

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 139

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ABSENTEE VOTING; AMENDING SECTION 34-1001, IDAHO CODE, TO RE-
2 VISE A PROVISION REGARDING REGISTERED ELECTORS WHO MAY VOTE BY ABSENTEE
3 BALLOT AND TO PROHIBIT MISREPRESENTATIONS; AMENDING SECTION 34-1002,
4 IDAHO CODE, TO REVISE PROVISIONS REGARDING REGISTERED ELECTORS WHO MAY
5 APPLY FOR AN ABSENTEE BALLOT AND TO MAKE A TECHNICAL CORRECTION; AND
6 DECLARING AN EMERGENCY.
7

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

9 SECTION 1. That Section 34-1001, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 34-1001. VOTING BY ABSENTEE BALLOT AUTHORIZED. (1) Any registered
12 elector of the state of Idaho may vote at any election by absentee ballot as
13 herein provided in this chapter if the elector is unable to appear at the
14 elector's polling place on election day during the hours of voting because:

15 (a) Of the elector's active service with the armed forces of the United
16 States;

17 (b) Of the elector's illness, disability, or hospitalization;

18 (c) The elector is unable to appear at the polls on the day of the elec-
19 tion in order to work or attend university;

20 (d) The elector is out of the county on the day of the election on a reli-
21 gious mission;

22 (e) The elector is occupying a second home or residence outside of the
23 elector's home county on the date the election is held;

24 (f) The elector is sixty-five (65) years of age or older; or

25 (g) The elector lives in a mail ballot precinct pursuant to section
26 34-308, Idaho Code.

27 (2) No person shall misrepresent the eligibility requirements for
28 voting by absentee ballot provided in subsection (1) of this section to any
29 elector or prospective absentee ballot applicant. No elector shall misrep-
30 resent the elector's qualifying circumstances to any election official.

31 SECTION 2. That Section 34-1002, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 34-1002. APPLICATION FOR ABSENTEE BALLOT.

34 (1) (a) A blank application to request an absentee ballot shall be sent
35 to any qualified elector upon the elector's request and may be made
36 available online. No government official or other entity shall physi-
37 cally or electronically send an absentee ballot application directly to
38 any elector except upon the direct request of the elector. Applications
39 may not be prefilled with the elector's required information but must be
40 completed by the elector.

1 (b) Any registered elector qualified to vote by absentee ballot pur-
2 suant to section 34-1001, Idaho Code, may make written application to
3 the county clerk, or other proper officer charged by law with the duty
4 of issuing official ballots for such election, for an official ballot or
5 ballots of the kind or kinds to be voted at the election. The applica-
6 tion shall contain the name of the elector, the elector's home address,
7 county, and address to which such ballot shall be forwarded, as well as
8 the circumstances set forth in section 34-1001, Idaho Code, that neces-
9 sitate the use of an absentee ballot.

10 (2) In order to provide the appropriate primary election ballot to
11 electors, in the event a political party elects to allow unaffiliated elec-
12 tors to vote in that party's primary election pursuant to section 34-904A,
13 Idaho Code, the elector shall designate, as part of the written application
14 for a ballot for primary elections, the elector's party affiliation or des-
15 ignation as "unaffiliated." The application shall contain checkoff boxes
16 for unaffiliated electors by which such electors shall indicate for which
17 party's primary ballot the unaffiliated elector chooses to vote. Provided
18 however, that no political party's primary election ballot shall be provided
19 to an unaffiliated elector for a political party that has not elected to al-
20 low unaffiliated electors to vote in that political party's primary election
21 pursuant to section 34-904A, Idaho Code. If an unaffiliated elector does not
22 indicate a choice of political party's primary election ballot, the elector
23 shall receive a nonpartisan ballot.

24 (3) In order to provide the appropriate primary election ballot to
25 electors, in the event one (1) or more political parties elect to allow elec-
26 tors affiliated with a different political party to vote in that party's
27 primary election, the application shall contain checkoff boxes by which such
28 electors may indicate the primary ballot in which the elector wishes to vote.

29 (4) For electors who are registered to vote as of January 1, 2012, and
30 who remain registered electors, the elector shall designate, as part of
31 the written application for a ballot for the 2012 primary elections, the
32 elector's party affiliation or designation as "unaffiliated." The applica-
33 tion shall contain checkoff boxes for unaffiliated electors by which such
34 electors shall indicate for which party's primary election ballot the unaf-
35 filiated elector chooses to vote, pursuant to section 34-904A, Idaho Code.
36 Provided however, that no political party's primary election ballot shall
37 be provided to an unaffiliated elector for a political party that has not
38 elected to allow unaffiliated electors to vote in ~~the~~ that party's primary
39 election pursuant to section 34-904A, Idaho Code. If an unaffiliated elec-
40 tor does not indicate a choice of political party's primary election ballot,
41 the elector shall receive a nonpartisan ballot. After the 2012 primary elec-
42 tion, the county clerk shall record the party affiliation or unaffiliated
43 designation so selected on the application for an absentee ballot as part of
44 such an elector's record within the voter registration system as provided
45 for in section 34-437A, Idaho Code.

46 (5) After the 2012 primary election, electors who remain registered
47 voters and who did not vote in the 2012 primary elections and who make written
48 application for an absentee ballot shall be designated as unaffiliated elec-
49 tors as provided in section 34-404, Idaho Code, and such electors shall be

1 given the appropriate ballot for such "unaffiliated" designation pursuant
2 to the provisions of this act.

3 (6) An elector may not change party affiliation or designation as "un-
4 affiliated" on an application for absentee ballot. For primary elections,
5 an elector may change party affiliation or designation as "unaffiliated" as
6 provided for in section 34-411A, Idaho Code.

7 (7) The application for an absent elector's ballot shall be signed
8 personally by the applicant. The application for a mail-in absentee bal-
9 lot shall be received by the county clerk not later than 5:00 p.m. on the
10 eleventh day before the election. An application for in-person absentee
11 voting at the absent elector's polling place described in section 34-1006,
12 Idaho Code, shall be received by the county clerk not later than 5:00 p.m. on
13 the Friday before the election. Application for an absentee ballot may be
14 made by using a facsimile machine or other electronic transmission.

15 (8) A person may make application for an absent elector's ballot by use
16 of a properly executed federal postcard application as provided for in the
17 laws of the United States known as uniformed and overseas citizens absentee
18 voting act (UOCAVA, 52 U.S.C. 20301 et seq., as amended). The issuing offi-
19 cer shall keep as a part of the records of such officer's office a list of all
20 applications so received and of the manner and time of delivery or mailing to
21 and receipt of returned ballot.

22 (9) The county clerk shall, not later than seventy-five (75) days af-
23 ter the date of each general election, submit a report to the secretary of
24 state containing information concerning absentee voters as required by fed-
25 eral law.

26 SECTION 3. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after its
28 passage and approval.