

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 259

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ABSENTEE BALLOTS; AMENDING SECTION 34-1002, IDAHO CODE, TO RE-
2 VISE PROVISIONS REGARDING APPLICATIONS FOR ABSENTEE BALLOTS; AMENDING
3 SECTION 34-1003, IDAHO CODE, TO REVISE PROVISIONS REGARDING ISSUANCE OF
4 ABSENTEE BALLOTS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
5 DATE.
6

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

8 SECTION 1. That Section 34-1002, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 34-1002. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered elector
11 may make written application to the county clerk, or other proper officer
12 charged by law with the duty of issuing official ballots for such election,
13 for an official ballot or ballots of the kind or kinds to be voted at the elec-
14 tion. The application shall contain the name of the elector, the elector's
15 home address, county, and address to which such ballot shall be forwarded.

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

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

36 (4) For electors who are registered to vote as of January 1, 2012, and
37 who remain registered electors, the elector shall designate, as part of
38 the written application for a ballot for the 2012 primary elections, the
39 elector's party affiliation or designation as "unaffiliated." The applica-
40 tion shall contain checkoff boxes for unaffiliated electors by which such
41 electors shall indicate for which party's primary election ballot the unaf-
42 filiated elector chooses to vote, pursuant to section 34-904A, Idaho Code.

1 Provided however, that no political party's primary election ballot shall
2 be provided to an unaffiliated elector for a political party that has not
3 elected to allow unaffiliated electors to vote in ~~the~~ that party's primary
4 election pursuant to section 34-904A, Idaho Code. If an unaffiliated elec-
5 tor does not indicate a choice of political party's primary election ballot,
6 the elector shall receive a nonpartisan ballot. After the 2012 primary elec-
7 tion, the county clerk shall record the party affiliation or unaffiliated
8 designation so selected on the application for an absentee ballot as part of
9 such an elector's record within the voter registration system as provided
10 for in section 34-437A, Idaho Code.

11 (5) After the 2012 primary election, electors who remain registered
12 voters and who did not vote in the 2012 primary elections and who make written
13 application for an absentee ballot shall be designated as unaffiliated elec-
14 tors as provided in section 34-404, Idaho Code, and such electors shall be
15 given the appropriate ballot for such "unaffiliated" designation pursuant
16 to the provisions of this act.

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

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

29 (8) No person other than a county clerk, election official, officer, or
30 employee of this state authorized by law may distribute an absentee ballot
31 application form to any other person. Nongovernmental entities shall not
32 distribute absentee ballot applications unless otherwise authorized under
33 state or federal law.

34 (9) The county clerk or an election official, officer, or employee of
35 this state authorized by law may distribute absentee ballot applications and
36 absentee ballots only to voters in a mail ballot precinct designated pur-
37 suant to section 34-308, Idaho Code, and to those voters who have requested
38 such applications or absentee ballots. Distributing an absentee ballot ap-
39 plication or ballot in violation of this subsection is unlawful unless oth-
40 erwise authorized under state or federal law.

41 ~~(8)~~ (10) A person may make application for an absent elector's ballot by
42 use of a properly executed federal postcard application as provided for in
43 the laws of the United States known as uniformed and overseas citizens ab-
44 sentee voting act (UOCAVA, 52 U.S.C. 20301 et seq., as amended). The issuing
45 officer shall keep as a part of the records of such officer's office a list of
46 all applications so received and of the manner and time of delivery or mail-
47 ing to and receipt of returned ballot.

48 ~~(9)~~ (11) The county clerk shall, not later than seventy-five (75) days
49 after the date of each general election, submit a report to the secretary of

1 state containing information concerning absentee voters as required by fed-
2 eral law.

3 SECTION 2. That Section 34-1003, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an applica-
6 tion for an absent elector's ballot within the proper time, the county clerk
7 receiving it shall examine the records of the county clerk's office to as-
8 certain whether or not such applicant is registered and lawfully entitled to
9 vote as requested and, if found to be so, the county clerk shall arrange for
10 the applicant to vote by absent elector's ballot. The county clerk shall not
11 distribute absentee ballot applications or absentee ballots to a voter with-
12 out first receiving a request from the voter for such application or ballot,
13 except in the case of voters in a mail ballot precinct designated pursuant to
14 section 34-308, Idaho Code, or unless otherwise authorized by state or fed-
15 eral law.

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

17 (a) Except as provided in paragraph (b) of this subsection, an elector
18 who has designated a political party affiliation shall receive a pri-
19 mary ballot for that political party.

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

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

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

36 (e) Once an absentee primary ballot is issued to an elector by the
37 county clerk, the county clerk may not issue the same elector a new
38 absentee primary ballot with a different party affiliation than the
39 absentee ballot originally issued to the elector, unless the original
40 absentee ballot type was issued in error by the county clerk.

41 (3) The absentee ballot may be delivered to the absent elector in the
42 office of the county clerk, by postage prepaid mail, or by other appropriate
43 means, including use of a facsimile machine or other electronic transmis-
44 sion. Validly requested absentee ballots for candidates for federal office,
45 where the request is received at least forty-five (45) days before an elec-
46 tion, shall be sent no later than forty-five (45) days before that election
47 to all electors who are entitled to vote by absentee ballot.

48 (4) Pursuant to the uniformed and overseas citizens absentee voting act
49 (UOCAVA, 52 U.S.C. 20301 et seq., as amended), the secretary of state shall

1 establish procedures for the transmission of blank absentee ballots by mail
2 and by electronic transmission for all electors who are entitled to vote by
3 absentee ballot under ~~the uniformed and overseas citizens absentee voting~~
4 ~~act~~, UOCAVA and by which such electors may designate whether the elector
5 prefers the transmission of such ballots by mail or electronically. If no
6 preference is stated, the ballots shall be transmitted by mail. The secre-
7 tary of state shall establish procedures for transmitting such ballots in a
8 manner that shall protect the security and integrity of such ballots and the
9 privacy of the elector throughout the process of transmission.

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

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

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

27 SECTION 3. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after
29 July 1, 2023.