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SENATE BILL NO. 98  
INTRODUCED BY Foster

A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING CAMPAIGN REFORM AND INTEGRITY; GENERALLY REVISING THE LAWS CONCERNING CANDIDATES, ELECTORS, AND ELECTIONS; REQUIRING A PUBLIC OFFICEHOLDER TO RESIGN FROM OFFICE PRIOR TO BECOMING A CANDIDATE FOR ANOTHER OFFICE UNLESS THE CANDIDATE'S TERM OF OFFICE WILL EXPIRE AT THE TIME OF OR PRIOR TO THE TERM OF THE OFFICE BEING SOUGHT; SUBSTITUTING LICENSED DRIVERS FOR REGISTERED ELECTORS AS THE BASIS FOR JURY POOLS; CHANGING THE PRIMARY ELECTION DATE FROM JUNE TO SEPTEMBER; REMOVING THE REQUIREMENT THAT AN ELECTOR MAY CAST A BALLOT FOR ONLY ONE POLITICAL PARTY IN A PRIMARY ELECTION; CREATING THE OFFENSE OF RAISING A FALSE ISSUE DURING THE 10-DAY PERIOD PRIOR TO AN ELECTION; AND AMENDING SECTIONS 2-16-102, 3-15-402, 5-2-104, 13-1-107, 13-10-301, 13-13-214, AND 13-35-234, MCA."

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

**Section 1.** Section 2-16-102, MCA, is amended to read:

**"2-16-102. Qualifications generally -- age, and citizenship -- public office.** (1) Provisions respecting disqualifications for particular offices are contained in the constitution and in the provisions of the codes concerning the various offices.

(2) ~~No~~ A person is not eligible to hold civil office in this state who at the time of his election or appointment is not of the age of 18 years of age or older and a citizen of this state.

(3) (a) Except as provided in subsection (3)(b), a person who holds an elected office shall resign from office in order to be a candidate for another office.

(b) Resignation from an elected office is not required as a condition for a candidate if:

(i) the candidate is a judge seeking another judicial office; or

(ii) the candidate's term of office will expire at the time of or prior to the term of the office being sought."

**Section 2.** Section 3-15-402, MCA, is amended to read:

1           **"3-15-402. Selection of qualified persons.** At the meeting specified in 3-15-401, the officers  
 2 present ~~must~~ shall select from the most recent list of all ~~registered electors~~ licensed drivers in the county  
 3 who are 18 years of age or older, as prepared by the county registrar, and make a list of the names of all  
 4 persons qualified to serve as trial jurors, as prescribed in part 3 of this chapter. Each name ~~se~~ appearing  
 5 on ~~said~~ the list shall must be assigned a number ~~which shall~~ that must be placed opposite the name on the  
 6 jury list and ~~shall be~~ is considered the number of the juror opposite whose name it appears. ~~Said~~ The  
 7 numbers ~~shall~~ must be consecutive from "1" to the total number of jurors. A person's name may not appear  
 8 on a jury list for more than one court during a 1-year term."

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10           **Section 3.** Section 5-2-104, MCA, is amended to read:

11           **"5-2-104. Appointment to or candidacy for other offices.** ~~(1) No~~ A member of the legislature may  
 12 not, during the term for which ~~he~~ the member was elected, be appointed to any civil office under the state.  
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 14 his the member's term.

15           ~~(2) A member of the legislature who is elected to other public office shall resign from the legislature~~  
 16 ~~prior to assuming the office to which he was newly elected."~~

17

18           **Section 4.** Section 13-1-107, MCA, is amended to read:

19           **"13-1-107. Times for holding primary elections.** (1) On the first Tuesday after the first Monday in  
 20 ~~June~~ September preceding the general election provided for in 13-1-104(1), a primary election ~~shall~~ must  
 21 be held throughout the state.

22           (2) On the Tuesday following the second Monday in September preceding the general election  
 23 provided for in 13-1-104(2), a primary election, if required, ~~shall~~ must be held throughout the state.

24           (3) If the general election for a municipality required to hold annual elections is held in November,  
 25 as provided in 13-1-104(4), a primary election, if required, ~~shall~~ must be held on the Tuesday following the  
 26 second Monday in September. In an even-numbered year, the cost of this election must be paid by the  
 27 municipality."

28

29           **Section 5.** Section 13-10-301, MCA, is amended to read:

30           **"13-10-301. Casting of ballot.** (1) Unless otherwise provided by law, the conduct of the primary

1 election, the voting procedure, the counting, tallying, and return of ballots and all election records and  
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 3 tie votes, and any other necessary election procedures ~~shall~~ must be at the same times and in the same  
 4 manner as provided for in the laws for the general election.

5 (2) ~~At a primary election, the elector shall mark only one of the set of party ballots.~~ After marking  
 6 any ~~other~~ ballots ~~received other than the party ballots,~~ the elector shall fold the ~~marked and unmarked~~  
 7 ballots separately in a manner so that the marks cannot be seen, the official stamp is visible on each ballot,  
 8 and all stubs can be detached by an election judge.

9 (3) The elector shall hand the marked and unmarked ballots separately to the election judge,  
 10 identifying them as marked and unmarked. If the judge determines that the ballots may be voted, ~~he~~ the  
 11 judge shall, in the presence of the elector:

12 (a) remove the stubs from all the ballots;

13 (b) deposit the ~~unmarked ballot or~~ ballots in the ballot box and ~~all~~ the stubs in the stub ~~and~~  
 14 ~~unmarked ballot box;~~

15 ~~(c) and deposit the marked ballots in the voted ballot box."~~

16  
 17 **Section 6.** Section 13-13-214, MCA, is amended to read:

18 "**13-13-214. Mailing ballot to elector.** (1) As soon as the official ballots are printed, the election  
 19 administrator shall send by mail, postage prepaid, to each elector from whom ~~he~~ the administrator has  
 20 received a valid application whatever official ballots are necessary. Ballots ~~shall~~ must be sent immediately  
 21 to electors submitting valid requests after the official ballots are printed.

22 (2) The election administrator shall enclose with the ballots a self-addressed envelope for the return  
 23 of the ballots. An affirmation in the form prescribed by the secretary of state ~~shall~~ must be printed on the  
 24 back of the envelope.

25 (3) The election administrator shall stamp the ballots sent to an absentee elector as provided in  
 26 13-13-116.

27 (4) Both the envelope in which the ballot is mailed to an elector in the United States service and  
 28 the return envelope ~~shall~~ must have printed across the face ~~such~~ the information and graphics and be of  
 29 ~~such a color as may be~~ prescribed by the secretary of state consistent with the regulations established by  
 30 the federal election commission, U.S. postal service, or other federal agency.

1           ~~(5) If the ballots sent to the elector are for a primary election, the election administrator shall~~  
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3 ~~marked in any way so it can be identified as being used by any one elector.~~

4           ~~(6)~~(5) Instructions for voting shall must be enclosed with the ballots. ~~Instructions for primary~~  
5 ~~elections must include use of the envelope for unvoted ballots.~~ The instructions must include information  
6 concerning the type or types of writing instruments ~~which~~ that may be used to mark the absentee ballot.

7           ~~(7)~~(6) The return envelope shall must be self-addressed to the election administrator."  
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14 whether it is true or not is guilty of a misdemeanor.

15           (2) During the 10-day period prior to an election, a candidate may not raise an issue that concerns  
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17 misleading voting record issue during the 10-day period prior to an election is subject to a civil penalty not  
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19           ~~(2)~~(3) In addition to the misdemeanor penalty of subsection (1), a successful candidate who is  
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22

-END-

APPROVED BY COM ON  
STATE ADMINISTRATION

SENATE BILL NO. 98

INTRODUCED BY FOSTER

A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING CAMPAIGN REFORM AND INTEGRITY; GENERALLY REVISING THE LAWS CONCERNING CANDIDATES, ELECTORS, AND ELECTIONS; REQUIRING A PUBLIC OFFICEHOLDER TO RESIGN FROM OFFICE PRIOR TO BECOMING A CANDIDATE FOR ANOTHER OFFICE UNLESS THE CANDIDATE IS A MEMBER OF THE LEGISLATURE RUNNING FOR REELECTION TO THE SAME SEAT OR THE CANDIDATE'S TERM OF OFFICE WILL EXPIRE AT THE TIME OF OR PRIOR TO THE TERM OF THE OFFICE BEING SOUGHT; ~~SUBSTITUTING LICENSED DRIVERS FOR REGISTERED ELECTORS AS THE BASIS FOR JURY POOLS; CHANGING THE PRIMARY ELECTION DATE FROM JUNE TO SEPTEMBER; REMOVING THE REQUIREMENT THAT AN ELECTOR MAY CAST A BALLOT FOR ONLY ONE POLITICAL PARTY IN A PRIMARY ELECTION; CREATING THE CIVIL OFFENSE OF RAISING A FALSE ISSUE DURING THE 10 DAY PERIOD PRIOR TO AN ELECTION~~ POLITICAL LIBEL; AND AMENDING SECTIONS 2-16-102, 3-15-402, AND 5-2-104, ~~13-1-107, 13-10-301, 13-13-214, AND 13-35-234~~, MCA."

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 4 ~~who are 18 years of age or older~~ REGISTERED ELECTORS, as prepared by the county registrar, and make  
 5 a list of the names of all persons qualified to serve as trial jurors, as prescribed in part 3 of this chapter.  
 6 HOWEVER, THE OFFICERS MAY NOT INCLUDE IN THE LIST THE NAME OF A PERSON WHO HAS SERVED  
 7 AS A JUROR WITHIN THE PREVIOUS 5 YEARS. Each name ~~so~~ appearing on said ~~the list shall~~ must be  
 8 assigned a number ~~which shall~~ that must be placed opposite the name on the jury list and ~~shall be~~ is  
 9 considered the number of the juror opposite whose name it appears. ~~Said~~ The numbers ~~shall~~ must be  
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 17 ~~his~~ the member's term. THIS SECTION DOES NOT PREVENT A MEMBER OF THE LEGISLATURE FROM  
 18 BECOMING A CANDIDATE FOR REELECTION TO THE SAME SEAT IN THE LEGISLATURE.

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23           ~~(2)(3) In addition to the misdemeanor penalty of subsection (1), a successful candidate who is~~  
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 25 ~~13-35-106 and 13-35-107."~~

26  
 27           **NEW SECTION. SECTION 4. MISREPRESENTATION OF VOTING RECORD -- POLITICAL CIVIL**  
 28 **LIBEL. (1) IT IS UNLAWFUL FOR A PERSON TO WILLFULLY OR NEGLIGENTLY MAKE OR PUBLISH A**  
 29 **FALSE STATEMENT ABOUT A CANDIDATE'S PUBLIC VOTING RECORD OR TO MAKE OR PUBLISH A**  
 30 **FALSE STATEMENT THAT REFLECTS UNFAVORABLY UPON A CANDIDATE'S CHARACTER OR MORALITY.**



1           (2) IT IS UNLAWFUL FOR A PERSON TO WILLFULLY OR NEGLIGENTLY PROVIDE FALSE  
2 INFORMATION TO A CANDIDATE CONCERNING ANOTHER CANDIDATE'S PUBLIC VOTING RECORD  
3 WHEN THE PERSON KNOWS OR SHOULD KNOW THAT THE INFORMATION WILL BE MADE PUBLIC  
4 DURING THE COURSE OF A CAMPAIGN.

5           (3) FOR THE PURPOSES OF THIS SECTION, THE PUBLIC VOTING RECORD OF A CANDIDATE  
6 WHO WAS PREVIOUSLY A MEMBER OF THE LEGISLATURE INCLUDES A VOTE OF THAT CANDIDATE  
7 RECORDED IN COMMITTEE MINUTES OR IN JOURNALS OF THE SENATE OR THE HOUSE OF  
8 REPRESENTATIVES. FAILURE OF A PERSON TO VERIFY A PUBLIC VOTING RECORD IS EVIDENCE OF THE  
9 PERSON'S WILLFUL OR NEGLIGENT CONDUCT IF THE STATEMENT MADE BY THE PERSON OR THE  
10 INFORMATION PROVIDED TO THE CANDIDATE IS FALSE.

11           (4) A PERSON VIOLATING SUBSECTION (1) OR (2) IS LIABLE IN A CIVIL ACTION BROUGHT BY  
12 THE COMMISSIONER OR COUNTY ATTORNEY PURSUANT TO 13-37-124 FOR AN AMOUNT UP TO  
13 \$1,000. AN ACTION PURSUANT TO THIS SECTION IS SUBJECT TO THE PROVISIONS OF 13-37-129  
14 AND 13-37-130.

15  
16           NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTION 4] IS INTENDED TO BE  
17 CODIFIED AS AN INTEGRAL PART OF TITLE 13, CHAPTER 37, AND THE PROVISIONS OF TITLE 13,  
18 CHAPTER 37, APPLY TO [SECTION 4].

19   -END-

## 1 SENATE BILL NO. 98

2 INTRODUCED BY FOSTER

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING CAMPAIGN REFORM AND INTEGRITY; GENERALLY  
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 10 ~~AS THE BASIS FOR JURY POOLS; CHANGING THE PRIMARY ELECTION DATE FROM JUNE TO~~  
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 12 ~~POLITICAL PARTY IN A PRIMARY ELECTION; CREATING THE CIVIL OFFENSE OF RAISING A FALSE ISSUE~~  
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 14 ~~SECTION 2-16-102, 3-15-402, AND 5-2-104, 13-1-107, 13-10-301, 13-13-214, AND 13-35-234, MCA."~~

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6 HOWEVER, THE OFFICERS MAY NOT INCLUDE IN THE LIST THE NAME OF A PERSON WHO HAS SERVED  
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 30 ~~13-13-116.~~

1           ~~(4) Both the envelope in which the ballot is mailed to an elector in the United States service and~~  
 2 ~~the return envelope shall must have printed across the face such the information and graphics and be of~~  
 3 ~~such a color as may be prescribed by the secretary of state consistent with the regulations established by~~  
 4 ~~the federal election commission, U.S. postal service, or other federal agency.~~

5           ~~(5) If the ballots sent to the elector are for a primary election, the election administrator shall~~  
 6 ~~enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or~~  
 7 ~~marked in any way so it can be identified as being used by any one elector.~~

8           ~~(6)(5) Instructions for voting shall must be enclosed with the ballots. Instructions for primary~~  
 9 ~~elections must include use of the envelope for unvoted ballots. The instructions must include information~~  
 10 ~~concerning the type or types of writing instruments which that may be used to mark the absentee ballot.~~

11           ~~(7)(6) The return envelope shall must be self addressed to the election administrator."~~

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 13           ~~**Section 7.** Section 13-35-234, MCA, is amended to read:~~

14           ~~**"13-35-234. Political criminal libel — misrepresenting voting records.** (1) It is unlawful for any~~  
 15 ~~person to make or publish any false statement or charge reflecting on any candidate's character or morality~~  
 16 ~~or to knowingly misrepresent the voting record or position on public issues of any candidate. A person~~  
 17 ~~making such a statement or representation with knowledge of its falsity or with a reckless disregard as to~~  
 18 ~~whether it is true or not is guilty of a misdemeanor.~~

19           ~~(2) During the 10 day period prior to an election, a candidate may not raise an issue that concerns~~  
 20 ~~a public voting record and that is determined to be false or misleading. A candidate raising a false or~~  
 21 ~~misleading voting record issue during the 10 day period prior to an election is subject to a civil penalty not~~  
 22 ~~exceeding \$1,000.~~

23           ~~(2)(3) In addition to the misdemeanor penalty of subsection (1), a successful candidate who is~~  
 24 ~~adjudicated guilty of violating this section subsection (1) may be removed from office as provided in~~  
 25 ~~13-35-106 and 13-35-107."~~

26  
 27           ~~**NEW SECTION. SECTION 2. MISREPRESENTATION OF VOTING RECORD -- POLITICAL CIVIL**~~  
 28 ~~**LIBEL. (1) IT IS UNLAWFUL FOR A PERSON TO WILLFULLY OR NEGLIGENTLY MAKE OR PUBLISH A**~~  
 29 ~~**FALSE STATEMENT ABOUT A CANDIDATE'S PUBLIC VOTING RECORD OR TO MAKE OR PUBLISH A**~~  
 30 ~~**FALSE STATEMENT THAT REFLECTS UNFAVORABLY UPON A CANDIDATE'S CHARACTER OR MORALITY.**~~

1           (2) IT IS UNLAWFUL FOR A PERSON TO WILLFULLY OR NEGLIGENTLY PROVIDE FALSE  
 2 INFORMATION TO A CANDIDATE CONCERNING ANOTHER CANDIDATE'S PUBLIC VOTING RECORD  
 3 WHEN THE PERSON KNOWS OR SHOULD KNOW THAT THE INFORMATION WILL BE MADE PUBLIC  
 4 DURING THE COURSE OF A CAMPAIGN.

5           (3) FOR THE PURPOSES OF THIS SECTION, THE PUBLIC VOTING RECORD OF A CANDIDATE  
 6 WHO WAS PREVIOUSLY A MEMBER OF THE LEGISLATURE INCLUDES A VOTE OF THAT CANDIDATE  
 7 RECORDED IN COMMITTEE MINUTES OR IN JOURNALS OF THE SENATE OR THE HOUSE OF  
 8 REPRESENTATIVES. FAILURE OF A PERSON TO VERIFY A PUBLIC VOTING RECORD IS EVIDENCE OF THE  
 9 PERSON'S WILLFUL OR NEGLIGENT CONDUCT IF THE STATEMENT MADE BY THE PERSON OR THE  
 10 INFORMATION PROVIDED TO THE CANDIDATE IS FALSE.

11           (4) A PERSON VIOLATING SUBSECTION (1) OR (2) IS LIABLE IN A CIVIL ACTION BROUGHT BY  
 12 THE COMMISSIONER OR COUNTY ATTORNEY PURSUANT TO 13-37-124 FOR AN AMOUNT UP TO  
 13 \$1,000. AN ACTION PURSUANT TO THIS SECTION IS SUBJECT TO THE PROVISIONS OF 13-37-129  
 14 AND 13-37-130.

15  
 16           NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. [SECTION 4 2] IS INTENDED TO BE  
 17 CODIFIED AS AN INTEGRAL PART OF TITLE 13, CHAPTER 37, AND THE PROVISIONS OF TITLE 13,  
 18 CHAPTER 37, APPLY TO [SECTION 4 2].

19   -END-



## HOUSE STANDING COMMITTEE REPORT

March 20, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 98 (third reading copy -- blue) be concurred in as amended.

Signed: *Dick Simpkins*  
Dick Simpkins, Chair

Carried by: Rep. Simpkins

And, that such amendments read:

1. Title, lines 4 and 5.  
Strike: "GENERALLY" on line 4 through "ELECTIONS;" on line 5
2. Title, line 12.  
Following: "~~ELECTIONS,~~"  
Insert: "AND"
3. Title, line 13.  
Strike: "; AND AMENDING"
4. Title, line 14.  
Strike: "SECTION"  
Strike: "3-15-402,"  
Strike: "MCA"
5. Page 2, lines 1 through 11.  
Strike: Section 1 in its entirety  
Renumber: subsequent sections
6. Page 5, lines 16 and 18.  
Strike: "2"  
Insert: "1"

-END-

SB 98

Committee Vote:  
Yes 17, No 1.

HOUSE

## SENATE BILL NO. 98

INTRODUCED BY FOSTER

1  
2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING CAMPAIGN REFORM AND INTEGRITY; GENERALLY  
5 ~~REVISING THE LAWS CONCERNING CANDIDATES, ELECTORS, AND ELECTIONS; REQUIRING A PUBLIC~~  
6 ~~OFFICEHOLDER TO RESIGN FROM OFFICE PRIOR TO BECOMING A CANDIDATE FOR ANOTHER OFFICE~~  
7 ~~UNLESS THE CANDIDATE IS A MEMBER OF THE LEGISLATURE RUNNING FOR REELECTION TO THE~~  
8 ~~SAME SEAT OR THE CANDIDATE'S TERM OF OFFICE WILL EXPIRE AT THE TIME OF OR PRIOR TO THE~~  
9 ~~TERM OF THE OFFICE BEING SOUGHT; SUBSTITUTING LICENSED DRIVERS FOR REGISTERED ELECTORS~~  
10 ~~AS THE BASIS FOR JURY POOLS; CHANGING THE PRIMARY ELECTION DATE FROM JUNE TO~~  
11 ~~SEPTEMBER; REMOVING THE REQUIREMENT THAT AN ELECTOR MAY CAST A BALLOT FOR ONLY ONE~~  
12 ~~POLITICAL PARTY IN A PRIMARY ELECTION; AND CREATING THE CIVIL OFFENSE OF RAISING A FALSE~~  
13 ~~ISSUE DURING THE 10 DAY PERIOD PRIOR TO AN ELECTION POLITICAL LIBEL; AND AMENDING~~  
14 ~~SECTIONS SECTION 2-16-102, 3-15-402, AND 5-2-104, 13-1-107, 13-10-301, 13-13-214, AND~~  
15 ~~13-35-234, MCA."~~

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 ~~Section 1. Section 2-16-102, MCA, is amended to read:~~

20 ~~"2-16-102. Qualifications generally age, and citizenship public office. (1) Provisions respecting~~  
21 ~~disqualifications for particular offices are contained in the constitution and in the provisions of the codes~~  
22 ~~concerning the various offices.~~

23 ~~(2) No A person is not eligible to hold civil office in this state who at the time of his election or~~  
24 ~~appointment is not of the age of 18 years of age or older and a citizen of this state.~~

25 ~~(3) (a) Except as provided in subsection (3)(b), a person who holds an elected office shall resign~~  
26 ~~from office in order to be a candidate for another office.~~

27 ~~(b) Resignation from an elected office is not required as a condition for a candidate if:~~

28 ~~(i) the candidate is a judge seeking another judicial office; or~~

29 ~~(ii) the candidate's term of office will expire at the time of or prior to the term of the office being~~  
30 ~~sought."~~



1 **Section 1.** Section 3-15-402, MCA, is amended to read:

2 ~~"3-15-402. Selection of qualified persons. At the meeting specified in 3-15-401, the officers~~  
 3 ~~present must shall select from the most recent list of all registered electors licensed drivers in the county~~  
 4 ~~who are 18 years of age or older REGISTERED ELECTORS, as prepared by the county registrar, and make~~  
 5 ~~a list of the names of all persons qualified to serve as trial jurors, as prescribed in part 3 of this chapter.~~  
 6 ~~HOWEVER, THE OFFICERS MAY NOT INCLUDE IN THE LIST THE NAME OF A PERSON WHO HAS SERVED~~  
 7 ~~AS A JUROR WITHIN THE PREVIOUS 5 YEARS.~~ Each name so appearing on said ~~the~~ list shall ~~must~~ be  
 8 assigned a number which shall ~~that must~~ be placed opposite the name on the jury list and shall be ~~is~~  
 9 considered the number of the juror opposite whose name it appears. Said ~~The~~ numbers shall ~~must~~ be  
 10 consecutive from "1" to the total number of jurors. A person's name may not appear on a jury list for more  
 11 than one court during a 1-year term."

12  
 13 **Section 3.** Section 5-2-104, MCA, is amended to read:

14 ~~"5-2-104. Appointment to or candidacy for other offices. (1) No A member of the legislature may~~  
 15 ~~not, during the term for which he the member was elected, be appointed to any civil office under the state.~~  
 16 ~~A Subject to 2-16-102, a member of the legislature may not become a candidate for public office during~~  
 17 ~~his the member's term. THIS SECTION DOES NOT PREVENT A MEMBER OF THE LEGISLATURE FROM~~  
 18 ~~BECOMING A CANDIDATE FOR REELECTION TO THE SAME SEAT IN THE LEGISLATURE.~~

19 ~~(2) A member of the legislature who is elected to other public office shall resign from the legislature~~  
 20 ~~prior to assuming the office to which he was newly elected."~~

21  
 22 **Section 4.** Section 13-1-107, MCA, is amended to read:

23 ~~"13-1-107. Times for holding primary elections. (1) On the first Tuesday after the first Monday in~~  
 24 ~~June September preceding the general election provided for in 13-1-104(1), a primary election shall must~~  
 25 ~~be held throughout the state.~~

26 ~~(2) On the Tuesday following the second Monday in September preceding the general election~~  
 27 ~~provided for in 13-1-104(2), a primary election, if required, shall must be held throughout the state.~~

28 ~~(3) If the general election for a municipality required to hold annual elections is held in November,~~  
 29 ~~as provided in 13-1-104(4), a primary election, if required, shall must be held on the Tuesday following the~~  
 30 ~~second Monday in September. In an even-numbered year, the cost of this election must be paid by the~~

1 municipality."

2

3 ~~Section 5. Section 13-10-301, MCA, is amended to read:~~

4 ~~"13-10-301. Casting of ballot. (1) Unless otherwise provided by law, the conduct of the primary~~  
 5 ~~election, the voting procedure, the counting, tallying, and return of ballots and all election records and~~  
 6 ~~supplies, the canvass of votes, the certification and notification of nominees, recounts, procedures upon~~  
 7 ~~tie votes, and any other necessary election procedures shall must be at the same times and in the same~~  
 8 ~~manner as provided for in the laws for the general election.~~

9 ~~(2) At a primary election, the elector shall mark only one of the set of party ballots. After marking~~  
 10 ~~any other ballots received other than the party ballots, the elector shall fold the marked and unmarked~~  
 11 ~~ballots separately in a manner so that the marks cannot be seen, the official stamp is visible on each ballot,~~  
 12 ~~and all stubs can be detached by an election judge.~~

13 ~~(3) The elector shall hand the marked and unmarked ballots separately to the election judge,~~  
 14 ~~identifying them as marked and unmarked. If the judge determines that the ballots may be voted, he the~~  
 15 ~~judge shall, in the presence of the elector:~~

16 ~~(a) remove the stubs from all the ballots;~~

17 ~~(b) deposit the unmarked ballot or ballots in the ballot box and all the stubs in the stub and~~  
 18 ~~unmarked ballot box;~~

19 ~~(c) and deposit the marked ballots in the voted ballot box."~~

20

21 ~~Section 6. Section 13-13-214, MCA, is amended to read:~~

22 ~~"13-13-214. Mailing ballot to elector. (1) As soon as the official ballots are printed, the election~~  
 23 ~~administrator shall send by mail, postage prepaid, to each elector from whom he the administrator has~~  
 24 ~~received a valid application whatever official ballots are necessary. Ballots shall must be sent immediately~~  
 25 ~~to electors submitting valid requests after the official ballots are printed.~~

26 ~~(2) The election administrator shall enclose with the ballots a self-addressed envelope for the return~~  
 27 ~~of the ballots. An affirmation in the form proscribed by the secretary of state shall must be printed on the~~  
 28 ~~back of the envelope.~~

29 ~~(3) The election administrator shall stamp the ballots sent to an absentee elector as provided in~~  
 30 ~~13-13-116.~~

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