SENATE BILL 112
IN THE SENATE

January 16, 1979

January 23, 1979

January 24, 1979

January 25, 1979

January 26, 1979
January 27, 1979

January 29, 1979

March 2, 1979

Maxch 3, 1979
March 5, 1979

March 8, 1979

March 9, 1979

April 20, 1979
Introduced and referred to Committee on State Administration.
Committee recommend bill, do pass.
Printed and placed on members' desks.
Second reading, do pass.
Considered correctly engrossed.
Third reading, passed.
IN THE HOUSE
Introduced and referred to Committee on State Administration.
Committee recommend bill, concurred.
Second reading, concurred.
On motion, referred to Committee on State Administration.
Committee recommend bill, concurred.
On motion, taken from second reading and referred to Committee on Judiciary.
Died in Committee.

by request of the cade commissioner
A BILL FOR AN ACT ENTITLED: EAN ACT TO GENERALLY REVISE ANO
Clarify the laws relating to elections; amending sections
13-2-402. 13-13-102. 13-13-104. 13-13-108. 13-15-501.
13-16-301. 13-16-304. 13-16-305. 13-16-307. 13-16-402,
13-16-403, 13-35-227, AND 13-36-211, MCA."
be it enacted by the legislature of the state of montanas
Section 1. Section 13-2-402. MCA, is amended to read:
w13-2-402. Cancellation of registration for other
reasons. The registrar shall cancel any registration card:
(1) at the written request of the person registered;
(2) if a certificate of the death of any elector is
filed or if an elector is reported as deceased by the
department of health and environmental sciences in the
department's reports subitted to the county under
12-16-217;
(3) Whenever 45 days or more prior to the closing of
registration, three qualified registered electors residing
within the precinct challenge an elector by filing
affidavits giving the name of the challenged elector, his
registry number, and his residencer and stating of the
> personal knowledge of the affiant that the person registered does not reside at the place designated on his registration card;
> (4) whenever the--insentty-of the elector is 7egetyy estebtished of unsound_hiad as established_by a court;
> (5) whenever the incarceration of an elector in a penal institution for a felony conviction is legally established: or
> (6) whenever a certified copy of a court order directing the cancellation is filed with the registrar."

> Section 2. Section 13-13-102. MCA. is amended to read:
> -13-23-102. Instruction cards and display of official ballots. (1) The registrar shall print on cards instructions to electors on how to vote.
> (2) He shall furnish six cards to the election judges in each precinct and one additional card for each 50 registered electors of fractional part of 50 at the same time ballots are furnished.
> (3) The eiection judges shall post at least one card in each compartment provided for the preparation of ballots and not less than three of the cards elsewhere about the polling place.
(4) The cards shall containe in bold large type:
(a) instfuctions on how to:
(i) obtain ballots for voting;
(ii) prepare ballots for deposit in the ballot box;
(ili) obtain a new ballot in place of one spoiled by accident; and
(b) a copy of 13-35-201; 13-35-202tztv-tztr-and-t4tt
 and-t7ti 13-35-211t+i-and-tzt; 13-35-214; 13-35-217: and 13-35-218ttjv-t 3 tr-and-t4t.
(5) Official ballots provided for in chapter $t 2$ of this title shall be posted in each booth or comportant and in three conspicuous places about the polling place."

Section 3. Section 13-13-104. MCA, is awended to read:
-13-13-10te Marking precinct register book before elector votes. (1) The election judges at every primary. general, or special election shall. in the precinct register book, mark o-tross-f央 an Ex. upon the line opposite the to name of the elector.
(2) Before an elector is permitted to votep the election judges shall require the elector to sign his name on the place designated in the precinct register.
(3) The election judzes shall require an efector not able to sign his name to produce two electors who shall make an affidavit before one or more of the election judges in a form prescribed by the secretary if stite.
(4) The affidavit shall be filed by the election judges and returned to the registrar with the returns of the
election. One of the judges shall write the elector's name. noting the fact of his inability to signy and the nomes of the two electors.
(5) If the elector fails or refuses to sign his nane and, if unable to write, fails to procure two electors aro will take the oath required. he may not vote.
(6) Each precinct shall keep a list of persons vatin:and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known és the pollbook.=

Section 4. Section 13-13-108, MCA, is amended to read:
-13-13-108. Aid to disabled elector. (ll The election judges shall ald an elector who because of physical disability or inability to read or urite, needs assistance in marking his ballot.
(2) The elector shall be assisted by two jucges tho represent different parties. the disabled elector cay request that a qualified elector he designates also aid hie in voting. The election judges must certify on the official register opposite the disabled elector's nome that the ballot was marked with their assistance and the name of any other elector designated. Neither the judges nor a person Who cided the elector may reveal information regarding the ballot.
(3) The election judges shalt require the declaration

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Of disability by the elector te be under oath. They dre 
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Section 5. Section 13-15-501, MCA. is amended to read:
    M13-15-501. State returns, how made and transmitted.
(1) After a general or special election, the clerk of the
bourd_of_county canyassers shall make an abstract of the
vote for congressional offices: state or district offices
voted for in more than one county, members of the
legislature, and judges of the district court.
    (2) The clerk stall seal the abstract, endorse it
"Election feturns", and immediately send it to the secretary
of state by certified or registered mail."
    Section 6. Section 13-16-301, MCA, is amended to read:
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*13-16-301. Application and court order for recount. (1) Mithin 5 days after the canvass of election returns, an unsuccessful candidate for any public office at a general special* or city election may apply to the district court of the county where the election was held for an order directing the eonvessing-body county recount board to make a recount of the votes cast in any or all of the precincts.
(2) The application shall specify the grounds for a recount and be verified by the applicant that the matters contained in it are true to the best of the applicant's knowledge, information, and belief.
(3) Within 5 days after filing of the application, the Judge shall hear the application and determime its sufficiency.
(4) If the juage finds there is probable cause to believe that the votes cast for the applicant were not correctly counted, he shall order the beerf-of county cenvessers cecount hoard to assewble within 5 days after the order is issued at a time and place fixed by the order. The board shall meet and recount the ballots as specified in the order."

Section 7. Section 13-16-304. MCA is amended to read:
"13-16-304. Ordering in another judge - jurlsdiction.
(1) If the judge of the district court of the county in which the election is meld is for any reason disqualified
from acting, the judge or a supreme court justice shall order another distriet judge to hear and determine the applicatione
(2) The district court shall not lose jurisdiction of the case by failure to hear and determine the application within the prescribed time but shall retain jurisdiction Until the cause is finally determined and the final count is made by the canaty ceconnt board of-eeuntr-eenvassers."

Section Be Section 13-16-305, MCA, is amended to read:
-13-16-305. Limitation of recount to certain precincts. (1) If the application asks for a recount in more than one precinct but there are not sufficient grounds for a recount in all precincts, the court shall order a recount oniy in the precincts for which sufficient grounds are stated and shome.
(2) The county cacount board of--canvessers shall recount votes only in those precincts and for those offices specified in the court order:-

Section 9. Section 13-16-307, HCA, is amended to read:
"13-16-307. Expenses of court-ordered recounte (1) The court in its order shall determine the probable expense of making the recount, and the applicant or applicants asking for the recount shall deposit with the board the amount determined in cash.
(2) If the recount shows that the applicant or


#### Abstract

applicants have been elected to the office, the deposit of each applicant shall be returned to hime. (3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost, the applicant shall pay the excess; but if the expense is less than the cost, the difference shall be refunded to the applicant. (4) Members of the cenvessing sounty cecount board and their clerks shall be compensated for theif time spent in eanvassing sonducting_the_recount-"

Section 10. Section 13-16-402. MCA, is amended to read: -13-16-402. Manner of recounting ballots. The county cegount board of-ermvessers in recounting the ballots shall count. at the same time, the votes cast in the precincts in which a recount is ordered for the several candidates in whose bohalf a recount is ordered in the following manner: (1) The registrar shall produce. unopened, unless it is necessary for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package, the sealed package or envelope received from the election judges of the precinct of precincts in which a recount is ordered, containing all ballots voted in the precinct or pracincts.


(2) A member of the county_cecount board of--eounty
eanvessers shall open the sealed package or envelope in thepresence of the other members，the registrart and theapplicant or applicants seeking the recount．
（3）A nember of the boars snall then remove the ballots from the package or envelope in the presence of the applicant or applicants seeking the recount and the candidate or candidates who received the highest number of votes by the first canvass．
（4）One of the nembers of the board，in the presence and view of the candidates anri one other board membery shall read each balfot aloud．As the ballots are ready two cierks shall write the votes cast for each person in each precinct． at full length，on previousiy prepared tally sheets．The tally sneets shall show the names of the respective candidates，the office or offices for which a recount is made，and the number of each election precinct．
（5）At the completion of the recount the tally sheets shall be compared，their correctness ascertained，and the total number of votes cast for each candidate determined．
（6）If the recount shows the votes for any applicant are more or less than the number shown upon the official returns，the clerk of the board ofmenvessers shall correct the original returns to state the number of votes ascertained by the recount．
（7）The board of－eonvossers shall direct the clerk of

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themaard to enter the result of the election as determined
by the recount on the board records.*
            Section 11. Section 13-16-403. MCA, is amended to
read:
            m3-16-403. Sealing recounted ballotse when the
recount in a precinct has been finished, the ballots shall
again be sealed in the same package or envelope in the
presence of the registrar and the members of the county
recaunt board of-eonvessers and shall be delivered to the
registrar for custody."
            Section 12. Section 13-35-227. MCA, is amended to
reads
    M13-35-227. Contributions from corporations, public
utifities, and otherse No corporation, bank, savings bank.
cooperative bank, savings and loan associatione trust,
surety, Indemnity, safe deposit, insurance, railroad, street
railway, telegraph, telephone. gas, electric light, neat.
power. canal. aqueduct. water, or cemetery or crematory
company or any company having the right to take or condemn
land or to exercise franchises in public ways granted by the
state or by any county, city, or town stroty may pay or
contribute in order to aid. promotes or prevent the
nomination or election of any person or in order to aid or
promote the interests, success, or defeat of any political
partyv or organization>-or-battot-issue. No person shatz
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nay solicit or receive such payment or contribution from
such corporation."
    Section 13. Section 13-36-111, mCA, is mmended to
read:
    m13-36-211. When nomination or election not to be
vacated. Nothing in the thirs ground of contest specified in
13-36-101(3) is to be so construed as to authorize a
nomination or election to be set aside on account of iblegal
votes, unless It appeer appears either:
    (1) that the candidate or nominee whose right is
contested had knowledge of or connived at such illegal
votes; or
    (2) that the number of illegal votes given to the
    person whose right to the nowination or office is contested,
    if taken from him, mould reduce the number of his legal
    votes below the number of votes given to some other person
    for the same nomination or officeq after deducting therefrom
    the illega) votes which may be shown to have been given to
    such other person.*
    Section 14. Severability. If a part of this act is
    invalid, all valid parts that are severable from the invalid
    part remain in effecte If a part of this act is invalid in
    one or more of its applications, the part remains in effect
    in all valid applications that are severable from the
    invalid applications.
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        -End-
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Approved by Committee
on State Administration
personal knowledge of the affiant that the person registered does not reside at the place designated on his registration card:
(4) whenever the--tnsentty-of the elector is tegetty estebtished of unsoctod wind as_established_byaccourt:
(5) whenever the incarceration of an elector in a penal institution for a felony conviction is legality established; or
(6) whenever a certified copy of a court order directing the cancellation is filed with the registrar.*

Section 2. Section 13-13-102, MCA, is amended to read:
13-13-102. Instruction cards and display of official ballots. (1) The registrar shall print on cards instructions to electors on how to vote.
(2) He shall furnish six cards to the election judges in each precinct and one additional card for each 50 registered electors or fractional part of 50 at the same time ballots are furnished.
(3) The election judges shall post at least one card in each compartment provided for the preparation of ballots and not less than three of the cards elsewhere about the polling place.
(4) The cards shall contain in bold large type:
(a) instructions on how to:
(i) obtain ballots for voting:
(ii) prepare ballots for deposit in the ballot box;
(iii) obtain a new ballot in place of one spoiled by actident: and
(b) a copy of 13-35-201: 13-35-292ttiv-fztrandut+tt z3-35-205t士t; 13-35-206tz+7-42tv-and-t0t+-43-35-207t5tv-f6iv and-f7f: 13-35-211t4t-ant-tzt; 13-35-214; 13-35-217i and 13-35-218titr-t3fv-ond-t4t
(5) Official ballots provided for in chapter 12 of this title shall be posted in each booth or compartment and in three conspicuous places about the polling place."

Section 3. Section 13-13-104, MCA, is amended to read:
-13-13-104. Marking precinct register book before elector votese (1) The election judges at every primary. general, or special election shall. in the precinct register
 name of the elector.
(2) Before an elector is permitted to votep the election judges shall require the elector to sign his name on the place designated in the precinct register.
(3) The election judjes shall require an elector not able to sign his name to produce two electors who shall make an affidavit before one or more of the elaction judges in 3 form prescribed by the secretary of state.
(4) The affidavit shall be filed by the election judges and returned to the registrar with the returns of the
election. Dne of the judges shall write the elector*s nane, noting the fact of his inability to signe and the names of the two electors.
(5) If the elector fails or refuses to sign his name and. if unable to write, falls to procure two electors who will take the oath required, he may not vote.
(6) Each precinct shall keep a list of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbook."

Section 4. Section 13-13-108, MCA, is amended to read:
"13-13-108. Aid to disabled elector. (l) The election judges shall aid an elector who because of physical disability or inability to read or write, needs assistance in marking his ballot.
(2) The elector shall be assisted by two judges who represent different parties. The disabled elector may request that a qualified elector he designates also aid him in voting. The election judges must certify on the officiat register opposite the disabled elector's name that the ballot was marked with their assistance and the name of any other elector designated. Neither the judges nor a person who aided the elector may reveal information regarding the ballot.
(3) The election judges shall require the declarit: "?
of disability by the elector to be under oath. They are
authorized to administer the oath.
(4) No elector, other than the one who is unable to
vote, may divulge to anyone within the polling place the
name of any candidate for whom he intends to vote or ask or
receive the assistance of any person within the polling
place in the preparation of his ballot.
(5) Instead of assistance as provided in subsection
(2), the elector may requesi the assistance of any qualified
elector whom he designates to the judges to ald him in the
marking of his ballot, and the judges mist certify on the
official register opposite the name of such disabled elector
that it was so marked with thetr the assistance of a
gesignated elector-"
Section 5. Section 13-15-501, MCA, is amended to read:
-13-15-50i. State returns, how made and transmitted. (1) After a general or special election, the clerk of the boacd of county canvassers shall make an abstract of the vote for congressional offices, state or district offices voted for in more than one county, members of the legislature, and judges of the district court.
(2) The clerk shall seal the abstract, endorse it "Election Returns*, and immediately send it to the secretary of state by certified or registered mail."
Section 6. Section 13-16-301, MCA, is amended to read:
-13-16-301. Appiication and court order for recount. (1) Within 5 days after the canvass of election returns, an unsuccessful candidate for any public office at a general, special or city election map aply to the distfict court of the county where the election was held for an order directing the eonvessing-body county recomot hoard to make a recount of the votes cast in any or all of the precincts.
(2) The application shall specify the grounds for a recount and be verified by the appilicant that the matters contained in it are true to the best of the applicant's knowledge. informetion. and bellef.
(3) Within 5 days after filing of the application, the judge shall hear the application and detersine its sufficiency-
(4) If the judge finds there is probable cause to believe that the votes cast for the applicant were not correctly counted, he shall order the boerdr-ef county eenvessers cecount hoard to assemble within 5 days after the order is issued at a time and place flxed by the order. The board shall meet and recount the ballots as specified in the order."

Section 7. Section 13-16-304, MCA, is amended to read:
-13-16-304. Ordering in another judge - jurisdiction. (1) If the juage of the district court of the county in which the election is held is for any reason disqualified

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from acting, the judge or a supreme court justice shall order another district judge to hear and determine the application.
(2) The district court shall not lose jurisaliction of the case by failure to hear and determine the application within the prescribed titae but shall retain jurisdiction until the cause is finally determined and the final count is wade by the county_recount board of-eanty-eanvossers-"

Section B. Section 13-16-305, MCA, is amended to read:
-13-16-305. Limitation of recount to certain precincts. (1) If the application asks for a recount in more than one precinct but there are not sufficient grounds for a recount in all precinctsp the court shall order a recount only in the precincts for which sufficient grounds are stated and shown.
(2) The county cercmant board of-etrossers shall recount votes only in those precincts and for those offices specified in the court ordere"

Section 9. Section 13-16-307, MCA, is aeended to read:
=13-16-307. Expenses of court-ordered recount. (1) The court in its order shall determine the probable expense of making the recount, and the applicant or applicants asking for the recount shall deposit with the board the amount determined in cash.
(2) If the recount shows that the applicant or
applicants have been elected to the office the deposit of each applicant shall be returned to hian
(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost. the applicant shall pay the excess; but if the expense is less than the cost, the difference shall be refunded to the applicant.
(4) Members of the eonvessing county cecount board and their clerks shall be compensated for their time spent in compessing conducting_the recount."

Section 10. Section 13-16-402. HCA, is amended to reads
"13-16-402. Manner of recounting ballots. The county cecount board of-eanvessers in recounting the ballots shall count. at the same time, the votes cast in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:
(1) The registrar shall produce, unopened. unless it is necessary for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package, the sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered. containing all ballots voted in the precinct or precincts.
(2) A member of the county recount board of--ec.aty
eonvossers shali open the sealed package or envelope in the presence of the other nembers, the registrarg and the applicant or applicants seeking the recount.
(3) member of the board shall then remove the ballots from the package or envelope in the presence of the appiticant or applicants seeking the recount and the candidate or candidates who received the highest number of votes by the first canvass.
(4) One of the mesbers of the board. in the presence and view of the candidates and one other board member shall read each ballot aloud. As the ballots are read. two clerks shall write the votes cast for each person in each precinct. at full length, on previousily prepared tally sheets. The tally sheets shall show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct.
(5) At the completion of the recount, the tally sheets shall be compared their correctness ascertained, and the total number of votes cast for each candidate determined.
(6) If the recount shows the votes for any applicant are more or less than the number shown upon the officiat returns, the clerk of the board of-convossers shall corfect the original returns to state the number of votes ascertained by the recount.
(7). The board of-eanvessers shall direct the clerk of
> the board to enter the result of the election as determined by the recount on the board records**

> Section 1l. Section 13-16-403. MCA, is amended to read:
> -13-16-403. Sealing recounted ballots. when the recount in a precinct has been finishede the ballots shall again be sealed in the same packaje or envelope in the presence of the registrar and the members of the county cecount board of-esmbessers and shall be delivered to the registror for custody. =

Section 12. Section 13-35-227, MCA, is amended to read:
"13-35-227. Contributions fron corporations, public utilities, and otherse No corporation, bank, savings bank. cooperative bank: savings and loan association. trust. surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat. power. canal. aqueduct, water, or cemetery or crematory company or any company having the right to take or condemn land or to exercise franchises in public ways granted by the state or by any county, city, or town shett may pay or contribute in order to aid, promoter or prevent the nomination or election of any person or in order to aid or promote the interestsp successp or defeat of any political partyp or organizationt-or-batłot-issue. No person shat*


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may solicit or receive such payment or contribution from
such corporation."
    Section 13. Section 13-36-211, MCA, is amended to
read:
"13-36-21I. When nomination or election not to be vacated. Nothing in the thtrd ground of contest specified in 13-36-101(3) is ta be so construed as to authorize a monination or efection to be set aside on account of illegal votes, unless it epperer appears either:
(1) that the candidate or nominee whose right is contested had knowledge of or connived at such illegal votes: or
(2) that the number of illegal votes given to the person whose right to the nomination or office is contested. if taken from him: would reduce the number of his legal votes below the number of votes given to some other person for the same nomination or office, after deducting therefrom the illegal votes which may be shown to have been given to such other person."
Section 14. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
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by request of the code commissioner
A BILL FOR AN ACT ENTITLED: AN ACT TO GENERALLY REVISE AND
CLARIfy the lans relating to elections: amending sections
13-16-301, 13-16-304, 13-26-305, 13-16-307. 13-16-402.
3-16-403, 13-35-227, AND 13-36-211, MCA. $=$
Section l. Section 13-2-402, MCA, is amended to read:
-13-2-402. Cancellation of registration for other
(1) at the written request of the person registered;
(2) if a certificate of the death of any elector is
filed or if an elector is reported as deceased by the
department of health and environmental sciences in the
department*s reports submitted to the county under
(3) whenever 45 days or more prior to the closing of
registration, three qualified registered electors residing
within the precinct challenge an elector by filing
registry number. and his residencev and stating of the
personal knowledge of the affiant that the person registered does not reside at the place designated on his registration card:
(4) whenever the-tmeantty-of the elector is fegatyy estebtisted of unsound nind_as_establishad by a_courti:
(5) Wenever the incarceration of an elector in a penal institution for a fellony conviction is legaliy established; or
(6) whenever. a certified copy of a court order directing the cancellation is filed with the registrar."

Section 2. Section 13-13-102. MCA. is amended to reads
-13-13-102. Instruction cards and display of official ballots. (1) The registrar shall print on cards instructions to electors on how to vote.
(2) He shall furnish six cards to the election judges in each precinct and one additional card for each 50 registered electors or fractional part of 50 at the same time ballots are furnished.
(3) The efection judges shall post at least one card in each compartment provided for the preparation of ballots and not less than three of the cards elsewhere about the polling place.
(4) The cards shall containg in bold large type:
(a) instructions on how to:
(i) obtain ballots for voting;
(ii) prepare ballots for deposit in the ballot box:
(iii) obtain a new ballot in place of one spoiled by accident; and
(b) a copy of 13-35-201; 13-35-202ttiv-tttrand-t4tt
 ond-t7t; 13-35-211t4t-ond-tet; 13-35-214; 13-35-217; and 13-35-218+1ty-t3tw- ond-t4t.
(5) Official ballots provided for in chapter 12 of this title shall be posted in each booth or compartment and in three conspicuous places about the polling place."

Section 3. Section 13-13-104, HCA. is amended to read:
-13-13-104. Marking precinct register book before elector votes. (1) The election judges at every primary, general * or special election shalli. in the precinct register
 name of the elector.
(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his name on the place designated in the precinct register.
(3) The election judges shali require an elector not able to sign his name to produce two electors who shall wake an affidavit before one or more of the elaction judges in a form prescribed by the secretary of state.
(4) The affidavit shall be filed by the election judges and returned to the registrar with the returns of the
election. One of the judges shall write the elector"s name, noting the fact of his inability to signe and the names of the two electors.
(5) If the elector fails or refuses to sign his name ande if unable to write, fails to procure two electors who will take the oath required. he may not vote.
(6) Each precinct shall keep a iist of persons voting, and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the pollbooke"

Section 4e Section 13-13-108, MCA, is amended to read:
"13-13-108. Aid to disabled elector. (1) The election judges shall aid an elector who because of physical disability or inability to read or write, needs assistance in marking his ballote
(2) The elector shall be assisted by two judges who represent different parties. The disabied elector mar request that a qualified elector he designates also aid him in voting. The election judges must certify on the official register opposite the disabied elector*s name that the ballot mas marked with their assistance and the name of any other elector designated. Nelther the judges nor a person who aided the elector may reveal information regarding the ballot.
(3) The election judges shall require the declaration

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of disability by the elector to_ be under oath. They are
authorized to administer the oath.
(4) No elector, other than the one who is unable to vote, may divulge to anyone within the polling place the name of any candidate for whom he intends to vote or ask or receive the assistance of any person within the polling place in the preparation of his ballot.
(5) Instead of assistance as provided in subsection (2), the elector may request the assistance of any qualified elector whom he designates to the judges to aid him in the marking of his ballot, and the judges wust certify on the official register opposite the name of such disabled elector that it was 50 marked with thetr the assistance of a designated elector."
Section 5. Section 13-15-501, HCA, is amended to read:
"13-15-501. State returns, how made and transmitted. (1) After a general or special election, the clerk of the board_of county canyassers shall make an abstract of the vote for congressional offices, state or district offices voted for in more than one county, members of the legislature, and judges of the district court.
(2) The clerk shall seal the abstract, endorse it "Election Returns", and immediately send it to the secretary of state by certified or registered mail."
Section 6. Section 13-16-301, MCA, is amended to read:
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-13-16-301. Application and court order for recount. (1) within 5 days after the canvass of election returns, an unsuccessful candidate for any public office at a general, special. or city election may apply to the district court of the county were the election was held for an order directing the edrwessing-body cmaty recount hoard to make a recount of the votes cast in any or all of the precincts.
(2) The application shall specify the grounds for a recount and be verified by the applicant that the matters contained in it are true to the best of the applicantes knowledge, information, and belief.
(3) Within 5 days after filing of the application, the judge shall hear the application and determine its sufficiency.
(4) If the judge finds there is probable cause to believe that the votes cast for the applicant were not correctly counted. he shall order the boert-of county eenvossers recount haacd to assemble within 5 days after the order is issued at a time and piace fixed by the order. The board shall meet and recount the ballots as specified in the order."

Section 7. Section 13-16-304, MCA, is amended to read:
"13-16-304. Ordering in another judge - jurisdiction. (1) If the judge of the district court of the county in which the election is held is for any reason disqualified

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from acting. the judge or a supreme court justice shall
order another district judge to hear and determine the application.
(2) The district court shall not lose jurisoiction of the case by failure to hear and determine the application within the prescribed time but shall retain jurisdiction until the cause is finally determined and the finsl count is made by the comnty cecount boor d of-conty-eenvossers."
Section B. Section 13-16-305, MCA, is amended to read:
-13-16-305. Livitation of recount to certain precincts. (1) if the application asks for a recount in more than one precinct but there are not sufficient grounds for a recount in all precinctsp the court shall order a recount only in the precincts for which sufficient grounds are stated and shown.
(2) The county rechunt board of-esnvessers shall recount votes only in those precincts and for those offices specified in the court order."
Section 9. Section 13-16-307, MCA, is amended to read:
-13-16-307. Expenses of court-ordered recounte (1) The court in its order shall determine the probable expense of making the recount, and the applicant or applicants asking for the recount shall deposit with the board the amount determined in cash.
(2) If the recount shows that the applicant or
*aplicationo
    incts. (1) If the application asks for a recount in mor -13-16-307. Expenses of court-ordered recounte (1) the
applicants have been elected to the office, the deposit of each applicant shall be returned to hime
(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost. the applicant shall pay the excess; but if the expense is less than the cost, the difference shall be refunded to the applicant.
(4) Members of the convassing county cecosint board and their clerks shall be compensated for their time spent in cenvessing canducting the recaunt."

Section 10. Section 13-16-402. MCA, is amended to read:
-13-16-402. Manner of recounting ballots. The county cecount board of-eenvessers in recounting the ballots shall count. at the same time, the votes cast in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:
(1) The registrar shall produce, unopened, unless it is necessary for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package, the sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all ballots voted in the precinct or precincts.
(2) A member of the county recount board of-reounty
eanvassers shall open the sealed package or envelope in the
presence of the other memberst the registrar, and the
applicant or applicants seeking the recount.
    (3) A member of the board shall then rewove the
ballots from the package or envelope in the presence of the
applicant or applicants seeking the recount and the
candidate or candidates who received the highest number of
votes by the first canvass.
(4) Dne of the members of the board. in the presence and view of the candidates and one other board membere shall read each ballot aloude As the ballots are read, two clerks shall write the votes cast for each person in each precinct. at full length, on previously prepared tally sheetse The tally sheets shall show the names of the respective candidates, the office of offices for which a recount is made, and the number of each election precinct.
(5) At the completion of the recount, the tally sheets shall be compared, their correctness ascertained. and the total number of votes cast for each candidate determined.
(6) If the recount shows the votes for any applicant are more or less than the number shown upon the official returns, the clerk of the board of-eenvessers shall correct the original returns to state the number of votes ascertained by the recount.
(7) The board of-eenvessers shall direct the clerk of

\section*{the board to enter the result of the election as determined} by the recount on the board records="

Section lle Section 13-16-403. MCA, is amended to read:
-13-16-403. Sealing recounted ballotse When the recount in aprecinct has been finished, the ballots shall again be sealed in the same package or envelope in the presence of the registrar and the mewbers of the county [ecount board of-eenversepy and shall be delivered to the registrar for custody. \({ }^{*}\)

Section 12. Section 13-35-227. MCA, is amended to read:
"13-35-227. Contributions from corporations, public utilities, and others. No corporation bank savings bank. cooperative bank: savings and loan association trust. surety, indemity, safe deposity insurance, railroade street railway, telegraph, telephone gas, electric light, heat* power. canal, aqueduct, water, ar cemetery or crematory company or any company having the right to take or condemn land or to exercise franchises in public ways granted by the state or by any county. city, or town shott gay pay or contribute in order to aid, promote, or prevent the nomination or election of any person or in order to aid or promote the interests, success, or defeat of any political partyp of organizationv-or-bettot-issute. No person shett
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SB 112
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max solicit or receive such payment or contribution from
such corporation.*
Section 13. Section 13-36-2l1, MCA, is amended to
read:
-13-36-211. When nomination or efection not to be
vacated. Nothing in the third ground of contest specified in
13-36-101(3) is to be so construed as to authorize a
nomination or election to be set aside on account of illegal
votes, unless te eppesr appears either:
(1) that the candidate or nowinee whose right is
contested had knowledge of or connived at such illegal
votes; or
(2) that the number of illegal votes given to the
person whose right to the momination or office is contested.
if taken frow himp would reduce the number of his legal
votes below the number of votes given to some other person
for the same nowination or office. after deducting therefrom
the illegal votes which may be shown to have been given to
such other person."
Section 14. Severability. If a part of this act is invalide all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications: the part remains in effect in all valid applications that are severable from the invalid applications.

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            SENATE BILL NO. 112
            INTRODUCED EY GRAHAM
            by reouest of the code commissioner
    A BTLL FOR AN ACT ENTITLED: *AN ACT TO GENERALLY REVISE AND
Clarify the lans relating to elections; amending sections
13-2-402. 13-13-102. 13-13-104. 13-13-108. 13-15-501.
13-16-301, 13-16-304, 13-16-305, 13-16-307. 13-16-402,
13-16-403, 13-35-227, AND 13-36-211, MCA."
be It enacteo by the legiSlature of the state of montana:
Section 1. Section 13-2-402. MCA, is amended to read:
m13-2-402. Cancellation of registration for other
reasons. The reqistrar shall cancel any registration card:
(1) at the written request of the person registered;
(2) if a certificate of the death of any elector is
filed or if an elector is reported as deceased by the
department of health and environmental sciences in the
department*s reports submitted to the county under
72-16-217;
(3) Whenever 45 days or more prior to the closing of
registration, three qualified registered electors residing
within the precfnct challenge an elector by flling
affidavits giving the nawe of the challenged elector, his
registry number, aad his residencev and stating of the

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personal knowledge of the affiant that the person registered does not reside at the place designated on his registration card
(4) whenever the--insenity--of the elector is tegatty estabt+othed of_unsound_mios_as_establlshed_by_canct \(;\)
(5) wHenever the incarceration of an elector in a penal institution for a felony conviction is legally established: or
(6) whenever a certified copy of a court order directing the cancellation is filed with the registrar."

Section 2. Section 13-13-102, MCA, is amended to read:
-13-13-102. Instruction cards and display of official ballots (1) The registrar shall print on cards instructions to electors on how to vote.
(2) He shall furnish six cards to the election judges in each precinct and one additional card for each 50 registered electors or fractional part of 50 at the same time ballots are furnished.
(3) The election judges shall post at least one card in each compartment provided for the preparation of ballots and not less than three of the cards elsewhere about the polling place.
(4) The carts shall contain. in bold large type:
(a) instructions on how to:
(i) obtain ballots for voting;


REFEREnCE BILL
(ii) prepare ballots for deposit in the ballot box;
(iii) obtain a new batiot in place of one spolied by accident; and
(b) a copy of 13-35-201: 13-35-202tttr-tztr-end-t4t \(t 3-35-205+t+\) : \(13-35-206 t+7 v-42 t v-a n d-t 6+t-t 3-35-2 \theta 7+5+7-t 6+7\) end-t7+; 13-35-211tit-ond-4et; 13-35-214; 13-35-217; and 13-35-218tit+-t3tv-ond-f4t。
(5) Official ballots provided for in chapter 12 of this title shalit be posted in each booth or compartment and in three conspicuous places about the polling place."

Section 3. Section 13-13-104, MCA. is amended to read:
-13-13-104. Merking precinct register book before elector votese (1) The election judges at every primary, general. or special election shall. in the precinct register book. mark e-ceses-f朝 an-me upon the line opposite the to name of the elector.
(2) Before an elector is permitted to vote, the election judges shall require the elector to sign his nase on the plece designated in the precinct register.
(3) The election judges shall require an elector not able to sign his name to produce two electors who shall make an affidavit before one or more of the election judges in a form prescribed by the secretary of state.
(4) The affidavit shall be filed by the election judges and returned to the registrar with the returns of the
election. Dne of the judges shall write the elector"s name, noting the fact of his inability to signi and the names of the two electors.
(5) If the elector fails or refuses to sign his name and, if unable to write, fails to procure two electors who will take the oath required, he may not vote.
(6) Each precinct shall keep a list of persons voting. and the name of each person who votes shall be entered in it and numbered in the order voting. This list is known as the polloook."

Section 4. Section 13-13-108, NCA, is amended to read:
"13-13-208. Aid to disabled elector. (1) The election judges shall aid an elector who, because of physical disability or inability to read or write, needs assistance in marking his ballot.
(2) The elector shall be assisted by two judqes who represent different parties. The disabled elector may request that a qualified elector he designates also aid him in voting. The election judges must certify on the official register opposite the disabled elector's name that the ballot was marked with their assistance and the name of any other elector designated. Neither the judges nor a person who dided the elector may reveal information regarding the ballot.
(3) The election judges shall requife the declaration
of disability by the elector to be under oath. They are authorized to administer the oath.
(4) No elector, other than the one who is unable to vote, may divulge to anyone within the polling place the name of any candidate for whom intends to vote or ask or receive the assistance of any person within the polling place in the preparation of his ballot.
(5) Instead of assistance as provided in subsection (2), the efector may request the assistance of any qualified elector whom he designates to the judges to aid hia in the marking of his ballot, and the judges must certify on the official register opposite the name of such disabled elector that it was so marked with thetr the assistance of a designated_elector*"

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m13-15-501. State returns, how made and transmitted. (l) After a general or special election, the clerk of_-tbe Dgard_of_county_canyassers shall make an abstract of the vote for congressional officesp state or district offices voted for in more than one county, members of the legislature, and judges of the district court.
(2) The clerk shall seal the abstract, endorse it "Election Returns". and immediately send it to the secretary of state by certified or registered mail."

Section 6. Section 13-16-301. MCA. is amended to read:
-13-16-301. Appification and court order for recount. (1) within 5 days after the canvass of alection returns, an unsuccessful candidate for any pubilic office at a general. special, or city election may apply to the district court of the county where the election was held for an order directing the ennossing-body county cecount board to make a recount of the votes cast in any or all of the precincts.
(2) The application shall specify the grounds for a recount and be verified by the applicant that the atters contained in it are true to the best of the applicant's knowledge, information. and belief.
(3) Within 5 days after filing of the application, the judge shall hear the application and deterfine its sufficiency.
(4) If the juage finds there is probable cause to believe that the votes cast for the applicant were not correctly counted, he shall order the board--of county conrosgerg cecount board to assemble within 5 days after the order is issued at a time and place fixed by the order. The bodrd shall meet and recount the ballots as specified in the order."

Section 7. Section 13-16-304. MCA, is amended to read:
-13-16-304. Ordering in another judqe -- jurisdiction. (1) If the fudge of the district court of the county in which the election is held is for any reason disqualified
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from acting. the judge or a supreme court Justice shall
order another district judge to hear and determine the
application.
(2) The district court shall not lose jurisdiction of the case by failure to hear and determine the application within the prescribed time but shall retain jurisdiction until the cause is finaliy determined and the final count is made by the county cescunt board of-county-eonvassers."
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Section 9. Section 13-16-307, MCA, is amended to read:
-13-16-307. Expenses of court-ordered recount. 11) The court in its order shall determine the probable expense of making the recount. and the applicant or applicants asking for the recount shall deposit with the board the amount determined in cash.
(2) If the recount shows that the applicant or

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applicants have been elected to the office, the deposit of each appilicant shall be returned to him.
(3) If the recount shows that an applicant has not been elected and the expense of the recount is greater than the estimated cost. the applicant shall pay the excess; but if the expense is less than the cost, the difference shall be refunded to the applicant.
(4) Members of the eonvassing county recount board and their clerks shall be compensated for their time spent in eenvassing conducting_the_recount."

Section 10. Section 13-16-402, MCA, is amended to read:
-13-16-402. Manner of recounting ballots. The county cecpunt board of-eonrossers in recounting the ballots shall count, at the same time, the votes cast in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:
(1) The registrar shall produce. unopened, unless it is necessery for the registrar to open the package or envelope to secure election materials which have been sealed in the wrong envelope or package. the sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered. containing all ballots voted in the precinct or precincts.
(2) A member of the county_recount board of--eounty
eanvessers shall open the sealed package or envelope in the presence of the other members* the registrarg and the applicant or applicants seeking the recount.
(3) member of the board shall then remove the ballots from the package or envelope in the presence of the applicant or applicants seeking the recount and the candidate or candidates who received the highest number of votes by the first canvass.
(4) One of the members of the board, in the presence and view of the candidates and one other board meaber, shall read each balbot aloud. As the ballots are read, two clerks shall write the votes cast for each person in each precinct. at full length, on previously prepared tally sheets. The tally sheets shall show the names of the respective candidatest the office or offices for which a recnunt is made, and the number of each election precinct.
(5) At the completion of the recount the tally sheets shall be compared, their correctness ascertained, and the total number of votes cast for each candidate determined.
(6) If the recount shows the votes for any applicant are more or less than the number shown upon the official returns, the clerk of the board of-eanvessers shall correct the original returns to state the number of votes ascertained by the recount.
(7) The board of-eanvessers shall direct the clerk of

Lhe board to enter the result of the election as deternined by the recount on the board records."

Section ll. Section 13-16-403. MCA, is amended to read:

113-16-403. Sealing recounted ballotse when the recount in a precinct has been finished, the ballots shall again be sealed in the same package or envelope in the presence of the registrar and the members of the sounty Leceunt board of-eanvaseers and shall be delivered to the registrar for custody."

Section 12. Section 13-35-227. MCA, is amended to read:
-13-35-227 ( Contributions from corporations. public utilities, and others. No corporation, bank, savings bank, cooperative bank, savings and loan asseciation truste suretyp indemity, safe deposit. insurance, raifroad, street railway, telegraph, telephone, gas. electric light, heat. power. canal. aqueduct. water, al cemetery or crematory company or any company having the right to take or condemn land or to exprcise franchises in public ways granted by the state or by any county, city, or town shott eax pay or contribute in order to aid. promote, or prevent the nomination or election of any person or in order to aid or promote the interests, success, or defeat of any political partyp ol organization*-or-battot-issue. No person shoty
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may solicit or receive such payment or contribution from
such corporation.*
Section 13. Section 13-36-211, MCA, is amended to
read:
m13-36-211. When nomination or election not to be
vacated. Nothing in the entrd ground of contest specified in
13-36-101(3) is to be so construed as to authorize a
nomination or election to be set aside on account of illegal
votes, unless it eppeer appeacs either:
(1) that the candidate or nominee whose right is
contested had knowledge of or comived at such illegal
votes; or
(2) that the number of illegal votes given to the
person whose right to the nomination or office is contested,
if taken from him. would reduce the number of his legal
votes below the number of votes given to some other person
for the same nomination or office* after deducting therefron
the lllegal votes which may be shown to have been given to
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Section 14. Severabilltye If a part of this act is
invalid, all valid parts that are severable from the invalid
part remain in effecte If part of this act is invalid in
one or more of its applications. the part remains in effect
in all valid applications that are severabie from the
invalid applications.
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