendance is required.

15 (3) The prosecuting attorney and the defendant or his
 16 attorney shall conduct the examination of prospective
 17 jurors. The court may conduct an additional examination. The
 18 court may limit the examination by the defendant, his
 19 attorney, or the prosecuting attorney if the court believes
 20 such examination to be improper.

21 (4) Each party may challenge jurors for cause, and
 22 each challenge must be tried by the court. The challenge may
 23 be for any cause enumerated in 46-16-304(2). Each defendant
 24 shall be allowed three peremptory challenges, and the state
 25 shall be allowed the same number of peremptory challenges as

1 all of the defendants."

2 ~~Section 26. Section 82-1-304, MCA, is amended to read~~
 3 ~~"82-1-304. Administration of the trusts. (1) The~~
 4 ~~administration of the trust shall comply with the~~
 5 ~~appropriate provisions regulating trusts contained in Title~~
 6 ~~72.~~

7 ~~(2) No trustee or attorney fees may be paid from the~~
 8 ~~trust proceeds.~~

9 ~~(3) All bonuses, rental payments, royalties, and other~~
 10 ~~income shall be paid to the trustee until the trust is~~
 11 ~~terminated and notice of its termination given to all~~
 12 ~~interested parties. The trustee shall distribute all money~~
 13 ~~held in the trust to the person or persons entitled to it~~
 14 ~~upon the order of the district court.~~

15 ~~(4) A trust in favor of unlocatable owners shall be in~~
 16 ~~force until the unlocatable owners of the mineral interest~~
 17 ~~in question have successfully claimed the share of funds~~
 18 ~~held in trust and filed the notice provided in 82-1-306.~~

19 ~~(5) The trustee shall invest funds under his~~
 20 ~~management in the manner of a prudent man as defined in~~
 21 ~~72-21-104, fifty percent of the interest earned on each~~
 22 ~~trust shall be credited to the general district court fund~~
 23 ~~of the county in which the mineral interest is located to~~
 24 ~~defray the costs of administration.~~

25 ~~(6) Funds held in the trusts are subject to the~~

- 1 ~~provisions governing abandoned property contained in title~~
- 2 ~~787 chapter 9~~

-End-