

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 381

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-402, IDAHO CODE, TO REVISE QUAL-
2 IFICATIONS OF ELECTORS; AMENDING SECTION 34-1002, IDAHO CODE, TO PRO-
3 VIDE A WRITTEN WARNING ON THE APPLICATION FOR AN ABSENT ELECTOR'S BAL-
4 LOT FORM AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-1008,
5 IDAHO CODE, TO REVISE PROCEDURES FOR COUNTING ABSENTEE BALLOTS; AMEND-
6 ING CHAPTER 14, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
7 34-1414, IDAHO CODE, TO PROVIDE RESIDENCY REQUIREMENTS AND TO PROVIDE
8 PROCEDURES; AND PROVIDING SEVERABILITY.
9

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

11 SECTION 1. That Section 34-402, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 34-402. QUALIFICATIONS OF ELECTORS. Every male or female citizen of
14 the United States, eighteen (18) years old, who has resided in this state and
15 in the county for thirty (30) days where he or she offers to vote prior to the
16 day of election, if registered within the time period provided by law, is a
17 qualified elector. Every citizen who declares "permanent resident" status
18 in any other country or state nullifies residency in Idaho regardless of that
19 citizen's intention to return to Idaho.

20 SECTION 2. That Section 34-1002, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 34-1002. APPLICATION FOR ABSENTEE BALLOT -- PRIMARY ELEC-
23 TIONS. (1) Any registered elector may make written application to the
24 county clerk, or other proper officer charged by law with the duty of issuing
25 official ballots for such election, for an official ballot or ballots of the
26 kind or kinds to be voted at the election. The application shall contain the
27 name of the elector, the elector's home address, county, and address to which
28 such ballot shall be forwarded.

29 (2) In order to provide the appropriate primary election ballot to
30 electors, in the event a political party elects to allow unaffiliated elec-
31 tors to vote in that party's primary election pursuant to section 34-904A,
32 Idaho Code, the elector shall designate, as part of the written application
33 for a ballot for primary elections, the elector's party affiliation or des-
34 ignation as "unaffiliated." The application shall contain checkoff boxes
35 for "unaffiliated" electors by which such electors shall indicate for which
36 party's primary ballot the "unaffiliated" elector chooses to vote. Provided
37 however, that no political party's primary election ballot shall be provided
38 to an "unaffiliated" elector for a political party that has not elected to
39 allow "unaffiliated" electors to vote in that political party's primary
40 election pursuant to section 34-904A, Idaho Code. If an "unaffiliated"

1 elector does not indicate a choice of political party's primary election
2 ballot, the elector shall receive a nonpartisan ballot.

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

8 (4) For electors who are registered to vote as of January 1, 2012, and
9 who remain registered electors, the elector shall designate, as part of
10 the written application for a ballot for the 2012 primary elections, the
11 elector's party affiliation or designation as "unaffiliated." The appli-
12 cation shall contain checkoff boxes for "unaffiliated" electors by which
13 such electors shall indicate for which party's primary election ballot the
14 "unaffiliated" elector chooses to vote, pursuant to section 34-904A, Idaho
15 Code. Provided however, that no political party's primary election ballot
16 shall be provided to an "unaffiliated" elector for a political party that has
17 not elected to allow "unaffiliated" electors to vote in the party's primary
18 election pursuant to section 34-904A, Idaho Code. If an "unaffiliated"
19 elector does not indicate a choice of political party's primary election
20 ballot, the elector shall receive a nonpartisan ballot. After the 2012
21 primary election, the county clerk shall record the party affiliation or
22 "unaffiliated" designation so selected on the application for an absentee
23 ballot as part of such an elector's record within the voter registration
24 system as provided for in section 34-437A, Idaho Code.

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

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

35 (7) The application for an absent elector's ballot shall be signed
36 personally by the applicant. The application for a mail-in absentee ballot
37 shall be received by the county clerk not later than 5:00 p.m. on the sixth
38 day before the election. An application for in person absentee voting at the
39 absent elector's polling place described in section 34-1006, Idaho Code,
40 shall be received by the county clerk not later than 5:00 p.m. on the Fri-
41 day before the election. Application for an absentee ballot may be made by
42 using a facsimile machine or other electronic transmission. In the event a
43 registered elector is unable to vote in person at the elector's designated
44 polling place on the day of election because of an emergency situation which
45 rendered the elector physically unable, the elector may nevertheless apply
46 for an absent elector's ballot on the day of election by notifying the county
47 clerk. No person may, however, be entitled to vote under an emergency situa-
48 tion unless the situation claimed rendered the elector physically unable to
49 vote at the elector's designated polling place within ninety-six (96) hours
50 prior to the closing of the polls. Each application for an absent elector's

1 ballot form must contain the following: "WARNING: Any elector who supplies
 2 any information knowing it to be false is guilty of perjury, which is punish-
 3 able by imprisonment for not more than two (2) years, by a fine not in excess
 4 of two thousand dollars (\$2,000) or both. UNDER PENALTY OF LAW: By signing
 5 this application I certify that I am a citizen of the United States and that I
 6 shall have been a resident of Idaho and the county for thirty (30) days before
 7 the next election at which I vote and that I am or will be at least eighteen
 8 (18) years of age on election day; and I declare under oath or affirmation
 9 that the information supplied here is true."

10 (8) A person may make application for an absent elector's ballot by use
 11 of a properly executed federal post card application as provided for in the
 12 laws of the United States known as uniformed and overseas citizens absentee
 13 voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended). The issuing of-
 14 ficer shall keep as a part of the records of such officer's office a list of
 15 all applications so received and of the manner and time of delivery or mail-
 16 ing to and receipt of returned ballot.

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

21 SECTION 3. That Section 34-1008, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 34-1008. DEPOSIT OF ABSENTEE BALLOTS. Between the opening and closing
 24 of the polls on such election day the judges of election of such precinct
 25 shall open the carrier envelope only, announce the absent elector's name,
 26 and in the event they find such applicant to be a duly registered elector of
 27 the precinct and that he has not heretofore voted at the election, they shall
 28 open the return envelope and remove the ballot envelopes and deposit the same
 29 in the proper ballot boxes and cause the absent elector's name to be entered
 30 on the poll books the same as though he had been present and voted in per-
 31 son. The ballot envelope shall not be opened until the ballots are counted.
 32 Absentee ballot envelopes as well as the ballots they contain must be counted
 33 and secured. If there is more than one (1) ballot in an envelope, all ballots
 34 and the envelope are voided. Opening of absentee ballots before the closing
 35 of the polls is prohibited. The elector shall sign the return ballot enve-
 36 lope where the following is printed: "This envelope contains only the ballot
 37 marked and voted by one elector. Signature of elector."

38 SECTION 4. That Chapter 14, Title 34, Idaho Code, be, and the same is
 39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 40 ignated as Section 34-1414, Idaho Code, and to read as follows:

41 34-1414. RESIDENCY REQUIREMENTS AND PROCEDURES. For state, county and
 42 municipal elections for all offices, the state, county and city residency
 43 requirements take precedence over the uniformed and overseas citizens ab-
 44 sentee voting act statutes. This provision also applies to spouses of mili-
 45 tary residents. Separate ballots containing only the federal election will
 46 be supplied to those requesting through the uniformed and overseas citizens
 47 absentee voting act statutes. The secretary of state shall instruct and re-

1 quire every county clerk or person in charge of the conduct of a state, county
2 or municipal election to have on file with the secretary of state the written
3 audit procedure to be in place and governing the election to be held from bal-
4 lot printing to the final vote count seven (7) days prior to an election. The
5 audit procedure shall be signed by the person responsible for conducting the
6 election. Any secretary of state rules, policies, procedures or printed di-
7 rectives that amend or contravene state statutes shall not be permitted.

8 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared
9 to be severable and if any provision of this act or the application of such
10 provision to any person or circumstance is declared invalid for any reason,
11 such declaration shall not affect the validity of the remaining portions of
12 this act.