

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 549

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-404, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING REGISTRATION OF ELECTORS; AMENDING SECTION 34-408A,
3 IDAHO CODE, TO REVISE PROVISIONS REGARDING ELECTION DAY REGISTRATION;
4 AMENDING SECTION 34-409, IDAHO CODE, TO REVISE PROVISIONS REGARDING
5 ELECTRONIC VOTER REGISTRATION; AMENDING SECTION 34-410A, IDAHO CODE,
6 TO REVISE PROVISIONS REGARDING FEDERAL ABSENTEE REGISTRATION FORMS;
7 AMENDING SECTION 34-411, IDAHO CODE, TO REVISE PROVISIONS REGARDING
8 VOTER REGISTRATION INFORMATION; AMENDING SECTION 34-1106, IDAHO CODE,
9 TO REVISE PROVISIONS REGARDING DELIVERY OF BALLOTS TO ELECTORS AND TO
10 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1113, IDAHO CODE,
11 TO REMOVE PROVISIONS REGARDING VOTER IDENTIFICATION REQUIRED AT THE
12 POLLS; REPEALING SECTION 34-1114, IDAHO CODE, RELATING TO AN AFFIDAVIT
13 IN LIEU OF PERSONAL IDENTIFICATION; AMENDING CHAPTER 11, TITLE 34,
14 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1114, IDAHO CODE, TO
15 ESTABLISH PROVISIONS REGARDING PROVISIONAL BALLOTS; AMENDING SECTION
16 34-217, IDAHO CODE, TO REVISE PROVISIONS REGARDING RETENTION OF COUNTY
17 ELECTION RECORDS; AMENDING SECTION 34-1012, IDAHO CODE, TO REVISE
18 PROVISIONS REGARDING EARLY VOTING AND TO MAKE TECHNICAL CORRECTIONS;
19 PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.
20

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

22 SECTION 1. That Section 34-404, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 34-404. REGISTRATION OF ELECTORS. (1) All electors must register be-
25 fore being able to vote at any primary, general, special, school or any other
26 election governed by the provisions of title 34, Idaho Code. Registration of
27 a qualified person occurs when a legible, accurate and complete registration
28 application is received in the office of the county clerk ~~or is received at~~
29 ~~the polls pursuant to section 34-408A, Idaho Code.~~

30 (2) Each elector may select on the registration application an af-
31 filiation with a political party qualified to participate in elections
32 pursuant to section 34-501, Idaho Code, or may select to be designated as
33 "unaffiliated." The county clerk shall record the party affiliation or
34 "unaffiliated" designation so selected as part of the elector's registra-
35 tion record. If an elector shall fail or refuse to make such a selection, the
36 county clerk shall enter on the registration records that such elector is
37 "unaffiliated."

38 (3) In order to provide an elector with the appropriate primary elec-
39 tion ballot, pursuant to section 34-904A, Idaho Code, the poll book for
40 primary elections shall include the party affiliation or designation as
41 "unaffiliated" for each elector so registered. ~~An "unaffiliated" elector~~
42 ~~shall declare to the poll worker which primary election ballot the elector~~

1 chooses to vote in, pursuant to section 34-904A, Idaho Code, and the poll
 2 worker or other authorized election personnel shall record such declaration
 3 in the poll book. The poll book shall contain checkoff boxes to allow the
 4 poll worker or other authorized election personnel to record such "unaffili-
 5 ated" elector's selection.

6 (4) In order to provide electors who are already registered to vote, and
 7 who remain registered electors, with an opportunity to select a party af-
 8 filiation or to select their status as "unaffiliated," the poll book for the
 9 2012 primary election shall include checkoff boxes by which the poll worker
 10 or other appropriate election personnel shall record such elector's choice
 11 of party affiliation or choice to be designated as "unaffiliated." After the
 12 2012 primary election, the county clerk shall record the party affiliation
 13 or "unaffiliated" designation so selected in the poll book as part of such
 14 an elector's record within the voter registration system as provided for in
 15 section 34-437A, Idaho Code.

16 (5) After the 2012 primary election, electors who remain registered
 17 voters and who did not vote in the 2012 primary election or who have not
 18 selected party affiliation or who have not selected to be designated as
 19 "unaffiliated," shall be designated as "unaffiliated" and the county clerk
 20 shall record that designation for each such elector within the voter regis-
 21 tration system as provided for in section 34-437A, Idaho Code.

22 SECTION 2. That Section 34-408A, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 34-408A. ELECTION DAY VOTER REGISTRATION REQUIREMENTS. (1) An indi-
 25 vidual who is eligible to vote may register ~~on election day by appearing in~~
 26 ~~person at the polling place for the precinct in which the individual main-~~
 27 ~~tains residence,~~ by completing a registration application, making an oath
 28 in the form prescribed by the secretary of state, providing proof of United
 29 States citizenship, and providing proof of residence. An individual may
 30 prove legal residence for purposes of registering to vote by:

31 ~~(1) Showing an Idaho driver's license or Idaho identification card is-~~
 32 ~~sued through the department of transportation; or~~

33 ~~(2) Showing any document which contains a valid address in the precinct~~
 34 ~~together with a picture identification card; or showing one (1) photo iden-~~
 35 ~~tification document, one (1) address verification document, and proof of~~
 36 United States citizenship.

37 (a) Acceptable photo identification documents are:

38 (i) A current Idaho driver's license or Idaho identification card
 39 issued by the Idaho transportation department that displays the
 40 current address of the individual;

41 (ii) A current United States passport;

42 (iii) A current active United States military identification
 43 card;

44 (iv) A current tribal identification card issued by a federally
 45 recognized Indian tribe, as defined in section 67-4001, Idaho
 46 Code, that displays the individual's date of birth; or

47 (v) A current Idaho license to carry concealed weapons that dis-
 48 plays the holder's date of birth and physical address located in
 49 Idaho.

1 (b) Acceptable address verification documents must display the current
 2 address and a date that is at least thirty (30) days prior to the date of
 3 the election. Acceptable address verification documents are:

4 (i) A utility bill, not including a cell phone bill, that is no
 5 more than six (6) months old;

6 (ii) A current residential lease agreement, rental agreement,
 7 mortgage statement, or deed of trust;

8 (iii) A W-2 or 1099 federal tax form for the most recent available
 9 tax year;

10 (iv) A military leave and earnings statement showing the Idaho
 11 residency of an individual on active military duty deployed out-
 12 side the state of Idaho; or

13 (v) A government record showing the individual as having paid
 14 property taxes at the address within the last year.

15 (c) Acceptable proof of United States citizenship is:

16 (i) A current Idaho driver's license or Idaho identification card
 17 issued by the Idaho transportation department that shows proof of
 18 United States citizenship;

19 (ii) A driver's license or identification card issued by the
 20 equivalent governmental agency of another state within the United
 21 States if the agency indicates on the applicant's driver's license
 22 or identification card that the person has provided satisfactory
 23 proof of United States citizenship;

24 (iii) A legible photocopy of the applicant's birth certificate
 25 that verifies citizenship accompanied with a current photo iden-
 26 tification of the applicant showing the same name or verification
 27 of reason for a name change;

28 (iv) The applicant's United States passport or a legible photo-
 29 copy of pertinent pages of the applicant's United States passport
 30 identifying the applicant and the applicant's passport number;

31 (v) The applicant's United States naturalization documents; or

32 (vi) The applicant's bureau of Indian affairs card, tribal treaty
 33 card, or tribal enrollment verification that shows a photo, date
 34 of birth, and declaration of United States citizenship.

35 (32) Showing a current valid student photo identification card from
 36 a postsecondary educational institution in Idaho accompanied with a cur-
 37 rent student fee statement that contains the student's valid address in the
 38 precinct. Election day registration provided in tThis section shall apply
 39 to all elections conducted under title 34, Idaho Code, and to school district
 40 and municipal elections.

41 (3) An individual who is eligible to vote may also register, upon pro-
 42 viding proof of residence, at the "absent electors' polling place" provided
 43 in section 34-1006, Idaho Code.

44 (4) All voter registrations, including electronic, must be completed
 45 and received thirty (30) days prior to the date of the election; except that
 46 late registration is permitted in-person at the county clerk's office by the
 47 close of business on the Friday before the election.

48 SECTION 3. That Section 34-409, Idaho Code, be, and the same is hereby
 49 amended to read as follows:

1 34-409. ELECTRONIC REGISTRATION. (1) The office of the secretary of
 2 state ~~may shall~~ create and maintain an electronic system for voter registra-
 3 tion that is publicly available on its official website. Any qualified elec-
 4 tor who has a current valid driver's license or identification card issued
 5 pursuant to title 49, Idaho Code, that reflects the person's current princi-
 6 pal place of residence, may register to vote by submitting a completed voter
 7 registration application electronically through such website. Electronic
 8 voter registration applications shall be submitted before the close of reg-
 9 istration as provided in section 34-408, Idaho Code.

10 (2) The electronic voter registration application shall be in a form
 11 prescribed by the secretary of state and shall:

12 (a) Require the information under oath or affirmation set forth in sec-
 13 tion 34-411, Idaho Code;

14 (b) Include notice of the requirement to provide personal identifi-
 15 cation before voting at the polls as set forth in sections 34-1113 and
 16 34-1114, Idaho Code; and

17 (c) Require an electronic signature of the applicant.

18 (3) The office of the secretary of state shall obtain a digital copy
 19 of the applicant's driver's license or identification card signature from
 20 the Idaho transportation department. The Idaho transportation department
 21 shall, upon request of the office of the secretary of state, provide a dig-
 22 ital copy of the applicant's driver's license or identification card signa-
 23 ture.

24 (4) Upon receipt of a completed voter registration application and a
 25 digital copy of the applicant's driver's license or identification card sig-
 26 nature from the Idaho transportation department, the office of the secre-
 27 tary of state shall send the information to the county clerk for the county
 28 in which the applicant resides. The county clerk shall prepare and issue
 29 to each elector registering electronically a verification of registration
 30 containing the name and residence of the elector and the name or number of
 31 the precinct in which the elector resides. ~~Such~~ The county clerk may send
 32 such verification of registration may be sent by nonforwardable first-class
 33 first class mail or by electronic mail at the elector's option. If the cur-
 34 rent address reported by the Idaho transportation department does not match
 35 the address provided by the elector, the county clerk must send the verifica-
 36 tion of registration by nonforwardable first class mail.

37 (5) If a verification is returned undeliverable, then the county clerk
 38 shall immediately remove the elector from the register of electors, unless
 39 the elector is a person subject to the uniformed and overseas citizens absen-
 40 tee voting act, 52 U.S.C. 20301 et seq.

41 (56) An applicant using the electronic system for voter registration
 42 pursuant to this section shall not be required to complete a printed regis-
 43 tration card.

44 (67) The office of the secretary of state shall use such security mea-
 45 sures necessary to ensure the accuracy and integrity of an electronically
 46 submitted voter registration application.

47 SECTION 4. That Section 34-410A, Idaho Code, be, and the same is hereby
 48 amended to read as follows:

1 34-410A. ABSENTEE REGISTRATION FOR UNIFORMED AND OVERSEAS CITI-
 2 ZENS. Whenever provision is made for absentee voting by a statute of the
 3 United States, including the "Uniformed and Overseas Citizens Absentee Vot-
 4 ing Act" (42 U.S.C. 1973ff.), 52 U.S.C. 20301 et seq., an application for an
 5 absentee ballot made under that law may be given the same effect as an appli-
 6 cation for an absentee ballot made under chapter 10, title 34, Idaho Code.
 7 Provided, however, if the applicant uses the federal application form, is
 8 registering to vote in Idaho for the first time, and does not provide the
 9 voter identification required by Idaho law, such applicant shall be eligible
 10 to vote only for federal offices.

11 SECTION 5. That Section 34-411, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 34-411. APPLICATION FOR REGISTRATION -- CONTENTS. (1) Each elector
 14 who requests registration shall supply the following information under oath
 15 or affirmation:

- 16 (a) Full legal name, including the full first, full middle, and full
 17 last name, and sex-;
 18 (b) Mailing address, residence address, or any other necessary infor-
 19 mation definitely locating the elector's residence-;
 20 (c) The period of time preceding the date of registration during which
 21 the elector has resided in the state-;
 22 (d) ~~Whether or not~~ Proof that the elector is a United States citizen-;
 23 (e) That the elector is under no legal disqualifications to vote-;
 24 (f) The county and state where the elector was previously registered,
 25 if any-;
 26 (g) Date of birth-; and
 27 (h) Current driver's license number or identification card issued
 28 by the Idaho transportation department. In the absence of an Idaho
 29 driver's license or state issued identification card, the last four (4)
 30 digits of the elector's social security number.

31 (2) As provided for in section 34-404, Idaho Code, each elector shall
 32 select an affiliation with a political party qualified to participate in
 33 elections pursuant to section 34-501, Idaho Code, or select to be desig-
 34 nated as "unaffiliated." The selection of party affiliation or designation
 35 as "unaffiliated" shall be maintained within the voter registration sys-
 36 tem as provided for in section 34-437A, Idaho Code. If an elector shall
 37 fail or refuse to make such a selection, the county clerk shall record as
 38 "unaffiliated" such elector within the voter registration system as pro-
 39 vided for in section 34-437A, Idaho Code.

40 (3) Any elector who ~~shall supply~~ supplies any information under subsec-
 41 tion (1) of this section, knowing it to be false, is guilty of perjury.

42 (4) Each elector who requests registration may, at the elector's op-
 43 tion, supply the elector's telephone number. If the telephone number is sup-
 44 plied by the elector, the telephone number shall be available to the public.

45 SECTION 6. That Section 34-1106, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

1 34-1106. SIGNING COMBINATION ELECTION RECORD AND POLL BOOK -- DELIV-
 2 ERY OF BALLOT TO ELECTOR. (1) An elector desiring to vote shall state his
 3 name and address to the judge or clerk in charge of the combination election
 4 record and poll book.

5 (2) Before receiving his ballot, each elector shall sign his name in
 6 the combination election record and poll book following his name therein and
 7 show a valid photo identification as provided for in section 34-1113, Idaho
 8 Code, or ~~personal identification affidavit~~ else he may cast a provisional
 9 ballot followed by later identification as provided for in section 34-1114,
 10 Idaho Code.

11 (3) No person shall knowingly sign his name in the combination election
 12 record and poll book if his residence address is not within that precinct at
 13 the time of signing.

14 (4) If the residence address of a person contained in the combination
 15 election record and poll book is incorrectly given due to an error in prepa-
 16 ration of the combination election record and poll book, the judge shall as-
 17 certain the correct address and make the necessary correction.

18 (5) The elector shall then be given the appropriate ballots ~~which that~~
 19 have been marked with the official election ballot identification and shall
 20 be given folding instructions for such ballots.

21 SECTION 7. That Section 34-1113, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 34-1113. IDENTIFICATION AT THE POLLS. All voters shall be required
 24 to provide personal identification before voting at the polls or at absent
 25 electors polling places as required by section 34-1006, Idaho Code. The per-
 26 sonal identification that may be presented shall be one (1) of the following:

27 (1) An Idaho driver's license or identification card issued by the
 28 Idaho transportation department;

29 (2) A passport or an identification card, including a photograph, is-
 30 sued by an agency of the United States government;

31 (3) A tribal identification card, including a photograph; or

32 (4) ~~A current student identification card, including a photograph, is-~~
 33 ~~sued by a high school or an accredited institution of higher education, in-~~
 34 ~~cluding a university, college or technical school, located within the state~~
 35 ~~of Idaho; or~~

36 (5) A license to carry concealed weapons issued under section 18-3302,
 37 Idaho Code, or an enhanced license to carry concealed weapons issued under
 38 section 18-3302K, Idaho Code.

39 SECTION 8. That Section 34-1114, Idaho Code, be, and the same is hereby
 40 repealed.

41 SECTION 9. That Chapter 11, Title 34, Idaho Code, be, and the same is
 42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 43 ignated as Section 34-1114, Idaho Code, and to read as follows:

44 34-1114. PROVISIONAL BALLOT. If a voter is not able to present per-
 45 sonal identification as required in section 34-1113, Idaho Code, he may be
 46 given a provisional ballot and may proceed to vote. A provisional ballot

1 shall allow the voter to vote in the identical races but shall be clearly
 2 marked as a provisional ballot. Once the provisional ballot has been voted,
 3 it shall be secured in a separate location from those ballots cast by vot-
 4 ers displaying proper identification. A provisional ballot shall not be
 5 counted or canvassed unless and until the voter casting the provisional
 6 ballot presents proper identification to the county clerk within ten (10)
 7 days following the date of the election. Any provisional ballot cast but not
 8 authenticated by the voter with proper identification shall be marked as a
 9 spoiled ballot and shall not be included in the canvass of votes.

10 SECTION 10. That Section 34-217, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 34-217. RETENTION OF COUNTY ELECTION RECORDS. (1) The following
 13 cCounty election records shall be maintained by the county clerk for the time
 14 periods outlined in this section. Records shall be maintained for the period
 15 specified five (5) years, beginning with the date the record is created or
 16 has become no longer valid, whichever is greater.

17 ~~(1) The following records shall be retained for not less than five (5)~~
 18 ~~years:~~

19 (a) Voter registration cards for electors whose registration has been
 20 terminated;

21 (b) Correspondence relating to an elector's voter registration;

22 (c) Combination election record and poll book, including the ballot ac-
 23 counting page;

24 (d) Declaration of candidacy and petition of candidacy forms filed with
 25 the county clerk;

26 (e) Maps of precinct boundaries with legal descriptions;

27 (f) List of absentee voters; ~~and~~

28 (g) County initiatives and petitions that qualify for placement on the
 29 ballot;~~i~~

30 ~~(2) The following shall be retained for two (2) years:~~

31 ~~(a) Completed absentee ballot request forms;~~

32 ~~(b) Tally books;~~

33 ~~(c) Voted ballots;~~

34 ~~(d) Any ballots that were required to be duplicated before being~~
 35 ~~counted;~~

36 ~~(e) Certified lists of candidates or declaration of candidacy forms~~
 37 ~~from special districts used for ballot preparation;~~

38 ~~(f) Certified ballot language from special districts for any question~~
 39 ~~placed on the ballot; and~~

40 ~~(g) Absentee ballot affidavit envelopes, including the indication of~~
 41 ~~the signature's acceptance or rejection;~~i~~~~

42 ~~(3) The following shall be maintained for one (1) year:~~

43 ~~(a) Notice of election;~~

44 ~~(b) Personal identification affidavit~~ Provisional ballot envelopes,
 45 including the indication of whether the voter validated the ballot with
 46 proper identification;

47 ~~(c) Ballot tracking logs;~~

48 ~~(d) Automated tabulation election logs;~~

- 1 (es) Copy of the election definition and program used in tabulating
 2 ballots electronically and in the ballot-marking device; and
 3 (ft) Record of the number of ballots printed and furnished to each
 4 polling place.
- 5 (42) Other election supplies, including but not limited to unused bal-
 6 lots, official election ballot identification or official ballot stamps,
 7 receipts for supplies, and spoiled ballots, may be disposed of sixty (60)
 8 days following the deadline for requesting a recount or filing an election
 9 contest pursuant to chapters 20 and 21, title 34, Idaho Code.

10 SECTION 11. That Section 34-1012, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 34-1012. ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING -- EARLY VOT-
 13 ING. (1) Those counties that utilize absentee voting facilities that have
 14 access to the Idaho statewide voter registration system and count ballots at
 15 a central location or utilize a polling location-based tabulation system may
 16 elect to conduct "early voting" according to the provisions of this section.
 17 For those counties that elect to do "early voting," early voting shall begin
 18 on or before the third Monday before the election and end at 5:00 p.m. on
 19 the Friday before the election. Primary election ballots shall be issued
 20 pursuant to section 34-1002(2), Idaho Code.

21 (2) A voter who appears at an "early voting" station to vote shall state
 22 his or her name and address to the election official and present the voter's
 23 identification as required by sections 34-1113 and 34-1114, Idaho Code.

24 (3) The election official shall examine the records to ascertain
 25 whether or not such applicant is registered and lawfully entitled to vote
 26 as requested. The provisions of section 34-408A, Idaho Code, ~~authorizing~~
 27 ~~election day registration~~ shall also apply in determining the applicant's
 28 qualifications to vote.

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

31 (5) The elector shall then be given the appropriate ballots contain-
 32 ing the official election ballot identification pursuant to section 34-901,
 33 Idaho Code, and shall be given folding instructions for such ballots, if ap-
 34 propriate.

35 (6) Upon receipt of the ballots, the elector shall retire to a vacant
 36 voting booth and mark the ballots according to the instructions provided.

37 (7) After marking the ballot, the elector shall present himself or her-
 38 self to the election official at the ballot box and state his or her name and
 39 address. The elector shall then deposit the ballot in the ballot box or hand
 40 it to the election official, who shall deposit it. The election official
 41 shall then record that the elector has voted and proclaim the same in an audi-
 42 ble voice.

43 (8) Voters requiring assistance shall be provided with such assistance
 44 in accordance with section 34-1108, Idaho Code.

45 (9) Electioneering is prohibited at an early voting polling place as
 46 provided in section 18-2318, Idaho Code.

47 SECTION 12. SEVERABILITY. The provisions of this act are hereby de-
 48 clared to be severable and if any provision of this act or the application

1 of such provision to any person or circumstance is declared invalid for any
2 reason, such declaration shall not affect the validity of the remaining por-
3 tions of this act.

4 SECTION 13. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 passage and approval.