

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0767.01 Alison Killen x4350

SENATE BILL 26-119

SENATE SPONSORSHIP

Mullica,

HOUSE SPONSORSHIP

Carter and Lukens,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING THE AUTHORIZATION OF ELECTRONIC BALLOT RETURN
102 IN LOCAL ELECTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill amends the "Colorado Local Government Election Code" (local code) and the "Colorado Municipal Election Code of 1965" to add authorization for special districts and municipalities to use electronic ballot return in elections under the local code. Electronic ballot return allows a voter to return a marked ballot to the designated election official or clerk using a qualified electronic transmission system. A qualified

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

electronic transmission system must:

- Provide for secure identification and authentication;
- Transmit encrypted information over a secure network;
- Protect the privacy, anonymity, and integrity of each elector's ballot;
- Protect against abuse; and
- Provide any additional security or other measures identified as necessary in the rules of the secretary of state.

The designated election official or clerk is responsible for ensuring electronic ballot returns are anonymously transcribed to paper ballots, counted, and secured pursuant to the law for all ballots. Any electronic data generated by an elector using the electronic transmission system is confidential. The secretary of state is required to publish guidance and may also adopt rules as necessary to further specify the qualifications for an electronic transmission system used for electronic ballot return.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 1-13.5-502, **amend**
3 (1) as follows:

4 **1-13.5-502. Notice of election.**

5 (1) The designated election official, at least twenty days before
6 each local government election, shall give written notice of the election
7 stating the date of the election and the location and hours during which
8 the polls will be open; the date ballots have or may be mailed if the
9 election is conducted by mail ballot; THE PROCEDURE FOR ACCESSING THE
10 ELECTRONIC TRANSMISSION SYSTEM IF THE ELECTION IS TO BE CONDUCTED
11 BY ELECTRONIC BALLOT RETURN; mail ballot drop-off locations; names of
12 the officers to be elected and any ballot issues and ballot questions to be
13 voted upon; and the names of those candidates whose nominations have
14 been certified to the designated election official, which listing must be as
15 nearly as possible in the form in which such nominations will appear
16 upon the official ballot. For an independent mail ballot election, the
17 notice does not need to include the text of the ballot issues or ballot

1 questions. A copy of the notice must be posted until after the election in
2 a conspicuous place in the office of the designated election official. A
3 copy of the notice must be mailed or sent via electronic mail to the county
4 clerk and recorder.

5 **SECTION 2.** In Colorado Revised Statutes, **add** 1-13.5-606.5 as
6 follows:

7 **1-13.5-606.5. Electronic ballot return - qualified electronic**
8 **transmission system - requirements - rules - definitions.**

9 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

11 (a) "ELECTRONIC BALLOT RETURN" MEANS A SYSTEM THAT
12 ALLOWS AN ELIGIBLE ELECTOR TO CAST AND RETURN A BALLOT
13 ELECTRONICALLY TO THE DESIGNATED ELECTION OFFICIAL.

14 (b) "ELECTRONIC TRANSMISSION SYSTEM" MEANS AN ELECTRONIC
15 SYSTEM THAT PROVIDES FOR THE SECURE TRANSMISSION OF ELECTRONIC
16 BALLOT RETURNS.

17 (2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 13.5 TO
18 THE CONTRARY, THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY
19 DETERMINE THAT AN ELECTION SHALL BE CONDUCTED BY ELECTRONIC
20 BALLOT RETURN IN ACCORDANCE WITH THE REQUIREMENTS OF THIS
21 SECTION AND MAY SPECIFY THE ELECTRONIC TRANSMISSION SYSTEM TO BE
22 USED BY THE DESIGNATED ELECTION OFFICIAL FOR THE LOCAL
23 GOVERNMENT.

24 (3) THE DESIGNATED ELECTION OFFICIAL FOR A LOCAL
25 GOVERNMENT SHALL CONDUCT AN ELECTRONIC BALLOT RETURN ELECTION
26 USING AN ELECTRONIC TRANSMISSION SYSTEM AS SPECIFIED BY THE
27 GOVERNING BODY OF THE LOCAL GOVERNMENT PURSUANT TO SUBSECTION

1 (2) OF THIS SECTION AND THAT MEETS THE QUALIFICATIONS OF THIS
2 SECTION.

3 (4) TO QUALIFY FOR THE USE OF ELECTRONIC BALLOT RETURN IN
4 AN ELECTION PURSUANT TO THIS SECTION, AN ELECTRONIC TRANSMISSION
5 SYSTEM MUST:

6 (a) PROVIDE FOR SECURE IDENTIFICATION AND AUTHENTICATION;

7 (b) TRANSMIT ENCRYPTED INFORMATION OVER A SECURE
8 NETWORK;

9 (c) PROTECT THE PRIVACY, ANONYMITY, AND INTEGRITY OF EACH
10 ELECTOR'S BALLOT;

11 (d) PROTECT AGAINST ABUSE; AND

12 (e) PROVIDE ANY OTHER SECURITY, INTEGRITY, AUDITABILITY, OR
13 ACCESSIBILITY MEASURE IDENTIFIED IN THE RULES OF THE SECRETARY OF
14 STATE AS NECESSARY FOR THE QUALIFICATION OF AN ELECTRONIC
15 TRANSMISSION SYSTEM TO BE USED FOR ELECTRONIC BALLOT RETURN.

16 (5) (a) THE DESIGNATED ELECTION OFFICIAL FOR A LOCAL
17 GOVERNMENT THAT IS USING ELECTRONIC BALLOT RETURN SHALL ENSURE
18 THAT EACH BALLOT RECEIVED THROUGH THE QUALIFIED ELECTRONIC
19 TRANSMISSION SYSTEM IS ANONYMOUSLY TRANSCRIBED TO A PAPER
20 BALLOT.

21 (b) THE DESIGNATED ELECTION OFFICIAL, OR THE DESIGNATED
22 ELECTION OFFICIAL'S DESIGNEE, SHALL SECURE, COUNT, MAINTAIN, AND
23 STORE THE PAPER BALLOTS TRANSCRIBED PURSUANT TO SUBSECTION
24 (5)(a) OF THIS SECTION IN THE SAME MANNER AS IS REQUIRED FOR ALL
25 BALLOTS PURSUANT TO THIS ARTICLE 13.5.

26 (6) ANY ELECTRONIC DATA GENERATED BY AN ELECTOR USING A
27 QUALIFIED ELECTRONIC TRANSMISSION SYSTEM FOR ELECTRONIC BALLOT

1 RETURN IS CONFIDENTIAL AND SHALL NOT BE USED FOR ANY PURPOSE
2 OTHER THAN VOTER PARTICIPATION STATISTICS.

3 (7) THE SECRETARY OF STATE SHALL PUBLISH GUIDANCE AND MAY
4 ADOPT RULES AS NECESSARY TO FURTHER SPECIFY THE QUALIFICATIONS
5 OF AN ELECTRONIC TRANSMISSION SYSTEM FOR ELECTRONIC BALLOT
6 RETURN, INCLUDING RECOMMENDED MINIMUM SECURITY STANDARDS,
7 VOTER PRIVACY STANDARDS, SYSTEM AUDITING STANDARDS, AND
8 VERIFICATION TECHNOLOGY REQUIREMENTS.

9 **SECTION 3.** In Colorado Revised Statutes, 31-10-501, **amend**
10 (1) as follows:

11 **31-10-501. Clerk to give notice.**

12 (1) The clerk, at least ten days before each municipal election,
13 shall give written or printed notice of the election stating the date of the
14 election and the hours during which the polls will be open, designating
15 the polling place of each precinct, DESCRIBING THE PROCEDURE FOR
16 ACCESSING THE ELECTRONIC TRANSMISSION SYSTEM IF THE ELECTION IS TO
17 BE CONDUCTED BY ELECTRONIC BALLOT RETURN, stating the qualifications
18 of persons to vote in the election, naming the officers to be elected and
19 the questions to be voted upon, and listing the names of those candidates
20 whose nominations have been certified to ~~him~~ THE CLERK, which listing
21 shall be as nearly as possible in the form in which ~~such~~ THE nominations
22 shall appear upon the official ballot with reference to wards where
23 applicable. A copy of ~~such~~ THE notice shall be posted until after the
24 election in a conspicuous place in the office of the clerk.

25 **SECTION 4.** In Colorado Revised Statutes, **add** 31-10-607.5 as
26 follows:

27 **31-10-607.5. Electronic ballot return - qualified electronic**

1 **transmission system - requirements - rules - definitions.**

2 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

4 (a) "ELECTRONIC BALLOT RETURN" MEANS A SYSTEM THAT
5 ALLOWS AN ELIGIBLE ELECTOR TO CAST AND RETURN A BALLOT
6 ELECTRONICALLY TO THE DESIGNATED ELECTION OFFICIAL.

7 (b) "ELECTRONIC TRANSMISSION SYSTEM" MEANS AN ELECTRONIC
8 SYSTEM THAT PROVIDES FOR THE SECURE TRANSMISSION OF ELECTRONIC
9 BALLOT RETURNS.

10 (2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 10 TO THE
11 CONTRARY, THE GOVERNING BODY OF A MUNICIPALITY MAY DETERMINE
12 THAT AN ELECTION SHALL BE CONDUCTED BY ELECTRONIC BALLOT
13 RETURN IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION AND
14 MAY SPECIFY THE ELECTRONIC TRANSMISSION SYSTEM TO BE USED BY THE
15 DESIGNATED ELECTION OFFICIAL FOR THE LOCAL GOVERNMENT.

16 (3) THE CLERK FOR A MUNICIPALITY SHALL CONDUCT AN
17 ELECTRONIC BALLOT RETURN ELECTION USING AN ELECTRONIC
18 TRANSMISSION SYSTEM AS SPECIFIED BY THE GOVERNING BODY OF THE
19 MUNICIPALITY PURSUANT TO SUBSECTION (2) OF THIS SECTION AND THAT
20 MEETS THE QUALIFICATIONS OF THIS SECTION.

21 (4) TO QUALIFY FOR THE USE OF ELECTRONIC BALLOT RETURN IN
22 AN ELECTION PURSUANT TO THIS SECTION, AN ELECTRONIC TRANSMISSION
23 SYSTEM MUST:

24 (a) PROVIDE FOR SECURE IDENTIFICATION AND AUTHENTICATION;

25 (b) TRANSMIT ENCRYPTED INFORMATION OVER A SECURE
26 NETWORK;

27 (c) PROTECT THE PRIVACY, ANONYMITY, AND INTEGRITY OF EACH

1 ELECTOR'S BALLOT;

2 (d) PROTECT AGAINST ABUSE; AND

3 (e) PROVIDE ANY OTHER SECURITY, INTEGRITY, AUDITABILITY, OR
4 ACCESSIBILITY MEASURE IDENTIFIED IN THE RULES OF THE SECRETARY OF
5 STATE AS NECESSARY FOR THE QUALIFICATION OF AN ELECTRONIC
6 TRANSMISSION SYSTEM TO BE USED FOR ELECTRONIC BALLOT RETURN.

7 (5)(a) THE CLERK FOR A MUNICIPALITY THAT IS USING ELECTRONIC
8 BALLOT RETURN SHALL ENSURE THAT EACH BALLOT RECEIVED THROUGH
9 THE QUALIFIED ELECTRONIC TRANSMISSION SYSTEM IS ANONYMOUSLY
10 TRANSCRIBED TO A PAPER BALLOT.

11 (b) THE CLERK, OR THE CLERK'S DESIGNEE, SHALL SECURE, COUNT,
12 MAINTAIN, AND STORE THE PAPER BALLOTS TRANSCRIBED PURSUANT TO
13 SUBSECTION (5)(a) OF THIS SECTION IN THE SAME MANNER AS IS REQUIRED
14 FOR ALL BALLOTS PURSUANT TO THIS ARTICLE 10.

15 (6) ANY ELECTRONIC DATA GENERATED BY AN ELECTOR USING A
16 QUALIFIED ELECTRONIC TRANSMISSION SYSTEM FOR ELECTRONIC BALLOT
17 RETURN IS CONFIDENTIAL AND SHALL NOT BE USED FOR ANY PURPOSE
18 OTHER THAN VOTER PARTICIPATION STATISTICS.

19 (7) THE SECRETARY OF STATE SHALL PUBLISH GUIDANCE AND MAY
20 ADOPT RULES, AS NECESSARY, TO FURTHER SPECIFY THE QUALIFICATIONS
21 OF AN ELECTRONIC TRANSMISSION SYSTEM FOR ELECTRONIC BALLOT
22 RETURN, INCLUDING RECOMMENDED MINIMUM SECURITY STANDARDS,
23 VOTER PRIVACY STANDARDS, SYSTEM AUDITING STANDARDS, AND
24 VERIFICATION TECHNOLOGY REQUIREMENTS.

25 **SECTION 5. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2026 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.