

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 26

BY DURST

AN ACT

1  
2 RELATING TO ELECTIONS; AMENDING SECTION 33-406, IDAHO CODE, TO  
3 PROVIDE FOR APPLICATION BY A QUALIFIED SCHOOL ELECTOR FOR  
4 STATUS AS A PERMANENT ABSENTEE VOTER AND TO PROVIDE FOR  
5 PROCESSING OF SUCH APPLICATION; AMENDING SECTION 34-1002, IDAHO  
6 CODE, TO PROVIDE FOR WRITTEN APPLICATION BY ANY REGISTERED  
7 ELECTOR TO THE COUNTY CLERK FOR STATUS AS A PERMANENT  
8 ABSENTEE VOTER, TO PROVIDE FOR VALIDATION, PROCESS AND  
9 TABULATION OF ONGOING ABSENTEE BALLOTS, TO PROVIDE FOR  
10 TERMINATION OF PERMANENT ABSENTEE VOTER STATUS AND TO MAKE  
11 TECHNICAL CORRECTIONS; AND AMENDING SECTION 50-443, IDAHO CODE,  
12 TO PROVIDE FOR WRITTEN APPLICATION BY ANY REGISTERED MUNICIPAL  
13 ELECTOR TO THE CITY CLERK FOR AN OFFICIAL BALLOT, TO PROVIDE  
14 FOR ANY REGISTERED MUNICIPAL ELECTOR TO SUBMIT AN APPLICATION  
15 TO THE COUNTY CLERK FOR STATUS AS A PERMANENT ABSENTEE VOTER  
16 PURSUANT TO IDAHO CODE, TO PROVIDE FOR PROCESSING OF SUCH  
17 APPLICATION, TO REVISE A FEDERAL LAW REFERENCE AND TO MAKE  
18 TECHNICAL CORRECTIONS.

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

20 SECTION 1. That Section 33-406, Idaho Code, be, and the same is hereby amended to  
21 read as follows:

22 33-406. ABSENTEE VOTING. For the purposes of this section the term "clerk" shall  
23 mean the clerk of the board of county commissioners whenever an election involves changing  
24 the boundaries of school districts, or the creation of new school districts by consolidation of  
25 districts or division of a district. In all other school elections the term "clerk" shall mean the  
26 clerk of the board of trustees of the school district.

27 In any school election, a qualified school elector may vote in such election by absentee  
28 ballot in the manner herein provided. A qualified school elector may apply to the county clerk  
29 for status as a permanent absentee voter pursuant to section 34-1002(2), Idaho Code, and such  
30 application shall be processed in accordance with section 34-1002(1), Idaho Code.

31 Any such elector may make written application to the clerk for a ballot or ballots of the  
32 kind or kinds to be voted on at such election, which application shall contain the name of  
33 the elector, the trustee zone of the district in which he resides, and his present address. The  
34 application for an absent elector's ballot shall be filed with the clerk not later than 5:00 p.m. of  
35 the day before the election.

36 The clerk receiving such application shall, not more than twenty-eight (28) days prior to  
37 the day of the election, deliver to said applicant elector personally or by mail to the mailing

1 address given in the application, postage prepaid, a ballot or ballots, one (1) of each kind  
2 thereof, to be voted on in the election, and a form of oath of qualification.

3 The elector shall vote in secret and shall enclose his ballot or ballots in an envelope to be  
4 supplied by the clerk and seal the same. The elector shall then place the secrecy envelope in  
5 a return envelope, together with the form of oath of qualification executed by him, and address  
6 and mail, or deliver, the same to the clerk. The absentee ballot must be received by the clerk,  
7 not later than 8:00 p.m. on the day of the election, before such ballot may be counted.

8 Any elector physically unable to mark his own ballot may receive assistance in marking  
9 his ballot from the officer delivering same or an available person of his own choosing. In  
10 the event the officer is requested to render assistance in marking an absent elector's ballot, the  
11 officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly.  
12 No election officer or any other person assisting a disabled voter shall attempt to influence the  
13 vote of such elector in any manner.

14 The written applications shall be kept by the clerk as a part of the records of the election  
15 and he shall, on the day of the election and before the polling places are closed, deliver to the  
16 proper board of election all such envelopes together with a list, compiled and signed by him, of  
17 the electors making application to vote in absentia.

18 The board of election shall verify all return envelopes delivered to it by the clerk against  
19 the names appearing on the said list, open the return envelopes and examine the elector's oath.  
20 If these are found to be in order, the ballots shall remain in the secrecy envelopes and be placed  
21 in the ballot box in the same manner as though the elector were personally present and voting;  
22 and the voter's name shall thereupon be subscribed in any polling book or other record kept at  
23 such election.

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

26 34-1002. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered elector may  
27 make written application to the county clerk, or other proper officer charged by law with the  
28 duty of issuing official ballots for such election, for an official ballot or ballots of the kind or  
29 kinds to be voted at the election.

30 (a) The application shall contain the name of the elector, his home address, county, and  
31 address to which such ballot shall be forwarded.

32 (b) The application for an absent elector's ballot shall be signed personally by the  
33 applicant.

34 (c) The application for a mail-in absentee ballot shall be received by the county clerk not  
35 later than 5:00 p.m. on the sixth day before the election.

36 (d) An application for in person absentee voting at the absent elector's polling place  
37 described in section 34-1006, Idaho Code, shall be received by the county clerk not later  
38 than 5:00 p.m. on the day before the election.

39 (e) Application for an absentee ballot may be made by using a facsimile machine.

40 (f) In the event a registered elector is unable to vote in person at his designated polling  
41 place on the day of election because of an emergency situation which rendered him  
42 physically unable, he may nevertheless apply for an absent elector's ballot on the day  
43 of election by notifying the county clerk. No person may, however, be entitled to vote  
44 under an emergency situation unless the situation claimed rendered him physically unable

1 to vote at his designated polling place within forty-eight (48) hours prior to the closing of  
2 the polls.

3 (2) Any registered elector may make written application to the county clerk for status  
4 as a permanent absentee voter. The county clerk shall notify each political subdivision of an  
5 elector's status as a permanent absentee voter pursuant to section 34-1408, Idaho Code. Each  
6 qualified registered permanent absentee voter shall automatically receive an absentee ballot for  
7 each election for which the elector is entitled to vote and need not submit a separate request for  
8 each election.

9 (a) Ballots received from permanent absentee voters shall be validated, processed and  
10 tabulated in the same manner as other absentee ballots.

11 (b) Status as a permanent absentee voter shall be terminated upon any of the following  
12 events:

13 (i) The written request of the voter;

14 (ii) The death or disqualification of the voter;

15 (iii) The cancellation of the voter's registration record; or

16 (iv) The return of an ongoing absentee ballot as undeliverable.

17 (3) A person may make application for an absent elector's ballot by use of a properly  
18 executed federal postcard application as provided for in the laws of the United States known as  
19 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff, et seq.).

20 (a) A properly executed federal ~~postcard~~ post card application (F.P.C.A.), shall be  
21 considered as a request for an absent elector's ballot through the next two (2) regularly  
22 scheduled general elections for federal office following receipt of the application.

23 (b) The issuing officer shall keep as a part of the records of his office a list of all  
24 applications so received and of the manner and time of delivery or mailing to and receipt  
25 of returned ballot.

26 (c) The county clerk shall, not later than seventy-five (75) days after the date of  
27 each general election, submit a report to the secretary of state containing information  
28 concerning absentee voters as required by federal law.

29 SECTION 3. That Section 50-443, Idaho Code, be, and the same is hereby amended to  
30 read as follows:

31 50-443. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered municipal  
32 elector may make written application to the city clerk for an official ballot or ballots of the kind  
33 or kinds to be voted at the election.

34 (a) The application shall contain the name of the elector, his home address and address to  
35 which such ballot shall be forwarded.

36 (b) The application for an absent elector's ballot shall be signed personally by the  
37 applicant.

38 (c) The application for a mail-in absentee ballot shall be received by the city clerk not  
39 later than 5:00 p.m. on the sixth day before the election.

40 (d) An application for in person absentee voting at the absent elector's polling place  
41 described in section 50-448, Idaho Code, shall be received by the city clerk not later than  
42 5:00 p.m. on the day before the election.

43 (e) Application for an absentee ballot may be made by using a facsimile machine.

44 (f) In the event a registered elector is unable to vote in person at his designated polling  
45 place on the day of election because of an emergency situation which rendered him

1 physically unable, he may nevertheless apply for an absent elector's ballot on the day  
2 of election by notifying the city clerk. No person may, however, be entitled to vote  
3 under an emergency situation unless the situation claimed rendered him physically unable  
4 to vote at his designated polling place within forty-eight (48) hours prior to the closing of  
5 the polls.

6 (2) Any registered municipal elector may submit an application to the county clerk for  
7 status as a permanent absentee voter pursuant to section 34-1002(2), Idaho Code, and such  
8 application shall be processed in accordance with section 34-1002(1), Idaho Code.

9 (3) A person in the United States service may make application for an absent elector's  
10 ballot by use of a properly executed federal ~~postcard~~ post card application as provided for in  
11 the laws of the United States known as "~~Federal Voting Assistance Act of 1955.~~" Uniformed  
12 and Overseas Citizens Absentee Voting Act (UOCAVA, 42 U.S.C. 1973 ff, et seq.). The  
13 issuing officer shall keep as a part of the records of his office a list of all applications so  
14 received and of the manner and time of delivery or mailing to and receipt of returned ballot.