LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature First Regular Session - 2021

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 290

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-202, IDAHO CODE, TO PROVIDE FOR THE VERIFICATION OF CERTAIN SIGNATURES AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 34-217, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RETENTION OF COUNTY ELECTION RECORDS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1005, IDAHO CODE, TO PROVIDE FOR THE VERIFICATION OF CERTAIN ABSENTEE VOTER SIGNATURES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1803, IDAHO CODE, TO PROVIDE FOR THE VERIFICATION OF SIGNATURES ON REFERENDUM PETITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1807, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CERTIFICATION AND VALIDITY OF SIGNATURES ON A PETITION AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-202, Idaho Code, be, and the same is hereby amended to read as follows:

34-202. SECRETARY OF STATE TO DISTRIBUTE COMPREHENSIVE DIRECTIVES AND INSTRUCTIONS RELATING TO ELECTION LAWS TO ALL COUNTY CLERKS. In carrying out his responsibility under section 34-201, Idaho Code, the secretary of state shall cause to be prepared and distributed to each county clerk detailed and comprehensive written directives and instructions relating to and based upon the election laws as they apply to elections, registration of electors and voting procedures which by law are under the direction and control of the county clerk. Such directives and instructions shall include sample forms of ballots, papers, documents, records and other materials and supplies required by such election laws. The secretary of state shall develop and provide to each county clerk instructions and standards for the verification, acceptance, and rejection of elector signatures for any process requiring signature verification. The secretary of state shall prescribe a form for voter registration cards based on the voter registration laws and, from time to time, shall cause to be prepared and distributed to each county clerk such written corrections of such directives and instructions and of the form for registration cards as are necessary to maintain uniformity in the application, operation and interpretation of and to reflect changes in the election laws. Each county clerk affected thereby shall comply with such directives and instruction, and corrections thereof, and shall provide voter registration cards prepared in accordance with the prescribed form.

SECTION 2. That Section 34-217, Idaho Code, be, and the same is hereby amended to read as follows:
34-217. RETENTION OF COUNTY ELECTION RECORDS. County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:
   (a) Voter registration cards for electors whose registration has been terminated;
   (b) Correspondence relating to an elector's voter registration;
   (c) Combination election record and poll book, including the ballot accounting page;
   (d) Declaration of candidacy and petition of candidacy forms filed with the county clerk;
   (e) Maps of precinct boundaries with legal descriptions;
   (f) List of absentee voters; and
   (g) County initiatives and petitions that qualify for placement on the ballot.

(2) The following shall be retained for two (2) years:
   (a) Completed absentee ballot request forms;
   (b) Tally books;
   (c) Voted ballots;
   (d) Any ballots that were required to be duplicated before being counted;
   (e) Certified lists of candidates or declaration of candidacy forms from special districts used for ballot preparation; and
   (f) Certified ballot language from special districts for any question placed on the ballot; and
   (g) Absentee ballot affidavit envelopes, including the indication of the signature's acceptance or rejection.

(3) The following shall be maintained for one (1) year:
   (a) Absentee ballot affidavit envelopes;
   (b) Notice of election;
   (c) Personal identification affidavit;
   (d) Ballot tracking logs;
   (e) Automated tabulation election logs;
   (f) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device; and
   (g) Record of the number of ballots printed and furnished to each polling place.

(4) Other election supplies, but not limited to unused ballots, official election ballot identification or official ballot stamps, receipts for supplies and spoiled ballots, may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

SECTION 3. That Section 34-1005, Idaho Code, be, and the same is hereby amended to read as follows:

34-1005. RETURN OF ABSENTEE BALLOT. (1) The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an ab-
sentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.

(2) Upon receipt of an absent elector's ballot, the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit, including verifying that the signature matches the signature from such elector's voter registration, and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office and shall record the information pursuant to section 34-1011, Idaho Code. He shall safely keep and preserve all absent electors' ballots unopened until the time prescribed for delivery to the polls or to the central count ballot processing center.

SECTION 4. That Section 34-1803, Idaho Code, be, and the same is hereby amended to read as follows:

34-1803. REFERENDUM PETITIONS -- TIME FOR FILING -- WHEN ELECTION HELD -- EFFECTIVE DATE OF LAW. Referendum petitions with the requisite number of signatures attached, as verified by county clerks pursuant to section 34-1807, Idaho Code, shall be filed with the secretary of state not more than sixty (60) days after the final adjournment of the session of the state legislature which passed the bill on which the referendum is demanded. All elections on measures referred to the people of the state shall be had at the biennial regular election. Any measure so referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

SECTION 5. That Section 34-1807, Idaho Code, be, and the same is hereby amended to read as follows:

34-1807. CIRCULATION OF PETITIONS -- VERIFICATION OF PETITION AND SIGNATURE SHEETS -- COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS CERTIFICATION OF PETITION SIGNERS -- CERTAIN PETITIONS AND SIGNATURES VOID. (1) Any person who circulates any petition for an initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho

) ss.

County of....

I,...., being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of.....

Signed.........................

Post-office Post office address .......

Subscribed and sworn to before me this.... day of.....

(Notary Seal) Notary Public ..................
Residing at ........................................

(2) In addition to said affidavit, the county clerk shall carefully examine said petitions and strike from the petition any names for which he has determined that the name, address, or signature do not match those of a qualified elector of the proper jurisdiction. The county clerk shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho )
 )ss.
County of.... )

To the honorable...., Secretary of State for the State of Idaho: I,....., County Clerk of.... County, hereby certify that.... signatures on this petition are those of qualified electors in legislative district number.....

Signed.................................
County Clerk or Deputy.
(Seal of office)

(3) The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

(4) Any petition upon which signatures are obtained by a person not a resident of the state of Idaho and at least eighteen (18) years of age shall be void. The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions. In addition to being a resident, a petition circulator shall be at least eighteen (18) years of age.

(5) Any signature that is not a physical signature, including an electronic signature, is void.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.