

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 571

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ABSENTEE VOTING; AMENDING SECTION 34-1003, IDAHO CODE, TO PRO-
2 VIDE A DUTY FOR THE COUNTY CLERK; AMENDING SECTION 34-1004, IDAHO CODE,
3 TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 34-1007, IDAHO CODE, TO
4 REVISE PROCEDURES FOR TRANSMISSION OF ABSENTEE BALLOTS TO THE POLLS;
5 AMENDING SECTION 34-1008, IDAHO CODE, TO REVISE PROCEDURES REGARD-
6 ING DEPOSIT OF ABSENTEE BALLOTS; AMENDING CHAPTER 10, TITLE 34, IDAHO
7 CODE, BY THE ADDITION OF A NEW SECTION 34-1012, IDAHO CODE, TO PROVIDE
8 ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING AND EARLY VOTING; AND AMEND-
9 ING CHAPTER 10, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
10 34-1013, IDAHO CODE, TO PROVIDE PROCEDURES FOR EARLY VOTING BALLOT SE-
11 CURITY.
12

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

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

16 34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an applica-
17 tion for an absent elector's ballot within the proper time, the county clerk
18 receiving it shall examine the records of the county clerk's office to as-
19 certain whether or not such applicant is registered and lawfully entitled to
20 vote as requested and, if found to be so, the ~~elector~~ county clerk shall ar-
21 range for the applicant to vote by absent elector's ballot.

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

23 (a) Except as provided in subsection (2) (b) of this section, an elector
24 who has designated a political party affiliation shall receive a pri-
25 mary ballot for that political party.

26 (b) An elector who has designated a political party affiliation pur-
27 suant to section 34-404, Idaho Code, may receive the primary election
28 ballot of a political party other than the political party such elector
29 is affiliated with if such other political party has provided notifica-
30 tion to the secretary of state that identifies the political party such
31 elector is affiliated with, as provided for in section 34-904A(2) (b),
32 Idaho Code.

33 (c) An "unaffiliated" elector shall receive the primary ballot for the
34 political party which the elector designated in the elector's appli-
35 cation for an absentee ballot pursuant to section 34-1002, Idaho Code.
36 Provided however, that a political party's ballot shall not be provided
37 to an "unaffiliated" elector where that political party has not elected
38 to allow "unaffiliated" electors to vote in such party's primary elec-
39 tion pursuant to section 34-904A, Idaho Code.

40 (d) If an "unaffiliated" elector does not indicate a choice of polit-
41 ical party's primary ballot, the elector shall receive a nonpartisan
42 ballot.

1 (3) The absentee ballot may be delivered to the absent elector in the
2 office of the county clerk, by postage prepaid mail or by other appropriate
3 means, including use of a facsimile machine or other electronic transmis-
4 sion. Validly requested absentee ballots for candidates for federal office,
5 where the request is received at least forty-five (45) days before an elec-
6 tion, shall be sent not later than forty-five (45) days before that election
7 to all electors who are entitled to vote by absentee ballot.

8 (4) Pursuant to the uniformed and overseas citizens absentee voting act
9 (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended) the secretary of state shall
10 establish procedures for the transmission of blank absentee ballots by mail
11 and by electronic transmission for all electors who are entitled to vote by
12 absentee ballot under the uniformed and overseas citizens absentee voting
13 act, and by which such electors may designate whether the elector prefers
14 the transmission of such ballots by mail or electronically. If no prefer-
15 ence is stated, the ballots shall be transmitted by mail. The secretary of
16 state shall establish procedures for transmitting such ballots in a manner
17 that shall protect the security and integrity of such ballots and the privacy
18 of the elector throughout the process of transmission.

19 (5) A political party may supply a witness to accompany the clerk in the
20 personal delivery of an absentee ballot. If the political party desires to
21 supply a witness it shall be the duty of the political party to supply the
22 names of such witnesses to the clerk no later than forty-five (45) days prior
23 to the election. The clerk shall notify such witnesses of the date and ap-
24 proximate hour the clerk or deputy clerk intends to deliver the ballot.

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

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

36 SECTION 2. That Section 34-1004, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 34-1004. MARKING AND FOLDING OF ABSENTEE BALLOT -- AFFIDAVIT. Upon re-
39 ceipt of the absent elector's ballot the elector shall thereupon mark and
40 fold the ballot so as to conceal the marking, deposit it in the ballot enve-
41 lope and seal the envelope securely. ~~In the event an election requires a per-~~
42 ~~forated ballot, the unvoted portion must be deposited in the unvoted ballot~~
43 ~~envelope and sealed.~~ The ballot envelopes must then be deposited in the re-
44 turn envelope and sealed securely.

45 The elector shall then execute an affidavit on the back of the return en-
46 velope in the form prescribed, provided however, that such affidavit need
47 not be notarized.

1 SECTION 3. That Section 34-1007, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 34-1007. TRANSMISSION OF ABSENTEE BALLOTS TO POLLS. (1) ~~On receipt of~~
4 ~~such absent elector's ballot or ballots, the officer receiving them~~ Absentee
5 ballots that are to be counted at the polls shall forthwith be enclosed the
6 same, unopened in a carrier envelope endorsed with the name and official ti-
7 tle of such officer and by the county clerk with the words: "absent elec-
8 tors' ballot to be opened only at the polls." He shall hold the same until the
9 delivery of the official ballots to the judges of election of the precinct
10 in which the elector resides and shall deliver the ballot or ballots to the
11 judges with such official ballots.

12 (2) In those counties which count ballots at a central location, absen-
13 tee ballots that are received may, in the discretion of the county clerk, be
14 retained ~~in a secure place in the clerk's office.~~ and sSuch ballots shall be
15 kept in a secure place and shall be handled in the manner described in section
16 34-1008(2), Idaho Code. The ballots shall be added to the precinct returns
17 at the time of ballot tabulation. The clerk shall deliver to the polls a list
18 of those absentee ballots received to record in the official poll book that
19 the elector has voted.

20 SECTION 4. That Section 34-1008, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 34-1008. DEPOSIT OF ABSENTEE BALLOTS. (1) In jurisdictions that count
23 absentee ballots at the polls, the county clerk shall deliver absentee bal-
24 lots to the chief judge at the precinct polling place. Between the opening
25 and closing of the polls on such election day the judges of election of such
26 precinct shall open the carrier envelope only, announce the absent elector's
27 name, and in the event they find such applicant to be a duly registered elec-
28 tor of the precinct and that he has not heretofore voted at the election, they
29 shall open the return envelope and remove the ballot envelopes and deposit
30 the same in the proper ballot boxes and cause the absent elector's name to be
31 entered on the poll books the same as though he had been present and voted
32 in person. The ballot envelope shall not be opened until the ballots are
33 counted.

34 (2) Due to the number of absentee ballots being received, the amount of
35 time required to open and remove such absentee ballots from their envelopes,
36 and the need to allow the folded optical scan ballots to flatten out before
37 being run through the tabulators, optical scan absentee ballot envelopes re-
38 tained at the clerk's office pursuant to section 34-1007, Idaho Code, may be
39 opened for processing prior to election day. When opening such absentee bal-
40 lot envelopes prior to election day, the county clerk shall follow the proce-
41 dures in this section.

42 (a) Absentee ballot affidavit envelopes and security envelopes shall
43 not be opened prior to 8:00 a.m. on the Monday before the election.

44 (b) After the signatures on the affidavit envelopes have been veri-
45 fied against the scanned signatures in the voter registration system
46 and have been recorded as being received, the affidavit envelope may
47 be opened and the ballot secrecy envelope removed. The ballot secrecy

1 envelopes may then be opened and the ballots removed to be stacked to
2 flatten before running them through the tabulators.

3 (c) In order to maintain the integrity and security of the ballots, af-
4 ter they are removed from the secrecy envelopes, they shall be kept in a
5 secured location with limited access. A detailed plan for the security
6 of these opened ballots shall be submitted to the secretary of state for
7 approval no later than thirty (30) days before election day.

8 (d) Arrangements shall be made to have a deputy sheriff, police officer
9 or bonded private security firm secure the location.

10 (e) A person designated by the county clerk shall have custody of the
11 keys to the location in which the voted ballots are stored.

12 (f) Whenever those ballots are accessed, there shall be at least two (2)
13 individuals present.

14 (g) Watchers, who have been certified by the parties or candidates,
15 shall be informed of the intent to open ballot envelopes early and of the
16 schedule, in order that they may be present if they so desire.

17 (h) The actual counting of absentee ballots shall not begin until elec-
18 tion day and no results shall be released until all voting places in the
19 state are closed.

20 SECTION 5. That Chapter 10, Title 34, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 34-1012, Idaho Code, and to read as follows:

23 34-1012. ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING -- EARLY VOT-
24 ING. Those counties that utilize absentee voting facilities that have access
25 to the Idaho statewide voter registration system and count ballots at a
26 central location may elect to conduct "early voting" according to the provi-
27 sions of this section. Early voting shall begin on the third Monday before
28 the election and end at 5:00 p.m. on the Friday before the election. Primary
29 election ballots shall be issued pursuant to section 34-1002 (2), Idaho Code.

30 (1) A voter who appears at an "early voting" station to vote shall state
31 his or her name and address to the election official and present the voter's
32 identification as required by section 34-1113, Idaho Code.

33 (2) The election official shall examine the records to ascertain
34 whether or not such applicant is registered and lawfully entitled to vote
35 as requested. The provisions of section 34-408A, Idaho Code, authorizing
36 election day registration shall also apply in determining the applicant's
37 qualifications to vote.

38 (3) Before receiving a ballot, each elector shall sign his or her name
39 in the election register and poll book provided for early voting.

40 (4) The elector shall then be given the appropriate ballots that have
41 been stamped with the official election stamp and shall be given folding in-
42 structions for such ballots, if appropriate.

43 (5) Upon receipt of the ballots, the elector shall retire to a vacant
44 voting booth and mark the ballots according to the instructions provided.

45 (6) After marking the ballot, the elector shall present himself or her-
46 self to the election official at the ballot box and state his or her name and
47 address. The elector shall then deposit the ballot in the ballot box or hand
48 it to the election official, who shall deposit it. The election official

1 shall then record that the elector has voted and proclaim the same in an audi-
2 ble voice.

3 (7) Voters requiring assistance shall be provided with such assistance
4 in accordance with section 34-1108, Idaho Code.

5 (8) Electioneering is prohibited at an early voting polling place as
6 provided in section 18-2318, Idaho Code.

7 SECTION 6. That Chapter 10, Title 34, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 34-1013, Idaho Code, and to read as follows:

10 34-1013. EARLY VOTING BALLOT SECURITY. A detailed plan for the secu-
11 rity of ballots for early voting shall be submitted to the secretary of state
12 for approval no later than thirty (30) days before early voting begins. At a
13 minimum, the following procedures must be followed:

14 (1) The ballot boxes used for casting early ballots shall remain locked
15 and secured with a numbered seal until the time of tabulation on election
16 day. Alternatively, the ballot boxes may be opened each night and the voted
17 ballots shall be placed in a transfer case that is locked and secured with a
18 numbered seal.

19 (2) A record shall be maintained consisting of the date, number of bal-
20 lots and seal number of each ballot box and transfer case.

21 (3) When a seal is broken, it shall be done in the presence of at least
22 two (2) election officials. The election official shall record the number of
23 the seal and maintain the seal along with an explanation of the reasons for
24 breaking the seal.

25 (4) During the time the early voting polling place is not open, the bal-
26 lot box(es) or transfer cases containing voted ballots shall be stored in a
27 secured location.

28 (5) Arrangements shall be made to have a deputy sheriff, police officer
29 or bonded private security firm secure the location.

30 (6) A person designated by the county clerk shall have custody of the
31 keys to the location in which the voted ballots are stored.

32 (7) Whenever the voted ballots are accessed, at least two (2) individu-
33 als shall be present.

34 (8) The actual counting of ballots shall not begin until election day
35 and the results shall not be released to the public until all voting places in
36 the state have closed.