

1 HOUSE BILL NO. 643  
2 INTRODUCED BY G. CUSTER  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE ELECTRONIC  
5 TRANSMISSION OF A BALLOT BY A DISABLED ELECTOR; ALLOWING A DISABLED ELECTOR TO  
6 RETURN A VOTED BALLOT USING AN ENCRYPTED ELECTRONIC TRANSMISSION SYSTEM APPROVED  
7 BY THE SECRETARY OF STATE UNDER CERTAIN CIRCUMSTANCES; REQUIRING THE SECRETARY OF  
8 STATE TO ADOPT ENCRYPTION AND SECURITY STANDARDS FOR AN ELECTRONIC TRANSMISSION  
9 SYSTEM; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; AMENDING  
10 SECTION 13-13-246, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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14 **Section 1.** Section 13-13-246, MCA, is amended to read:

15 **"13-13-246. Electronic ballots for disabled persons -- procedures -- definition -- rulemaking. (1)**

16 (a) Upon a written or an in-person request from a legally registered or provisionally registered elector with a  
17 disability, an election administrator shall provide the elector with an electronic ballot.

18 (b) The request may be made by electronic mail.

19 (2) (a) After receiving a request and verifying that the elector is legally registered or provisionally  
20 registered, the election administrator shall provide to the elector an electronic ballot, instructions for completing  
21 the ballot, a secrecy envelope or secrecy cover sheet, and a transmittal cover sheet that includes an elector  
22 affirmation. If the elector is provisionally registered, the election administrator shall include instructions about  
23 what information the elector shall include with the voted ballot pursuant to 13-13-201(4).

24 (b) The election administrator shall maintain an official log of all ballots provided pursuant to this  
25 section.

26 (c) After voting the ballot, the elector shall print the ballot, place it in the secrecy envelope, sign the  
27 affirmation, including by fingerprint, mark, or agent pursuant to 13-1-116, or provide a driver's license number or  
28 the last four digits of the elector's social security number. If the voter returns the ballot electronically, in lieu of

1 placing the ballot in the secrecy envelope, the elector shall place the ballot behind the secrecy cover sheet. If  
2 the elector is provisionally registered, the elector shall also return sufficient voter identification and eligibility  
3 information to allow the election administrator to determine pursuant to rules adopted under 13-2-109 that the  
4 elector is legally registered. The elector shall return the voted ballot and affirmation in a manner that ensures  
5 both are received by 8 p.m. on election day.

6 (d) An elector may return the voted ballot and affirmation in the regular mail provided they are  
7 received at the office of the election administrator by 8 p.m. on election day. A valid ballot must be counted if it  
8 is received at the office of the election administrator by 8 p.m. on election day.

9 (e) An elector may return the voted ballot and affirmation electronically in a federal primary or federal  
10 general election provided that they are received at the office of the election administrator by 8 p.m. on election  
11 day. The ballot and affirmation must be transmitted electronically using a secure, encrypted electronic  
12 transmission system approved by the secretary of state as provided in subsection (5).

13 (3) After receiving a ballot and secrecy envelope or secrecy cover sheet and if the validity of the ballot  
14 is confirmed pursuant to 13-13-241, the election administrator shall log the receipt of the ballot and process it  
15 as required in Title 13, chapter 13. If the ballot is rejected, the election administrator shall notify the elector  
16 pursuant to 13-13-245.

17 (4) (a) When performing the procedures prescribed in 13-13-241(7) to open secrecy envelopes, an  
18 election official shall place in a secure absentee ballot envelope any ballot returned pursuant to this section that  
19 requires transcription. No sooner than the time provided in 13-13-241(7), the election administrator shall  
20 transcribe the returned ballots using the procedure prescribed below and in accordance with any rules  
21 established by the secretary of state to ensure the security of the ballots and the secrecy of the votes.

22 (b) No fewer than three election officials shall participate in the transcription process to transfer the  
23 elector's vote from the received ballot to the standard ballot used in the precinct.

24 (c) A number must be written on the secrecy envelope that contains the original voted electronic  
25 ballot, and the same number must be placed on the transcribed ballot and in the official log.

26 (d) The election officials who transcribed the original voted electronic ballot shall sign the log next to  
27 the number.

28 (e) No one participating in the ballot transmission process may reveal any information about the

1 ballot.

2 (5) The secretary of state shall adopt rules to implement and administer this section, including but not  
3 limited to:

4 (a) rules to ensure the security of the ballots and the secrecy of the votes; and

5 (b) rules to protect the accuracy, integrity, and secrecy of a ballot transmitted electronically by the  
6 encrypted electronic transmission system. The rules must include encryption and security standards for an  
7 electronic transmission system before the system may be approved by the secretary of state for use under this  
8 section.

9 (6) For the purposes of this section, "disability" has the meaning provided in 13-3-202."  
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11 **NEW SECTION. Section 2. Appropriation.** There is appropriated \$10,000 from the general fund to  
12 the secretary of state for the fiscal year beginning July 1, 2021, for the costs of designing, programming, and  
13 otherwise implementing an encrypted electronic transmission system as described in [this act].  
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15 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2021.  
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17 **COORDINATION SECTION. Section 4. Coordination instruction.** If both Senate Bill No. 15 and  
18 [this act] are passed and approved and both include a section that amends 13-13-246, then:

19 (1) [section 15 of Senate Bill No. 15], amending section 13-13-246, is void;

20 (2) [section 1(4)(c) of this act], amending 13-13-246, must be amended to read: "(c) A number must  
21 be written on the secrecy envelope or the secrecy cover sheet that contains the original voted electronic ballot,  
22 and the same number must be placed on the transcribed ballot and in the official log."

23 (3) [section 1 of this act], amending 13-13-246, must be amended to strike subsection (6).  
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25 **NEW SECTION. Section 5. Applicability.** [This act] applies to federal primary and federal general  
26 elections beginning with the federal general election held in November 2022.

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