

IN THE SENATE

SENATE BILL NO. 1198

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION  
2 34-308, IDAHO CODE, TO REVISE PROVISIONS RELATING TO MAIL BALLOT  
3 PRECINCTS, TO PROVIDE PROVISIONS RELATING TO ELECTORS WHO HAVE DESIG-  
4 NATED A POLITICAL PARTY AFFILIATION AND TO PROVIDE PROVISIONS RELATING  
5 TO "UNAFFILIATED" ELECTORS; AMENDING SECTION 34-404, IDAHO CODE, TO RE-  
6 VISE PROVISIONS RELATING TO THE REGISTRATION OF ELECTORS AND TO PROVIDE  
7 PROVISIONS RELATING TO PRIMARY ELECTIONS; AMENDING SECTION 34-406,  
8 IDAHO CODE, TO REMOVE A REFERENCE TO MAIL REGISTRATION FORMS, TO REVISE  
9 A CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
10 34-411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO APPLICATION FOR  
11 REGISTRATION, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORREC-  
12 TION; AMENDING CHAPTER 4, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW  
13 SECTION 34-411A, IDAHO CODE, TO PROVIDE PROVISIONS RELATING TO PRIMARY  
14 ELECTIONS, TO PROVIDE PROVISIONS RELATING TO AN ELECTOR'S CHANGE OF  
15 PARTY AFFILIATION OR AN ELECTOR'S DESIGNATION AS "UNAFFILIATED" AND TO  
16 PROVIDE PROVISIONS RELATING TO "UNAFFILIATED" ELECTORS SELECTION OF  
17 POLITICAL PARTY AFFILIATION; AMENDING SECTION 34-904, IDAHO CODE, TO  
18 REVISE PROVISIONS RELATING TO PRIMARY ELECTION BALLOTS; AMENDING CHAP-  
19 TER 9, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-904A,  
20 IDAHO CODE, TO SET FORTH PROVISIONS RELATING TO THE ELIGIBILITY TO VOTE  
21 IN PRIMARY ELECTIONS, TO PROVIDE PROVISIONS RELATING TO NOTIFICATION  
22 TO THE SECRETARY OF STATE, TO PROVIDE PROVISIONS RELATING TO THE DECLA-  
23 RATION BY CERTAIN ELECTORS OF CHOICE OF PRIMARY BALLOT AND TO PROVIDE  
24 PROVISIONS RELATING TO THE APPLICATION OF LAW ON CERTAIN ELECTORS DES-  
25 IGNATED AS "UNAFFILIATED"; AMENDING SECTION 34-1002, IDAHO CODE, TO  
26 REVISE PROVISIONS RELATING TO APPLICATIONS FOR ABSENTEE BALLOTS, TO  
27 REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
28 34-1003, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO THE ISSUANCE OF  
29 ABSENTEE BALLOTS; AND PROVIDING SEVERABILITY.  
30

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

32 SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Legislature finds that  
33 it is the public policy of this state to encourage voter participation in  
34 primary and general elections. While each political party may select that  
35 party's candidates in primary elections, it is the intent of the Legislature  
36 that every effort be made to accommodate the participation of voters who are  
37 unaffiliated with a particular political party, but who are willing to af-  
38 filiate with a party for purposes of voting in primary elections. The Leg-  
39 islature also finds, as noted by the United States Supreme Court, that the  
40 state may not deprive a political party of it rights under the First and Four-  
41 teenth Amendments to enter into political association with individuals of  
42 its own choosing. Consequently, it is the intent of the Legislature to pro-  
43 vide political parties in this state with a mechanism to voluntarily and more

1 fully exercise those rights of political association by providing certain  
2 provisions relating to primary elections.

3 SECTION 2. That Section 34-308, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 34-308. MAIL BALLOT PRECINCT. A precinct within the county which con-  
6 tains no more than one hundred twenty-five (125) registered electors at the  
7 last general election, may be designated by the board of county commission-  
8 ers a mail ballot precinct no later than April 1 in an even-numbered year.  
9 Such a designation shall apply thereafter to all elections conducted within  
10 the precinct until revoked by the board of county commissioners. Having des-  
11 ignated a mail ballot precinct, there shall be no voting place established  
12 within the precinct. Elections in a mail ballot precinct shall be conducted  
13 in a manner consistent with absentee voting with the following special pro-  
14 visions.

15 (1) The clerk shall issue a ballot, by mail, to every registered voter  
16 in a mail ballot precinct, and shall affix to the return envelope, postage  
17 sufficient to return the ballot.

18 (2) The ballot shall be mailed no sooner than twenty-four (24) days  
19 prior to the election day and no later than the fourteenth day prior to the  
20 election.

21 (3) The clerk shall make necessary provisions to segregate mail bal-  
22 lot precinct ballots by precinct, and for all purposes of the election, the  
23 precinct integrity shall be maintained.

24 (4) The clerk shall make available in the office of the clerk, regis-  
25 tration on election day for any individual who is eligible to vote and who  
26 resides in a mail ballot precinct and has not previously registered. The  
27 clerk shall provide an official polling place in the office of the clerk and a  
28 qualified elector who registers on election day and resides in a mail ballot  
29 precinct shall be allowed to vote at the office of the clerk.

30 (5) (a) Except as provided in subsection (5) (b) of this section, elec-  
31 tors who have designated a political party affiliation pursuant to sec-  
32 tion 34-404, Idaho Code, shall receive the primary election ballot for  
33 that party pursuant to sections 34-904 and 34-904A, Idaho Code.

34 (b) Electors who have designated a political party affiliation pur-  
35 suant to section 34-404, Idaho Code, may receive the primary election  
36 ballot of a political party other than the political party such elector  
37 is affiliated with if such other political party has provided notifica-  
38 tion to the secretary of state that identifies the political party such  
39 elector is affiliated with, as provided for in section 34-904A(2) (b),  
40 Idaho Code.

41 (6) For "unaffiliated" electors, in order to receive a political  
42 party's primary election ballot, pursuant to section 34-904A, Idaho Code,  
43 the county clerk shall mail a ballot request form for the primary election  
44 ballot to the electors in a mail ballot precinct for the electors to use in  
45 selecting the party ballot they choose to receive.

46 (a) In the event that more than one (1) political party allows electors  
47 designated as "unaffiliated" to vote in their party's primary election  
48 pursuant to section 34-904A, Idaho Code, an elector designated as "un-  
49 affiliated" shall indicate on the form such elector's choice of the po-

1 political party's primary election ballot in order to vote in that party's  
2 primary election.

3 (b) In the event no more than one (1) political party allows electors  
4 designated as "unaffiliated" to vote in their party's primary election  
5 pursuant to section 34-904A, Idaho Code, an elector designated as "un-  
6 affiliated" shall indicate on the form that political party's primary  
7 election ballot in order to vote in that political party's primary elec-  
8 tion.

9 (c) If an elector designated as "unaffiliated" is not permitted to  
10 vote in a political party's primary election as provided for in section  
11 34-904A, Idaho Code, such elector shall receive a nonpartisan ballot.

12 (d) If an elector designated as "unaffiliated" does not indicate on the  
13 form a choice of political party's primary election ballot, such elec-  
14 tor shall receive a nonpartisan ballot.

15 SECTION 3. That Section 34-404, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 34-404. REGISTRATION OF ELECTORS. (1) All electors must register be-  
18 fore being able to vote at any primary, general, special, school or any other  
19 election governed by the provisions of title 34, Idaho Code. Registration of  
20 a qualified person occurs when a legible, accurate and complete registration  
21 card is received in the office of the county clerk or is received at the polls  
22 pursuant to section 34-408A, Idaho Code.

23 (2) Each elector may select on the registration card an affiliation  
24 with a political party qualified to participate in elections pursuant to  
25 section 34-501, Idaho Code, or may select to be designated as "unaffili-  
26 ated." The county clerk shall record the party affiliation or "unaffiliated"  
27 designation so selected as part of the elector's registration record. If an  
28 elector shall fail or refuse to make such a selection, the county clerk shall  
29 enter on the registration records that such elector is "unaffiliated."

30 (3) In order to provide an elector with the appropriate primary elec-  
31 tion ballot, pursuant to section 34-904A, Idaho Code, the poll book for  
32 primary elections shall include the party affiliation or designation as "un-  
33 affiliated" for each elector so registered. An "unaffiliated" elector shall  
34 declare to the poll worker which primary election ballot the elector chooses  
35 to vote in, pursuant to section 34-904A, Idaho Code, and the poll worker or  
36 other authorized election personnel shall record such declaration in the  
37 poll book. The poll book shall contain checkoff boxes to allow the poll  
38 worker or other authorized election personnel to record such "unaffiliated"  
39 elector's selection.

40 (4) In order to provide electors who are already registered to vote, and  
41 who remain registered electors, with an opportunity to select a party af-  
42 iliation or to select their status as "unaffiliated," the poll book for the  
43 2012 primary election shall include checkoff boxes by which the poll worker  
44 or other appropriate election personnel shall record such elector's choice  
45 of party affiliation or choice to be designated as "unaffiliated." After the  
46 2012 primary election, the county clerk shall record the party affiliation  
47 or "unaffiliated" designation so selected in the poll book as part of such  
48 an elector's record within the voter registration system as provided for in  
49 section 34-437A, Idaho Code.

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

7       SECTION 4. That Section 34-406, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9       34-406. APPOINTMENT OF REGISTRARS. (1) The county clerk shall provide  
 10 for voter registration in the clerk's office and may appoint registrars to  
 11 assist in voter registration throughout the county.

12       (2) The county clerk shall provide all political parties within the  
 13 county with a supply of the ~~mail~~ registration form prescribed in section  
 14 34-4101, Idaho Code.

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

17       34-411. APPLICATION FOR REGISTRATION -- CONTENTS. (1) Each elector  
 18 who requests registration shall supply the following information under oath  
 19 or affirmation:

20       (a) ~~His~~ Full name and sex.

21       (b) ~~His~~ Mailing address, ~~his~~ residence address or any other necessary  
 22 information definitely locating ~~his~~ the elector's residence.

23       (c) The period of time preceding the date of registration during which  
 24 ~~he~~ the elector has resided in the state.

25       (d) Whether or not ~~he~~ the elector is a citizen.

26       (e) That ~~he~~ the elector is under no legal disqualifications to vote.

27       (f) The county and state where ~~he~~ the elector was previously regis-  
 28 tered, if any.

29       (g) Date of birth.

30       (h) Current driver's license number or, in the absence of an Idaho  
 31 driver's license, the last four (4) digits of the elector's social se-  
 32 curity number.

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

42       (3) Any elector who shall supply any information under subsection (1)  
 43 of this section, knowing it to be false, is guilty of perjury.

44       (34) Each elector who requests registration may, at the elector's op-  
 45 tion, supply the ~~the~~ elector's telephone number. If the telephone number is  
 46 supplied by the elector, the telephone number shall be available to the pub-  
 47 lic.

1 SECTION 6. That Chapter 4, Title 34, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 34-411A, Idaho Code, and to read as follows:

4 34-411A. PRIMARY ELECTIONS -- CHANGING PARTY AFFILIATION -- UNAF-  
5 FILIATED ELECTORS. (1) For a primary election, an elector may change such  
6 elector's political party affiliation or become "unaffiliated" by filing  
7 a signed form with the county clerk no later than the last day a candidate  
8 may file for partisan political office prior to such primary election, as  
9 provided for in section 34-704, Idaho Code. The application form described  
10 in section 34-1002, Idaho Code, shall also be used for this purpose.

11 (2) For a primary election, an "unaffiliated" elector may select a po-  
12 litical party affiliation only prior to voting in the primary election. An  
13 elector may make such selection on or before election day, by declaring such  
14 political party affiliation to the poll worker or other appropriate election  
15 personnel. The poll worker or other appropriate election personnel shall  
16 then record in the poll book the elector's choice. After the primary elec-  
17 tion, the county clerk shall record the party affiliation so recorded in the  
18 poll book as part of such elector's record within the voter registration sys-  
19 tem as provided for in section 34-437A, Idaho Code.

20 SECTION 7. That Section 34-904, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 34-904. PRIMARY ELECTION BALLOTS. (1) There shall be a ~~single~~  
23 ~~separate~~ primary election ballot ~~on which the complete ticket of~~ for each  
24 political party upon which only its ticket shall be printed; however, a  
25 county may use a separate ballot for the office of precinct committeeman.  
26 ~~Each political ticket shall be separated from the others by a perforated~~  
27 ~~line that will enable the elector to detach the ticket of the political party~~  
28 ~~voted from those remaining.~~ All candidates who have filed their declara-  
29 tions of candidacy and are subsequently certified shall be listed under the  
30 proper office titles on their political party ticket. The secretary of state  
31 shall design the primary election ballot to allow for write-in candidates  
32 under each office title.

33 (2) The office titles shall be listed in order beginning with the high-  
34 est federal office and ending with precinct offices. The secretary of state  
35 has the discretion and authority to arrange the classifications of offices  
36 as provided by law.

37 (3) It is not necessary to print a primary ballot for a political party  
38 which does not have candidates for more than half of the federal or statewide  
39 offices on the ballot if no more than one (1) candidate files for nomination  
40 by that party for any of the offices on the ballot. The secretary of state  
41 shall certify that no primary election is necessary for that party if such  
42 is the case and shall certify to the county clerk the names of candidates for  
43 that party for the general election ballot only.

44 SECTION 8. That Chapter 9, Title 34, Idaho Code, be, and the same is  
45 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
46 ignated as Section 34-904A, Idaho Code, and to read as follows:

1           34-904A. ELIGIBILITY TO VOTE IN PRIMARY ELECTIONS. (1) Except as  
2 provided in subsection (2) of this section, an elector who has designated a  
3 party affiliation shall be allowed to vote only in the primary election of  
4 the political party for which such an elector is so registered.

5           (2) The state chairman of a political party qualified to participate  
6 in elections pursuant to section 34-501, Idaho Code, may, no later than one  
7 hundred eighty (180) days prior to a primary election, notify the secretary  
8 of state in writing that the political party elects to allow, in addition to  
9 those electors who have registered with that political party, any of the fol-  
10 lowing to vote in such party's primary election:

11           (a) Electors designated as "unaffiliated";

12           (b) Electors registered with a different political party qualified to  
13 participate in elections pursuant to section 34-501, Idaho Code. In the  
14 event a state chairman of a political party elects to allow electors to  
15 vote in that party's primary election pursuant to this paragraph (b),  
16 the state chairman shall identify which political parties' registrants  
17 are allowed to vote in such primary election.

18           (3) In the event that more than one (1) political party allows "unaf-  
19 filiated" electors to vote in their party's primary election, an "unaffili-  
20 ated" elector shall designate which political party's primary election the  
21 elector chooses to vote in by declaring such designation to the poll worker  
22 or other appropriate election personnel, who shall then record in the poll  
23 book the elector's choice. The county clerk shall record such choice as part  
24 of the elector's voting history within the voter registration system as pro-  
25 vided for in section 34-437A, Idaho Code.

26           (4) In the event no more than one (1) political party allows "unaffili-  
27 ated" electors to vote in their party's primary election, an "unaffiliated"  
28 elector may designate that political party's primary election as the elec-  
29 tion the elector chooses to vote in by declaring such designation to the poll  
30 worker or other appropriate election personnel, who shall then record in the  
31 poll book the elector's choice. The county clerk shall record such choice as  
32 part of the elector's voting history within the voter registration system as  
33 provided for in section 34-437A, Idaho Code.

34           (5) An "unaffiliated" elector having declared such designation as pro-  
35 vided for in subsection (3) or (4) of this section shall not be permitted to  
36 vote in the primary election of any other party held on that primary election  
37 date.

38           (6) If an "unaffiliated" elector does not declare a choice of politi-  
39 cal party's primary election ballot, the elector shall not be permitted to  
40 vote in any political party's primary election but shall receive a nonparti-  
41 san ballot.

42           (7) In the event that one (1) or more political parties allow elec-  
43 tors affiliated with a different political party to vote in their primary  
44 election pursuant to this section, an elector affiliated with a different  
45 political party shall declare to the poll worker or other appropriate elec-  
46 tion personnel in which primary election ballot such elector wishes to vote.  
47 The county clerk shall record such choice as part of the elector's voting  
48 history within the voter registration system as provided for in section  
49 34-437A, Idaho Code.

1            Provided that all other provisions of this act are complied with, noth-  
2 ing in this section shall be construed to prohibit an elector designated as  
3 "unaffiliated" from voting in the primary election of a different party held  
4 in subsequent years. Notwithstanding any other provision of this act, if  
5 a political party allows "unaffiliated" electors to vote in that political  
6 party's primary election pursuant to this section, a vote by an "unaffili-  
7 ated" elector in such primary election shall not change or affect the elec-  
8 tor's "unaffiliated" designation.

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

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

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

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

37            (4) For electors who are registered to vote as of January 1, 2012, and  
38 who remain registered electors, the elector shall designate, as part of  
39 the written application for a ballot for the 2012 primary elections, the  
40 elector's party affiliation or designation as "unaffiliated." The appli-  
41 cation shall contain checkoff boxes for "unaffiliated" electors by which  
42 such electors shall indicate for which party's primary election ballot the  
43 "unaffiliated" elector chooses to vote, pursuant to section 34-904A, Idaho  
44 Code. Provided however, that no political party's primary election ballot  
45 shall be provided to an "unaffiliated" elector for a political party that has  
46 not elected to allow "unaffiliated" electors to vote in the party's primary  
47 election pursuant to section 34-904A, Idaho Code. If an "unaffiliated"  
48 elector does not indicate a choice of political party's primary election  
49 ballot, the elector shall receive a nonpartisan ballot. After the 2012

1 primary election, the county clerk shall record the party affiliation or  
 2 "unaffiliated" designation so selected on the application for an absentee  
 3 ballot as part of such an elector's record within the voter registration  
 4 system as provided for in section 34-437A, Idaho Code.

5 (5) After the 2012 primary election, electors who remain registered  
 6 voters and who did not vote in the 2012 primary elections and who make written  
 7 application for an absentee ballot shall be designated as "unaffiliated"  
 8 electors as provided in section 34-404, Idaho Code, and such electors shall  
 9 be given the appropriate ballot for such "unaffiliated" designation pur-  
 10 suant to the provisions of this act.

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

15 (7) The application for an absent elector's ballot shall be signed  
 16 personally by the applicant. The application for a mail-in absentee ballot  
 17 shall be received by the county clerk not later than 5:00 p.m. on the sixth  
 18 day before the election. An application for in person absentee voting at the  
 19 absent elector's polling place described in section 34-1006, Idaho Code,  
 20 shall be received by the county clerk not later than 5:00 p.m. on the Friday  
 21 before the election. Application for an absentee ballot may be made by using  
 22 a facsimile machine or other electronic transmission. In the event a reg-  
 23 istered elector is unable to vote in person at ~~his~~ the elector's designated  
 24 polling place on the day of election because of an emergency situation which  
 25 rendered ~~him~~ the elector physically unable, ~~he~~ the elector may nevertheless  
 26 apply for an absent elector's ballot on the day of election by notifying the  
 27 county clerk. No person may, however, be entitled to vote under an emergency  
 28 situation unless the situation claimed rendered ~~him~~ the elector physi-  
 29 cally unable to vote at ~~his~~ the elector's designated polling place within  
 30 ninety-six (96) hours prior to the closing of the polls.

31 (8) A person may make application for an absent elector's ballot by use  
 32 of a properly executed federal post card application as provided for in the  
 33 laws of the United States known as uniformed and overseas citizens absentee  
 34 voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq.). The issuing officer shall  
 35 keep as a part of the records of ~~his~~ such officer's office a list of all appli-  
 36 cations so received and of the manner and time of delivery or mailing to and  
 37 receipt of returned ballot.

38 (9) The county clerk shall, not later than seventy-five (75) days af-  
 39 ter the date of each general election, submit a report to the secretary of  
 40 state containing information concerning absentee voters as required by fed-  
 41 eral law.

42 SECTION 10. That Section 34-1003, Idaho Code, be, and the same is hereby  
 43 amended to read as follows:

44 34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an applica-  
 45 tion for an absent elector's ballot within the proper time, the county clerk  
 46 receiving it shall examine the records of ~~his~~ the county clerk's office to  
 47 ascertain whether or not such applicant is registered and lawfully entitled  
 48 to vote as requested and, if found to be so, ~~he~~ the elector shall arrange for  
 49 the applicant to vote by absent elector's ballot.



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

2       (a) Except as provided in subsection (2) (b) of this section, an elector  
 3 who has designated a political party affiliation shall receive a pri-  
 4 mary ballot for that political party.

5       (b) An elector who has designated a political party affiliation pur-  
 6 suant to section 34-404, Idaho Code, may receive the primary election  
 7 ballot of a political party other than the political party such elector  
 8 is affiliated with if such other political party has provided notifica-  
 9 tion to the secretary of state that identifies the political party such  
 10 elector is affiliated with, as provided for in section 34-904A(2) (b),  
 11 Idaho Code.

12       (c) An "unaffiliated" elector shall receive the primary ballot for the  
 13 political party which the elector designated in the elector's appli-  
 14 cation for an absentee ballot pursuant to section 34-1002, Idaho Code.  
 15 Provided however, that a political party's ballot shall not be provided  
 16 to an "unaffiliated" elector where that political party has not elected  
 17 to allow "unaffiliated" electors to vote in such party's primary elec-  
 18 tion pursuant to section 34-904A, Idaho Code.

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

22       (3) The absentee ballot may be delivered to the absent elector in the  
 23 office of the county clerk, by postage prepaid mail or by other appropriate  
 24 means, including use of a facsimile machine or other electronic transmis-  
 25 sion. Validly requested absentee ballots, where the request is received at  
 26 least forty-five (45) days before an election, shall be sent not later than  
 27 forty-five (45) days before that election to all electors who are entitled to  
 28 vote by absentee ballot.

29       (4) Pursuant to the uniformed and overseas citizens absentee voting act  
 30 (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended) the secretary of state shall  
 31 establish procedures for the transmission of blank absentee ballots by mail  
 32 and by electronic transmission for all electors who are entitled to vote by  
 33 absentee ballot under the uniformed and overseas citizens absentee voting  
 34 act, and by which such electors may designate whether the elector prefers  
 35 the transmission of such ballots by mail or electronically. If no prefer-  
 36 ence is stated, the ballots shall be transmitted by mail. The secretary of  
 37 state shall establish procedures for transmitting such ballots in a manner  
 38 that shall protect the security and integrity of such ballots and the privacy  
 39 of the elector throughout the process of transmission.

40       (5) A political party may supply a witness to accompany the clerk in the  
 41 personal delivery of an absentee ballot. If the political party desires to  
 42 supply a witness it shall be the duty of the political party to supply the  
 43 names of such witnesses to the clerk no later than forty-five (45) days prior  
 44 to the election. The clerk shall notify such witnesses of the date and ap-  
 45 proximate hour the clerk or deputy clerk intends to deliver the ballot.

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

48       (7) An elector physically unable to mark ~~his~~ such elector's own ballot  
 49 may receive assistance in marking such ballot from the officer delivering  
 50 same or an available person of ~~his~~ the elector's own choosing. In the event

1 the election officer is requested to render assistance in marking an absent  
2 elector's ballot, the officer shall ascertain the desires of the elector and  
3 shall vote the applicant's ballot accordingly. When such ballot is marked by  
4 an election officer, the witnesses on hand shall be allowed to observe such  
5 marking. No county clerk, deputy, or other person assisting a disabled voter  
6 shall attempt to influence the vote of such elector in any manner.

7 SECTION 11. The provisions of this act are hereby declared to be sever-  
8 able and if any provision of this act or the application of such provision to  
9 any person or circumstance is declared invalid for any reason, such declara-  
10 tion shall not affect the validity of the remaining portions of this act.