

IN THE SENATE

SENATE BILL NO. 1070

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PRO-  
2 VISIONS REGARDING THE ISSUANCE OF AN ABSENTEE BALLOT; AND AMENDING SEC-  
3 TION 34-1007, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE COUNTING  
4 OF ABSENTEE BALLOTS.  
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 34-1003, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an applica-  
10 tion for an absent elector's ballot within the proper time, the county clerk  
11 receiving it shall examine the records of the county clerk's office to as-  
12 certain whether or not such applicant is registered and lawfully entitled to  
13 vote as requested and, if found to be so, the ~~elector~~ county clerk shall ar-  
14 range for the applicant to vote by absent elector's ballot.

15 (2) In the case of requests for primary ballots:

16 (a) Except as provided in paragraph (b) of this subsection, an elector  
17 who has designated a political party affiliation shall receive a pri-  
18 mary ballot for that political party.

19 (b) An elector who has designated a political party affiliation pur-  
20 suant to section 34-404, Idaho Code, may receive the primary election  
21 ballot of a political party other than the political party such elector  
22 is affiliated with if such other political party has provided notifica-  
23 tion to the secretary of state that identifies the political party such  
24 elector is affiliated with, as provided for in section 34-904A(2) (b),  
25 Idaho Code.

26 (c) An "unaffiliated" elector shall receive the primary ballot for the  
27 political party ~~which~~ the elector designated in the elector's appli-  
28 cation for an absentee ballot pursuant to section 34-1002, Idaho Code.  
29 Provided however, that a political party's ballot shall not be provided  
30 to an "unaffiliated" elector where that political party has not elected  
31 to allow "unaffiliated" electors to vote in such party's primary elec-  
32 tion pursuant to section 34-904A, Idaho Code.

33 (d) If an "unaffiliated" elector does not indicate a choice of a po-  
34 litical party's primary ballot, the elector shall receive a nonpartisan  
35 ballot.

36 (3) The absentee ballot may be delivered to the absent elector in the  
37 office of the county clerk, by postage prepaid mail or by other appropriate  
38 means, including use of a facsimile machine or other electronic transmis-  
39 sion. Validly requested absentee ballots ~~for candidates for federal office,~~  
40 where the request is received at least ~~forty-five~~ thirty (4530) days before  
41 an election, shall be sent no later than ~~forty-five~~ thirty (4530) days before  
42 that election to all electors who are entitled to vote by absentee ballot.

1 (4) Pursuant to the uniformed and overseas citizens absentee voting act  
 2 (UOCAVA, 52 U.S.C. 20301 et seq., as amended), the secretary of state shall  
 3 establish procedures for the transmission of blank absentee ballots by mail  
 4 and by electronic transmission for all electors who are entitled to vote by  
 5 absentee ballot under the uniformed and overseas citizens absentee voting  
 6 act, and by which such electors may designate whether the elector prefers the  
 7 transmission of such ballots by mail or electronically. If no preference is  
 8 stated, the ballots shall be transmitted by mail. Validly requested absen-  
 9 tee ballots by uniformed and overseas voters, where the request is received  
 10 at least forty-five (45) days before an election, must be sent no later than  
 11 forty-five (45) days before that election. The secretary of state shall es-  
 12 tablish procedures for transmitting such ballots in a manner that shall pro-  
 13 tect the security and integrity of such ballots and the privacy of the elec-  
 14 tor throughout the process of transmission.

15 (5) A political party may supply a witness to accompany the clerk in the  
 16 personal delivery of an absentee ballot. If the political party desires to  
 17 supply a witness, it shall be the duty of the political party to supply the  
 18 names of such witnesses to the clerk no later than forty-six (46) days prior  
 19 to the election. The clerk shall notify such witnesses of the date and ap-  
 20 proximate hour the clerk or deputy clerk intends to deliver the ballot.

21 (6) A candidate for public office or a spouse of a candidate for public  
 22 office shall not be a witness in the personal delivery of absentee ballots.

23 (7) An elector physically unable to mark such elector's own ballot  
 24 may receive assistance in marking such ballot from the officer delivering  
 25 same or an available person of the elector's own choosing. In the event  
 26 the election officer is requested to render assistance in marking an absent  
 27 elector's ballot, the officer shall ascertain the desires of the elector and  
 28 shall vote the applicant's ballot accordingly. When such ballot is marked by  
 29 an election officer, the witnesses on hand shall be allowed to observe such  
 30 marking. No county clerk, deputy, or other person assisting a disabled voter  
 31 shall attempt to influence the vote of such elector in any manner.

32 ~~(8) Notwithstanding any other provision of this section, for any elec-~~  
 33 ~~tion that takes place prior to December 31, 2020, the following provisions~~  
 34 ~~shall apply:~~

35 ~~(a) Validly requested absentee ballots by uniformed and overseas vot-~~  
 36 ~~ers, pursuant to the uniformed and overseas citizens absentee voting~~  
 37 ~~act, where the request is received at least forty-five (45) days before~~  
 38 ~~an election, shall be sent no later than forty-five (45) days before~~  
 39 ~~that election; and~~

40 ~~(b) For any other validly requested absentee ballots that are received~~  
 41 ~~at least thirty (30) days before an election by electors who are enti-~~  
 42 ~~tled to vote by absentee ballot and are not within the provisions of~~  
 43 ~~paragraph (a) of this subsection, such ballots shall be sent no later~~  
 44 ~~than thirty (30) days before the election.~~

45 SECTION 2. That Section 34-1007, Idaho Code, be, and the same is hereby  
 46 amended to read as follows:

47 34-1007. COUNTING ABSENTEE BALLOTS. (1) In those counties that count  
 48 ballots at the polls, upon receipt of absent elector's ballot or ballots, the  
 49 officer receiving them shall forthwith enclose the same, unopened in a car-

1 rier envelope endorsed with the name and official title of such officer and  
2 the words: "absent electors' ballot to be opened only at the polls." He shall  
3 hold the same until the delivery of the official ballots to the judges of  
4 election of the precinct in which the elector resides and shall deliver the  
5 ballot or ballots to the judges with such official ballots.

6 (2) In those counties that count ballots at a central location, absent-  
7 tee ballots that are received may, in the discretion of the county clerk, be  
8 retained in a secure place in the clerk's office and such ballots shall be  
9 added to the precinct returns at the time of ballot tabulation. ~~Provided,~~  
10 ~~however, for any election that takes place prior to December 31, 2020,~~  
11 ~~absentee~~ ballots may be opened and scanned beginning seven (7) days prior  
12 to election day. If the absentee ballots are opened prior to election day,  
13 the ballots shall be securely maintained in a nonproprietary electronic  
14 access-controlled room under twenty-four (24) hour nonproprietary video  
15 surveillance that is livestreamed to the public and which video must be  
16 archived for at least ninety (90) days following the election. The ballots  
17 shall be boxed and secured in the same access-controlled room each day after  
18 being opened or scanned. A minimum of two (2) election officials must be  
19 present whenever absentee ballots are accessed. No results shall be tabu-  
20 lated for absentee ballots until the polls close on the day of the election  
21 ~~held prior to December 31, 2020.~~

22 (3) The clerk shall deliver to the polls a list of those absentee bal-  
23 lots received to record in the official poll book that the elector has voted.