

IN THE SENATE

SENATE BILL NO. 1001, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING THE ISSUANCE OF ABSENTEE BALLOTS; AMENDING SECTION
3 34-1007, IDAHO CODE, TO REVISE PROVISIONS REGARDING COUNTING ABSENTEE
4 BALLOTS; AND DECLARING AN EMERGENCY.
5

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

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

9 34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an applica-
10 tion for an absent elector's ballot within the proper time, the county clerk
11 receiving it shall examine the records of the county clerk's office to as-
12 certain whether or not such applicant is registered and lawfully entitled to
13 vote as requested and, if found to be so, the elector shall arrange for the
14 applicant to vote by absent elector's ballot.

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

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

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

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

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

36 (3) The absentee ballot may be delivered to the absent elector in the
37 office of the county clerk, by postage prepaid mail or by other appropriate
38 means, including use of a facsimile machine or other electronic transmis-
39 sion. Validly requested absentee ballots for candidates for federal office,
40 where the request is received at least forty-five (45) days before an elec-
41 tion, shall be sent ~~not~~ no later than forty-five (45) days before that elec-
42 tion 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. If the absentee ballots are opened prior to election
11 day, the ballots shall be securely maintained in a nonproprietary electronic
12 access-controlled room under twenty-four (24) hour nonproprietary video
13 surveillance that is livestreamed to the public and which video must be
14 archived for at least ninety (90) days following the election. The ballots
15 shall be boxed and secured in the same access-controlled room each day after
16 being opened or scanned. A minimum of two (2) election officials must be
17 present whenever absentee ballots are accessed. No results shall be tabu-
18 lated for absentee ballots until the polls close on the day of the election
19 held prior to December 31, 2020.

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

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