



Executive Department  
State of Idaho

## The Office of the Governor Proclamation

State Capital  
Boise

*WHEREAS, the SARS-CoV-2 virus that originated in China and causes the disease COVID-19 has caused untold misery and devastation throughout the world, including in the United States and in Idaho; and*

*WHEREAS, the health and safety of all Idahoans is the greatest priority of our state and its leaders; and*

*WHEREAS, citizen participation in our elections by voting is essential to our republic; and*

*WHEREAS, the White House has recently reported that several Idaho counties are in the "Red Zone" for COVID-19 due to a high rate of new cases per 100,000 and a test positivity rate above 10 percent, including some of Idaho's most populous counties; and*

*WHEREAS, the COVID-19 pandemic has significantly decreased the availability of possible polling locations and willingness of poll workers to serve on Election Day; and*

*WHEREAS, I am informed by the Secretary of State that on average approximately 4,000 poll workers help carry out the general election and that the median age of those poll workers is 70 years old; and*

*WHEREAS, I am informed by the Secretary of State that over half of those who customarily serve as poll workers do not plan to do so for the 2020 general election; and*

*WHEREAS, I am informed by the Secretary of State that an unprecedented number of Idahoan's will vote absentee in this year's general election, which will require those ballots to be processed and counted by the county clerks' offices while simultaneously preparing for and operate polling places for in person voting on Election Day; and*

*WHEREAS, there is an urgent need to address and ensure the privacy, integrity and security of Idaho's election process; and*

*WHEREAS, the existence of COVID-19 in Idaho and in the United States has significantly harmed Idaho's economy, caused the loss of many Idaho jobs, and caused our schools, universities, and other institutions to temporarily close; and*

*WHEREAS, the United States and the State of Idaho have enacted numerous laws and programs to help workers, professional educators, businesses, health care workers, patients, and citizens respond to and recover from the negative impacts caused by COVID-19; and*

*WHEREAS, safely reopening Idaho's economy is crucial to Idaho's recovery from the COVID-19 pandemic and will enable Idaho's workers to get back to work and Idaho's students to get back to school; and*

*WHEREAS, the COVID-19 pandemic has created unprecedented uncertainty as to liability due to the existence and spread of COVID-19 in Idaho; and*

*WHEREAS, small and large businesses, schools, colleges and universities, and religious, philanthropic and other non-profit institutions confront the risk of litigation accusing them of negligently exposing employees, customers, students, and worshipers to coronavirus. Health care workers face the threat of lawsuits arising from their efforts to fight the virus; and*

*WHEREAS, establishing temporary and consistent standards to govern liability for certain tort claims related to COVID-19 will help Idaho's economy recover in a safe and prudent manner and will encourage planning, care, and appropriate risk management by small and large businesses, schools, colleges and universities, religious, philanthropic and other non-profit institutions, and health care providers; and*

*WHEREAS, the standards set by this special session must be carefully tailored to the crisis caused by the COVID-19 pandemic and extend no further than necessary to meet this unique crisis. Those who do not act in good faith to respond safely to the COVID-19 pandemic should not be immune from liability; and*

*WHEREAS, article IV, section 9 of the Constitution of the State of Idaho empowers the Governor, on extraordinary occasions, to convene the Legislature by proclamation; and*

*WHEREAS, the Idaho Legislature has requested a special session to address issues caused by the COVID-19 pandemic that require immediate action; and*

*WHEREAS, I have determined that the existence and spread of COVID-19 in Idaho is such an extraordinary occasion that necessitates convening a special session of the Idaho Legislature; and*

*WHEREAS, the Idaho Legislature formed working groups that have studied those issues caused by the COVID-19 pandemic and recommended specific bills to be considered at a special session of the Idaho Legislature; and*

*WHEREAS, article III, section 9 of the Constitution of the State of Idaho gives each house of the Legislature the authority to identify and implement the safety protocols, including capacity limits, it deems necessary to conduct its proceedings within its respective chambers, offices, and committee rooms.*

*NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do by this Proclamation convene the 65th Idaho Legislature in Extraordinary Session in the legislative chambers at the Capitol in Boise City, Ada County, Idaho, at the hour of 10:00 A.M. on the 24th day of August, 2020 for the following enumerated purpose and no other:*

*To consider the passage of RS28046 regarding absentee voting during the pandemic, RS28045 regarding in person polling locations during the pandemic, and RS28049 regarding civil liability, copies of which are attached hereto.*

*The Extraordinary Session of the Legislature convened by this Proclamation shall have no power to legislate on any subjects other than those specified herein.*

*I HEREBY DIRECT AND REQUIRE that a copy of this Proclamation be delivered to the Lieutenant Governor, to each of the members of the 65th Idaho Legislature and to the Constitutional Officers of Idaho at the earliest practicable time.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 19<sup>th</sup> day of August in the year of our Lord two thousand and twenty.*

Brad Little  
GOVERNOR

Lawrence Denney  
SECRETARY OF STATE



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.



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

First Extraordinary Session - 2020

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

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

BY \_\_\_\_\_

AN ACT

RELATING TO ELECTIONS; AMENDING CHAPTER 11, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1115, IDAHO CODE, TO PROVIDE FOR ALTERNATIVE PROCEDURES FOR ELECTION DAY VOTING AND TO PROVIDE FOR VOTE CENTERS; DECLARING AN EMERGENCY; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Chapter 11, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1115, Idaho Code, and to read as follows:

34-1115. ALTERNATIVE PROCEDURES FOR ELECTION DAY VOTING -- VOTE CENTERS. (1) Counties that use voting facilities with access to the Idaho statewide voter registration system or that use electronic poll books authorized under section 34-1106A, Idaho Code, and that count ballots at a central location or use a polling location-based tabulation system may elect to establish one (1) or more vote centers according to the provisions of this section.

(2) A vote center shall be equipped to issue the appropriate ballot to any elector from any precinct within the county and to record that elector as having voted.

(3) An elector who appears at a vote center to vote shall state the elector's name and address to the election official and present the elector's identification as required by sections 34-1113 and 34-1114, Idaho Code.

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

(5) Before receiving a ballot, each elector shall sign the elector's name in the election register and poll book provided for vote centers. The elector shall then be given the appropriate ballots.

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

(7) After marking the ballot, the elector shall present himself to the election official at the ballot box and state the elector's name. The elector shall then deposit the ballot in the ballot box or hand it to the election official who shall deposit the ballot. The election official shall proclaim in an audible voice that the elector has voted.

(8) Any county that plans to use one (1) or more vote centers shall:

(a) Provide at least one (1) vote center in each legislative district within the county;

(b) Provide at least one (1) vote center for every fifteen thousand (15,000) registered voters; and

1 (c) Provide at least one (1) vote center within twenty-five (25)  
2 miles of every registered voter who is not located within a mail ballot  
3 precinct pursuant to section 34-308, Idaho Code.

4 (9) Voters requiring assistance shall be provided with assistance in  
5 accordance with section 34-1108, Idaho Code.

6 (10) Any county that plans to use one (1) or more vote centers shall no-  
7 tify the secretary of state at least thirty (30) days prior to the first im-  
8 plementation. The use of vote centers shall be included as part of the des-  
9 ignation of precinct polling locations under section 34-302, Idaho Code, and  
10 shall be included in the legal publications provided for in sections 34-602  
11 and 34-1406, Idaho Code.

12 (11) Electioneering is prohibited at a vote center polling place pur-  
13 suant to section 18-2318, Idaho Code.

14 SECTION 2. An emergency existing therefor, which emergency is hereby  
15 declared to exist, this act shall be in full force and effect on and after its  
16 passage and approval.

17 SECTION 3. The provisions of this act shall be null, void, and of no  
18 force and effect on and after December 31, 2020.



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

First Extraordinary Session - 2020

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

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

BY \_\_\_\_\_

AN ACT

RELATING TO CIVIL LIABILITY; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 16, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-1608, IDAHO CODE, TO PROVIDE IMMUNITY FROM CIVIL LIABILITY FOR ACTIONS TAKEN IN GOOD FAITH TO ADDRESS OR AMELIORATE A CORONAVIRUS-RELATED DISASTER OR EMERGENCY, TO PROVIDE APPLICABILITY, TO PROVIDE CERTAIN EXEMPTIONS, AND TO DEFINE TERMS; DECLARING AN EMERGENCY; AND PROVIDING A SUNSET DATE.

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

SECTION 1. LEGISLATIVE INTENT. In enacting this legislation, it is the intent of the legislature to limit liability by providing a safe harbor to all persons during disasters or emergencies arising from a coronavirus-related pandemic or epidemic who make good faith efforts to meet the requirements occasioned by such an event. The immunity is meant to apply broadly to any and all individuals and private and public entities in any location and at any time, including, without limitation, providers of goods and services, owners and operators of any premises such as stores, restaurants, bars, hotels, assisted living facilities, offices, schools, libraries, hospitals, medical clinics, residences, homes, churches, daycare facilities, and the like that function or operate during the coronavirus-related disaster or emergency and to those whose normal activities are interrupted by the disaster or emergency but who make good faith efforts to continue those activities safely during the coronavirus-related disaster or emergency.

SECTION 2. That Chapter 16, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-1608, Idaho Code, and to read as follows:

6-1608. IMMUNITY FROM CIVIL LIABILITY DURING A DECLARED DISASTER OR EMERGENCY. (1) A person who acts during a disaster or emergency declared by the governor pursuant to chapters 6 and 10, title 46, Idaho Code, that is occasioned by a coronavirus-related pandemic or epidemic in an effort to address or mitigate the disaster or emergency arising from a coronavirus-related pandemic or epidemic or to adapt behavior on account of the declared coronavirus-related disaster or emergency or who makes a considered determination that no adaptation to necessary behavior during the declared coronavirus-related disaster or emergency is practical shall be immune from civil liability for acts or omissions made in good faith, unless those acts or omissions constitute an intentional tort or willful or reckless misconduct, as defined in section 6-1601, Idaho Code.

(2) The immunity provided in this section shall not apply if a person fails to make a good faith effort to comply with a statute, rule, or lawful order of a government entity in effect at the time and such failure is the proximate cause of injury to another, nor shall it apply to acts or omissions



1 that occur during a declared coronavirus-related disaster or emergency that  
2 are unrelated to or unaffected by the declared coronavirus-related disaster  
3 or emergency.

4 (3) Noncompliance with guidelines or recommendations related to a de-  
5 clared coronavirus-related disaster or emergency alone shall not be used to  
6 establish civil liability.

7 (4) The provisions of this section shall not modify the application of  
8 worker's compensation laws as provided in chapters 1 through 9, 13, and 14,  
9 title 72, Idaho Code.

10 (5) The immunity provided in this section shall be in addition to any  
11 other immunity protections that may apply in state or federal law.

12 (6) The provisions of this section shall be effective only upon causes  
13 of action arising in tort.

14 (7) The immunity provided in this section shall not apply to the acts or  
15 omissions of the People's Republic of China, its proxies, agents, or affili-  
16 ates related to any cause of action wherein the transmission of COVID-19 is a  
17 material fact.

18 (8) The immunity provided in this section shall not apply to causes of  
19 action brought against the state of Idaho, its officers, agencies, or polit-  
20 ical subdivisions challenging the legality or constitutionality of any dec-  
21 laration of emergency, agency rule, regulation, statute, ordinance, or pub-  
22 lic health order, irrespective of the remedy sought.

23 (9) For purposes of this section:

24 (a) "Coronavirus" means:

25 (i) Severe acute respiratory syndrome coronavirus 2;

26 (ii) The disease caused by severe acute respiratory syndrome  
27 coronavirus 2; or

28 (iii) Any subsequently identified mutation, modification, or  
29 strain of coronavirus if the transmission of said virus among hu-  
30 mans rises to the level of an epidemic or pandemic and qualifies  
31 for an emergency declaration under applicable Idaho law.

32 (b) "Epidemic" means an outbreak of a virus or communicable dis-  
33 ease that differs in its makeup from current and recently circulating  
34 viruses or diseases and is actively spreading within this state or re-  
35 gion.

36 (c) "Pandemic" means a global outbreak of a virus or communicable dis-  
37 ease that differs in its makeup from current and recently circulating  
38 viruses or diseases and is actively spreading between international  
39 boundaries affecting a high proportion of the population either by the  
40 number of cases or the sudden rise in the incidence of the virus or dis-  
41 ease.

42 (d) "Person" means any entity recognized in this state and shall in-  
43 clude but not be limited to an individual, corporation, limited lia-  
44 bility company, partnership, trust, association, city, county, school  
45 district, other unit of local government, or the state of Idaho and any  
46 agency or subdivision thereof.

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

1           SECTION 4. The provisions of Sections 1 and 2 of this act shall be null,  
2           void, and of no force and effect on and after July 1, 2023.