



## LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

First Extraordinary Session - 2020

IN THE \_\_\_\_\_

BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

## AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ISSUANCE OF ABSENTEE BALLOTS; AMENDING SECTION 34-1007, IDAHO CODE, TO REVISE PROVISIONS REGARDING COUNTING ABSENTEE BALLOTS; AND DECLARING AN EMERGENCY.

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

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

34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of the county clerk's office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, the elector shall arrange for the applicant to vote by absent elector's ballot.

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

(a) Except as provided in paragraph (b) of this subsection, an elector who has designated a political party affiliation shall receive a primary ballot for that political party.

(b) An elector who has designated a political party affiliation pursuant to section 34-404, Idaho Code, may receive the primary election ballot of a political party other than the political party such elector is affiliated with if such other political party has provided notification to the secretary of state that identifies the political party such elector is affiliated with, as provided for in section 34-904A(2) (b), Idaho Code.

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

(d) If an "unaffiliated" elector does not indicate a choice of political party's primary ballot, the elector shall receive a nonpartisan ballot.

(3) The absentee ballot may be delivered to the absent elector in the office of the county clerk, by postage prepaid mail or by other appropriate means, including use of a facsimile machine or other electronic transmission. Validly requested absentee ballots for candidates for federal office, where the request is received at least forty-five (45) days before an election, shall be sent ~~not~~ no later than forty-five (45) days before 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  
7 the transmission of such ballots by mail or electronically. If no prefer-  
8 ence is stated, the ballots shall be transmitted by mail. The secretary of  
9 state shall establish procedures for transmitting such ballots in a manner  
10 that shall protect the security and integrity of such ballots and the privacy  
11 of the elector throughout the process of transmission.

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

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

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

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

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

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

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

44 34-1007. TRANSMISSION OF COUNTING ABSENTEE BALLOTS TO POLLS. (1) On  
45 In those counties that count ballots at the polls, upon receipt of such ab-  
46 sent elector's ballot or ballots, the officer receiving them shall forthwith  
47 enclose the same, unopened in a carrier envelope endorsed with the name and  
48 official title of such officer and the words: "absent electors' ballot to be  
49 opened only at the polls." He shall hold the same until the delivery of the

1 official ballots to the judges of election of the precinct in which the elec-  
2 tor resides and shall deliver the ballot or ballots to the judges with such  
3 official ballots.

4 (2) In those counties ~~which~~ that count ballots at a central location,  
5 absentee ballots that are received may, in the discretion of the county  
6 clerk, be retained in a secure place in the clerk's office and such ballots  
7 shall be added to the precinct returns at the time of ballot tabulation.  
8 Provided, however, for any election that takes place prior to December 31,  
9 2020, absentee ballots may be opened and scanned beginning seven (7) days  
10 prior to election day, which ballots shall be maintained in a secure place  
11 in the clerk's office and be boxed and secured each day after being opened or  
12 scanned. No results shall be tabulated for absentee ballots until the polls  
13 close on the day of the election held prior to December 31, 2020.

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

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