

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 **NEW SECTION. Section 4. Applicability.** [This act] applies to federal primary and federal general
18 elections beginning with the federal general election held in November 2022.
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